EXPLANATORY MEMORANDUM TO

THE INTERNATIONAL MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS ORDER 2007

2007 No.

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

The draft Order brings into effect arrangements relating to international tax enforcement contained in the joint Council of Europe/OECD Convention on mutual administrative assistance in tax matters ("the Convention").

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

3.1 Type of resolution

This draft Order is subject to the affirmative resolution procedure.

3.2 Details of the Convention

Copies of the text of the Convention have been placed in the Libraries of both Houses.

4. Legislative Background

4.1 General

This Order is made under section 173(7) of the Finance Act 2006 (c.25).

Section 173 provides the mechanism by which legal effect can be given to arrangements relating to international tax enforcement that have been concluded by the United Kingdom with other States. Section 173(2) provides that these arrangements may include provisions about the exchange of information, the assistance in recovery of tax debts and the service of documents where these are foreseeably relevant to the administration, enforcement or recovery of any tax or duty.

4.2 EU legislation

This instrument does not implement EU legislation.

5. Extent

The draft Order applies to the whole of the United Kingdom.

6. European Convention on Human Rights

The Paymaster General (Dawn Primarolo) has made the following statement regarding Human Rights:

In my view the provisions of the draft International Mutual Administrative Assistance in Tax Matters Order 2007 are compatible with the Convention rights.

7. Policy background

The object of the Convention is to promote international co-operation for a better operation of national tax laws, while respecting the fundamental rights of taxpayers. The Convention is framed so as to provide for all possible forms of administrative co-operation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion.

The UK is in the forefront of the drive to promote information exchange on as wide a basis as possible as the most effective way of combating international tax avoidance and evasion. The UK already has over a hundred bilateral agreements providing for such exchanges, mostly in relation to direct taxes, and within the EU there is a well-established framework for assistance on direct and indirect taxes, including also assistance in the service of documents and the recovery of debts.

By signing and ratifying the Convention, the UK will be able to be increase the extent of the assistance it may seek from (and provide to) other signatories. In particular, it will for the first time enable exchange of information in relation to indirect taxes and assistance in the recovery of tax debts with a number of non-EU States. This will help the UK enforce the taxes that Parliament has voted for.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is minimal. HM Revenue and Customs expects to be able to seek and provide assistance to other signatories to the Convention using existing resources. There will however be some positive Exchequer effects from the improved capacity to exchange information internationally for the purposes of combating avoidance and evasion and to obtain assistance from overseas in the recovery of outstanding tax debts.

9. Contact

Jeff Worrell at HM Revenue & Customs (tel: 020 7147 2723 or e-mail: Jeff.Worrell@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.