EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (SWITZERLAND) ORDER 2012

2012 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

2.1 The Order brings into effect an exchange of letters between the Government of the United Kingdom and the Swiss Federal Council ("the exchange of letters"). The exchange of letters further amend the convention ("the Convention") between the 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, the arrangements scheduled to the Double Taxation Relief (Taxes on Income) (Switzerland) Order 2007 and the arrangements scheduled to the Double Taxation Relief and International Tax Enforcement (Switzerland) Order 2010.

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

3.1 None

4. Legislative context

4.1 This Order is being made to give effect in UK legislation to the exchange of letters. The exchange of letters 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

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 2012 are compatible with the Convention rights".

7. Policy background

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

7.1 The exchange of letters scheduled to the Order aims to improve the effectiveness of information exchange between the two countries under Article 25 (Exchange of Information) of the Convention. It does this by allowing for exchange of information where the identification of the person under examination or investigation is provided by means other than the name and address of the person concerned.

- ***Consolidation***

7.2 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 annual treaty negotiating programme is agreed with Ministers and published on the HMRC web site.

9. Guidance

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

More detailed guidance on the Convention is available at:
http://www.hmrc.gov.uk/manuals/dtmanual/DT18101+.htm

This will be updated once the exchange of letters 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.

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

11.1 As with other businesses, the impact is negligible. No special approach for small business is therefore necessary.

12. Monitoring & review

12.1 Both Governments will keep the exchange of letters 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.