EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (TURKMENISTAN) ORDER 2016

2016 No. 1217

1. Introduction

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

2. Purpose of the instrument

2.1 The Order brings into effect a convention between the Governments of the United Kingdom and Turkmenistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains ("the Arrangements").

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 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland and Northern Ireland.

4. Legislative Context

4.1 The Order is being made to give effect in UK legislation to the Arrangements. The Arrangements are scheduled to the Order, and are thus given domestic legislative effect. The Order does not implement EU legislation.

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, Jane Ellison, has made the following statement regarding Human Rights:

"In my view the provisions of the Double Taxation Relief and International Tax Enforcement (Turkmenistan) Order 2016 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 Arrangements of the kind scheduled to the Order aim to eliminate the double taxation of income or gains arising in one country and paid to residents of another country. They do this by allocating the taxing rights that each treaty partner has under its

domestic law over the same income and gains and/or by providing relief from double taxation. They provide additional protection for taxpayers by specific measures combating discrimination in tax treatment. More generally, such arrangements benefit the taxpayer by ensuring certainty of treatment and, as far as possible, by reducing compliance burdens.

7.2 They also serve an Exchequer protection role by including provisions to combat tax avoidance and evasion — partly by measures providing for the exchange of information between revenue authorities.

7.3 They also encourage and maintain international consensus on the appropriate tax treatment of cross-border economic activity and thus promote international trade and investment.

7.4 The UK's double taxation arrangements largely follow the approach adopted in the Organisation for Economic Cooperation and Development's ("OECD") *Model Tax Convention on Income and on Capital*. The Arrangements scheduled to the Order continue that approach.

Consolidation

7.5 Not applicable.

8. Consultation outcome

8.1 HMRC regularly consults with external interested parties, including business representatives, about the effectiveness of existing arrangements for the avoidance of double taxation and fiscal evasion as well as new needs. The treaty negotiating programme is agreed with Ministers and published on the HMRC pages of the Gov.UK website.

9. Guidance

9.1 General guidance on the operation of the UK's double taxation agreements can be found on the HMRC pages of the Gov.UK website at:

https://www.gov.uk/hmrc-internal-manuals/international-manual/intm150000

or in the Double Taxation Relief Manual at:

https://www.gov.uk/hmrc-internal-manuals/double-taxation-relief

The pages of these Manuals will be revised regarding the Arrangements once they enter into force.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible. The provisions of the Arrangements do not introduce new tax burdens; rather, they provide relief from tax and thus are of benefit to businesses both large and small. Taxpayers may have to make a claim to HMRC or the other country's fiscal authority in order to benefit from the Arrangements.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument because double taxation agreements are not regulatory in nature.

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 Arrangements only apply to small businesses if they have taxed income arising in Turkmenistan. As with other businesses, the regulatory burden is negligible. No special approach for small business is therefore necessary.

12. Monitoring & review

12.1 There are no specific plans to review this Statutory Instrument. However, both Governments will keep the Arrangements scheduled to the Order under consideration to ensure that they continue to meet the policy objectives set out above in Section 7.

13. Contact

13.1 Tom Matthews at HM Revenue and Customs Telephone: 03000 585476 or email: tom.o.matthews@hmrc.gsi.gov.uk can answer any queries regarding the instrument.