EXPLANATORY MEMORANDUM TO

THE CORPORATION TAX (TREATMENT OF UNRELIEVED SURPLUS ADVANCE CORPORATION TAX) (AMENDMENT) REGULATIONS 2016

2016 No. XXXX

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) on behalf of the Treasury and is laid before the House of Commons by Command of Her Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument makes consequential amendments to the Corporation Tax (Treatment of Unrelieved Surplus Advance Corporation Tax) Regulations 1999 ("the 1999 Regulations") that provide for the treatment of unrelieved surplus Advance Corporation Tax. The amendments are necessary due to the repeal of the dividend tax credit and with it the term "franked investment income". The amendments apply to distributions of a company made in an accounting period which commences on or after 6 April 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 This instrument applies to distributions made in accounting periods commencing on or after 6 April 2016. Section 32(11) of the Finance Act 1998 provides the authority for such retrospective application. The amendments made in this instrument are consequent to the abolition of dividend tax credits and the consequential repeal of "franked investment income" made under the Finance Act 2016, which repeal has effect on 6 April 2016. A draft of this instrument was made available with the Finance Bill.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 In the Summer Budget 2015 the Chancellor announced that the way in which dividends (and other distributions) are taxed will be reformed. Part of this reform involves the abolition of the dividend tax credit and consequential amendments.

4.2 One of the consequential amendments is the repeal of the term "franked investment income" (FII) (see section 1126 Corporation Tax Act 2010). FII is the income of a UK resident company which consists of a distribution in respect of which the company is entitled to a tax credit.

4.3 A company needs to know the amount of FII it has received in order to work out how much of its unrelieved surplus Advance Corporation Tax it can use. This instrument replaces FII with the term “qualifying investment income” (QII). The instrument also provides a definition of QII.

4.4 The definition of QII is framed so that it achieves the same outcome as FII, but without reference to the dividend tax credit.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 In the Summer Budget 2015 the Chancellor announced that the way in which dividends (and other distributions) are taxed will be reformed. Part of this reform involves the abolition of the dividend tax credit. Consequential amendments are needed to the 1999 Regulations following this change.

Consolidation

7.2 There is no current intention to consolidate the amendments to the 1999 Regulations.

8. Consultation outcome

8.1 There has been no consultation on these amendments.

9. Guidance

9.1 HMRC will update its guidance for Shadow Advance Corporation Tax to take account of these amendments.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses, but there will be no new impact on them for the reason stated above.

12. Monitoring & review

12.1 HMRC will monitor these changes to ensure they operate in the way they are intended.

13. Contact

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