EXPLANATORY MEMORANDUM TO

THE VISITING FORCES AND INTERNATIONAL MILITARY HEADQUARTERS (EU SOFA) (TAX DESIGNATION) ORDER 2012

2012 No. 3070

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

2. Purpose of the instrument

The Order designates the Member States of the European Union and an EU military headquarters in the UK in order that they may receive the tax treatment required by the EU Status of Forces Agreement.

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

None.

4. Legislative Context

The Order is being made to give effect in UK legislation to the requirements of the EU Status of Forces Agreement. The EU SOFA is the Agreement between the Member States of the European Union concerning the status of military and civilian staff seconded to the institutions of the European Union, of the headquarters and forces which may be made available to the European Union in the context of the preparation and execution of the tasks referred to in Article 42 of the Treaty on European Union, including exercises, and of the military and civilian staff of the Member States put at the disposal of the European Union to act in this context.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The instrument is not subject to a parliamentary procedure and does not amend primary legislation, so no statement is required.

7. Policy background

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

7.1 In 2003 the EU drew up the EU Status of Forces Agreement which was put to Parliament by the Foreign & Commonwealth Office in 2009. All Member States are required to ratify the Agreement once they have the domestic law in place to do so. This measure is the final step required to enable the UK to ratify the Agreement.

The measure ensures that members of EU forces and their civilian staff receive the tax privileges to which they are entitled under the EU Status of Forces Agreement. These privileges are broadly the same as already apply to visiting North Atlantic Treaty Organisation forces.

8. Consultation outcome

The measure was not the subject of consultation as it is required to implement an EU Agreement which applies to a specific and very limited class of individuals.

9. Guidance

Guidance on the tax treatment of visiting forces can be found on the HMRC website at http://www.hmrc.gov.uk/manuals/remanual/RE2200+.htm. A new page to this Manual regarding the EU SOFA will be added once it enters into force.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument has been published on the HMRC website at http://www.hmrc.gov.uk/tiin/tiin642.pdf .

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

This measure will be kept under review through communication with affected taxpayer groups.

13. Contact

Geoff Barnard at HM Revenue & Customs Tel: 020 7147 2734 or email: geoff.barnard@hmrc.gsi.gov.uk can answer any queries regarding the instrument.