Draft Order in Council laid before the House of Commons under section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2014 No. 0000

TAXES

The International Tax Enforcement (Gibraltar) Order 2014

Made - - - - *****

At the Court at Buckingham Palace, the **** day of ***** 2014

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 173(7) of the Finance Act 2006(**a**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 173(1) to (3) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the International Tax Enforcement (Gibraltar) Order 2014.

International tax enforcement arrangements to have effect

2. It is declared that—

(a) the arrangements specified in the Exchange of Letters set out in Part 1 of the Schedule to this Order and in the Agreement set out in Part 2 of that Schedule, which amend the arrangements set out in Parts 1 and 2 of the Schedule to the International Tax Enforcement (Gibraltar) Order 2010(**b**), have been made with the Government of Gibraltar;

(b) the arrangements have been made with a view to the exchange of information foreseeably relevant to the administration or enforcement or recovery of the taxes covered by the arrangements; and

(c) it is expedient that those arrangements should have effect.

name
Clerk of the Privy Council

(**a**) 2006 c. 25.
(**b**) S.I .2010/2680.

SCHEDULE

Article 2

PART 1

EXCHANGE OF LETTERS BETWEEN THE UNITED KINGDOM AND GIBRALTAR CONCERNING THE 2009 AGREEMENT BETWEEN THE TWO GOVERNMENTS FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES

London, 21st November 2013

Sir,

Having regard to the wish of our governments to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes and respecting the constitutional relationship between the United Kingdom of Great Britain and Northern Ireland and Gibraltar, I have the honour to propose to you an Agreement amending the 2009 Agreement between the United Kingdom and Gibraltar for the exchange of information relating to taxes in the Appendix to this letter and that this Agreement shall have effect in accordance with paragraph 2 thereof.

I have the honour to propose that, if the above is acceptable to the Government of Gibraltar, this letter together with its Appendix and your confirmation shall together constitute our mutual acceptance and making of the Agreement between the United Kingdom of Great Britain and Northern Ireland and Gibraltar.

Please accept, Sir, the assurance of my highest consideration.

For the Government of the United Kingdom of Great Britain and Northern Ireland

David Gauke

Reply from the Government of Gibraltar

Jakarta, 21st November 2013

Sir,

I have the honour to acknowledge receipt of your letter of 21 November 2013, which reads as follows:

"Having regard to the wish of our governments to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes and respecting the constitutional relationship between the United Kingdom of Great Britain and Northern Ireland and Gibraltar, I have the honour to propose to you an Agreement amending the 2009 Agreement between the United Kingdom and Gibraltar for the exchange of information relating to taxes in the Appendix to this letter and that this Agreement shall have effect in accordance with paragraph 2 thereof.

I have the honour to propose that, if the above is acceptable to the Government of Gibraltar, this letter together with its Appendix and your confirmation shall together constitute our mutual acceptance and making of the Agreement between the United Kingdom of Great Britain and Northern Ireland and Gibraltar.

Please accept, Sir, the assurance of my highest consideration."

I am able to confirm that the contents of your letter dated 21 November 2013 are acceptable to the Government of Gibraltar, and therefore that this letter together with your letter and its Appendix constitute our mutual acceptance of the provisions of the Agreement between Gibraltar and the United Kingdom of Great Britain and Northern Ireland.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Gibraltar

Hon. Albert Isola MP

Minister with responsibility for Financial Services

PART 2

AGREEMENT BETWEEN THE UNITED KINGDOM AND GIBRALTAR AMENDING THE 2009 AGREEMENT BETWEEN THE UNITED KINGDOM AND GIBRALTAR FOR THE EXCHANGE OF INFORMATION RELATING TO TAXES

The United Kingdom and Gibraltar ("the Parties") desiring to amend the Agreement between the Parties for the exchange of information relating to tax matters ("the 2009 Agreement"), have agreed as follows:

1. The following shall be added after Article 5 (Exchange of Information Upon Request):

"ARTICLE 5A

AUTOMATIC EXCHANGE OF INFORMATION

1. The competent authorities of the Parties may automatically transmit information to each other for the purposes referred to in Paragraph 1 (Object and Scope of Agreement). The Parties shall determine the items of information to be exchanged pursuant to this Article and the procedures to be used to exchange such items of information.

2. The competent authorities of the Parties may mutually agree on additional procedures to be used for the purposes of this Article.

ARTICLE 5B

SPONTANEOUS EXCHANGE OF INFORMATION

The competent authority of a Party may spontaneously transmit to the competent authority of the other Party information that has come to the attention of the first-mentioned competent authority and that the first-mentioned competent authority supposes to be foreseeably relevant to the accomplishment of the purposes referred to in Paragraph 1 (Object and Scope of Agreement). The competent authorities of the Parties shall determine the procedures to be used to exchange such information."

2. Each of the Parties shall notify the other of the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall have effect for information exchanged on or after that date without regard to the taxable period to which the information relates.

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order contains arrangements comprising an Exchange of Letters and an Agreement ("the Arrangements") amending the Agreement between the United Kingdom and Gibraltar for the exchange of information relating to tax matters ("the 2009 Agreement"). The 2009 Agreement was scheduled to the International Tax Enforcement (Gibraltar) Order 2010 (S.I. 2010/2680). This Order gives effect to the Arrangements.

Article 2 makes a declaration that it is expedient that the Arrangements should have effect.

The Arrangements relate to the exchange of information in tax matters and adds new Articles 5A and 5B to the 2009 Agreement to allow for the automatic and spontaneous exchange of information.

The Arrangements will enter into force on the date of the later of the notifications by each territory of the completion of its legislative procedures and take effect for information exchanged on or after that date.

The date of entry into force will, in due course, be published in the *London, Edinburgh* and *Belfast Gazettes*.

A Tax Information and Impact Note has not been produced for this Order as it gives effect to a previously announced policy to enact a tax information exchange agreement.

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