EXPLANATORY MEMORANDUM TO

THE DOUBLE TAXATION RELIEF (GUERNSEY) ORDER 2016

2016 No. [XXXX]

1. Introduction

1.1 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 the arrangement set out in an Exchange of Letters between the Governments of the United Kingdom and Guernsey (the "Arrangement"). The Arrangement amends the arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (the "Original Arrangement") set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Guernsey) Order 1952. The Original Arrangement was first amended by the arrangement scheduled to the Double Taxation Relief (Taxes on Income) (Guernsey) Order 1994 and further amended by the arrangements scheduled to the Double Taxation Relief and International Tax Enforcement (Guernsey) Order 2009 and the Double Taxation Relief and International Tax Enforcement (Guernsey) Order 2015.

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 This Order is being made to give effect in UK legislation to the Arrangement. The Arrangement is scheduled to the Order, and is thus given domestic legislative effect. This 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, David Gauke, has made the following statement regarding Human Rights:

"In my view the provisions of the Double Taxation Relief (Guernsey) Order 2016 are compatible with the Convention rights".

7. Policy background

What is being done and why

7.1 The Arrangement amends our Double Taxation Arrangement in a way that clearly allocates the primary taxing right over profits from immovable property to the territory in which the property is situated. Once the Arrangement is ratified, the changes will apply with effect from 16 March 2016.

Consolidation

7.2 When the Arrangement enters into force HMRC will publish a consolidated version of the Original Arrangement on its website at:

https://www.gov.uk/government/publications/guernsey-tax-treaties-in-force.

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 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 Arrangement enters into force.

10. Impact

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

10.2 There is no impact on the public sector.

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

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 As with other businesses, the impact on small businesses is negligible.

11.3 No special approach for small businesses is therefore necessary.

12. Monitoring & review

12.1 There are no specific plans to review this Statutory Instrument. However, both Governments will keep the Arrangement under consideration to ensure that it continues to meet the policy objectives set out above in section 7.

13. Contact

13.1 Lee Harley at HM Revenue & Customs Telephone: 03000 585755 or email: lee.harley@hmrc.gsi.gov.uk can answer any queries regarding the instrument.