EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (SWITZERLAND) ORDER 2010

2010 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 the two Protocols ("the Protocols") made by the Government of the United Kingdom and the Swiss Federal Council. The Protocols further amend the convention ("the Convention") between the two countries for the Avoidance of Double Taxation with Respect to Taxes on Income, which was previously amended by the arrangements scheduled to the Double Taxation Relief (Taxes on Income) (Switzerland) Order 1982, the arrangements scheduled to the Double Taxation Relief (Taxes on Income) (Switzerland) Order 1994 and the arrangements scheduled to the Double Taxation Relief (Taxes on Income) (Switzerland) Order 2007.

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

None.

4. Legislative context

4.1 General

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

4.2 EU legislation

The Order does not implement EU legislation.

5. Territorial extent and application

The Order applies to all of the United Kingdom.

6. European Convention on Human Rights

The Exchequer 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 (Switzerland) Order 2010 are compatible with the Convention rights".

7. Policy background

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

7.1 The Protocols update the mutual agreement procedure and exchange of information articles in the Convention to bring them into line with the new international standards for mutual agreement procedure and exchange of information as set out in the Model Tax Convention on Income and on Capital published by the Organisation for Economic Cooperation and Development ("OECD").

- ***Consolidation***

7.2 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 need for the exchange of information provisions contained in such arrangements to be updated was considered and acknowledged in the course of such consultation. The annual treaty negotiating programme is agreed with Ministers and published on the HMRC web site at:
http://www.hmrc.gov.uk/si/dtc-2010.htm

9. Guidance

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

There is more detailed guidance on the existing UK-Switzerland Convention at:
http://www.hmrc.gov.uk/manuals/dtmanual/DT18101+.htm

This guidance will be updated once the Protocols enter into force.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

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 No impact assessment has been prepared for this Order.

11. Regulating small business

None of the provisions of the Protocols affects the taxation of small business.

12. Monitoring & review

Both the Government of the United Kingdom and the Swiss Federal Council will keep the Protocols 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: 020 7147 2696/email: douglas.rankin@hmrc.gsi.gov.uk) can answer any queries regarding the Order.