EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF (BANK LEVY) (FEDERAL REPUBLIC OF GERMANY) ORDER 2012

2012 No. 432

1. This explanatory memorandum has been prepared by HM Revenue & Customs ("HMRC") on behalf of HM Treasury 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 and Protocol made between the United Kingdom and the Federal Republic of Germany for the Avoidance of Double Charging of Bank Levies ("the Convention").

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 None.

4. Legislative context

4.1 The Regulations are being made to give effect in UK legislation to the Convention. The Convention is scheduled to the Order, and is thus given domestic legislative effect.

4.2 This Order does not implement EU legislation.

5. Territorial extent and application

5.1 This Order applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Convention scheduled to the Order aims to eliminate double taxation where a bank is chargeable to the bank levy and also the equivalent levy in the Federal Republic of Germany. It does this by allocating the primacy of taxing rights that each country has under its domestic law over the same bank or by providing relief from double taxation.

8. Consultation outcome

8.1 The Convention was not subject to a consultation but the regulations published alongside this instrument that will provide the mechanism for relief were consulted upon.

9. Guidance

9.1 The Bank Levy Manual (published on HMRC internet site) contains a chapter outlining how the double taxation relief for the bank levy will operate.

9.2 Draft guidance in respect of relief for the German levy is being published alongside this instrument and will be subject to consultation. It will be updated when the consultation closes and will be re-published shortly there after.

10. Impact

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

10.2 There is no impact on the UK public sector.

10.3 No impact assessment has been prepared for this Order.

11. Regulating small business

11.1 The Convention only applies to banks and therefore has no effect on small businesses.

12. Monitoring & review

12.1 Both Governments will keep the Convention scheduled to the Order under review to ensure that it meets the policy objectives set out above in section 7.

13. Contact

Andrew Parkes at HM Revenue & Customs can answer any queries regarding the Order.

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