

EXPLANATORY MEMORANDUM TO
THE COLLECTIVE INVESTMENT SCHEMES AND OFFSHORE FUNDS
(AMENDMENT OF THE TAXATION OF CHARGEABLE GAINS ACT 1992)
REGULATIONS 2017

[Year] No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

- 2.1 The instrument amends legislation to clarify how an investor in a co-ownership authorised contractual scheme (CoACS) or an offshore transparent fund (OTF) who disposes of units in the fund should compute the chargeable gain.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

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 This instrument seeks to address technical problems identified by agents and HMRC concerning computing chargeable gains on disposal of units in a COACS or OTF.

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 The Financial Secretary to the Treasury has made the following statement regarding Human Rights:

“In my view the provisions of the Collective Investment Schemes and Offshore Funds (Amendment of the Taxation of Chargeable Gains Act 1992) Regulations 1992 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 CoACS and OTF are transparent for income tax purposes – that is, income arising from their investments is the income of the investors. However, as a simplification a

chargeable gain only arises when an investor disposes of units in the fund (not when assets are acquired or disposed of by the fund).

- 7.2 The instrument will bring OTF under the same rules as CoACS. It will clarify how to establish the amount of allowable expenses in the chargeable gains computation, including the treatment of loan relationship and derivative contract debits and credits. It will clarify the interaction with expenditure which qualifies for capital allowances. Legislation will also clarify the capital gains treatment of insurers' seed investments in collective investment schemes by separating them from other investments.

Consolidation

- 7.3 N/A.

8. Consultation outcome

- 8.1 This instrument is the product of active discussions between HMRC and the investment management sector. HMRC is consulting on draft legislation.

9. Guidance

- 9.1 HMRC will publish guidance to make clear how an investor in a CoACS or OTF should compute their chargeable gains.

10. Impact

- 10.1 The impact on business is that investors, as well as administrators and advisers of CoACS and OTF, will incur a one-off cost of the need to familiarise themselves with the new rules. They may also need to make minor systems changes to compute chargeable gains (investors) or to provide necessary information to investors (administrators).
- 10.2 There is no impact on the public sector.
- 10.3 A Tax Information and Impact Note covering this instrument was published on 5 December 2016 and is available on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 11.3 The basis for the final decision on what action to take to assist small businesses was that, although the changes do not discriminate between businesses, few if any small businesses are affected. The impact on small businesses is negligible.

12. Monitoring & review

- 12.1 HMRC will monitor this measure through ongoing contact with the investment management industry.

13. Contact

- 13.1 Colin Strudwick at HM Revenue & Customs Telephone: 03000 585275 or email: colin.strudwick@hmrc.gsi.gov.uk can answer any queries regarding the instrument.