EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (CANADA) ORDER 2014

2014 No. [XXXX]

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

The Order brings into effect arrangements set out in a Protocol and an Interpretative Protocol ("the Arrangements") made by the Governments of the United Kingdom and Canada. The Arrangements further amend the existing arrangements (the "1980 Arrangements") between the two Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains. The 1980 Arrangements are set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Canada) Order 1980, which were previously amended by the arrangements scheduled to the Double Taxation Relief (Taxes on Income) (Canada) (No. 2) Order 1980, the Double Taxation Relief (Taxes on Income) (Canada) Order 1985 and the Double Taxation Relief (Taxes on Income) (Canada) Order 2003. The 1980 Arrangements are governed by the Double Taxation Relief (Taxes on Income) (Canadian Dividends and Interest) Regulations 1980, as amended by the Double Taxation Relief (Taxes on Income) (Canadian Dividends and Interest) (Amendment) Regulations 1987.

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

None.

4. Legislative context

4.1 This Order is being made to give effect in UK legislation to the Arrangements which amend the 1980 Arrangements. The Arrangements are scheduled to the Order, and are thus given domestic legislative effect.

4.2 This Order does not implement EU legislation.

5. Territorial extent and application

This Order applies to all of the United Kingdom.

6. European Convention on Human Rights

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

"In my view the provisions of the Double Taxation Relief and International Tax Enforcement (Canada) Order 2014 are compatible with the Convention rights".

7. Policy background

- ***What is being done and why***

7.1 The Arrangements make a number of amendments to the 1980 Arrangements following negotiations between the two Governments. Amendments are made to the articles on business profits, interest, exchange of information and the mutual agreement procedure and an assistance in collection article has been introduced. The provisions relating to the general definitions, resident, shipping and air transport, associated enterprises, dividends, royalties, dependent personal services, elimination of double taxation and miscellaneous rules articles are updated.

7.2 In general, the amendments made to the 1980 Arrangements by the Arrangements are consistent with the approach adopted in the Organisation for Economic Cooperation and Development's ("OECD") *Model Tax Convention on Income and on Capital*.

- ***Consolidation***

Not applicable.

8. Consultation outcome

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 annual treaty negotiating programme is agreed with Ministers and published on the HMRC website.

9. Guidance

9.1 General guidance on the operation of the UK's double taxation agreements can be found on the HMRC website at:
http://www.hmrc.gov.uk/manuals/intmanual/INTM150000.htm

or in the Double Taxation Relief Manual at:
http://www.hmrc.gov.uk/manuals/dtmanual/index.htm.

This Manual will be updated once the Arrangements 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 business 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 UK public sector. HMRC already operates the terms of many other similar arrangements currently in force.

10.3 A Tax Information and Impact Note has not been prepared for this Order as it gives effect to a previously announced policy to enact a double taxation agreement.

11. Regulating small business

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

12. Monitoring & review

Both Governments will keep the Arrangements scheduled to the Order under review to ensure that they meet the policy objectives set out above in section 7.

13. Contact

Douglas Rankin at HM Revenue & Customs (tel: 03000 585867/email: douglas.rankin@hmrc.gsi.gov.uk) can answer any queries regarding the Order.