EXPLANATORY MEMORANDUM TO

THE DRAFT DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (LIBYA) ORDER 2009

2009 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.

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

2. Purpose of the instrument

The Order brings into effect those arrangements specified in the Convention between the United Kingdom and Libya for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion (“the Convention”) set out in the Schedule to the Order.

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

None

4. Legislative context

4.1 General

The Order is made under section 788(1) of the Income and Corporation Taxes Act 1988 (“ICTA”) (c. 1) and section 173(1) of the Finance Act (“FA”) 2006 (c. 25). Section 788 was amended by section 88(1) of the Finance Act 2002 (c. 23) and extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12) and section 194 FA 1993.

Section 788 of ICTA provides the mechanism by which arrangements made with overseas territories for the purpose of affording relief from double taxation in relation to income tax, corporation tax and capital gains tax and taxes of a similar character in the other territory are given effect in the United Kingdom.

Section 173 of FA 2006 provides the mechanism by which arrangements relating to international tax enforcement have effect in the United Kingdom if Her Majesty, by Order in Council, specifies the arrangements and declares that it is expedient that they be given effect.

In accordance with section 788(10) of ICTA and section 173(7) of FA 2006, a draft of this Order is required to be laid before and approved by a resolution of the House of Commons prior to submission to Her Majesty in Council. Section 788(10) ICTA was substituted by section 176 of FA 2006.

4.2 EU legislation

This instrument does not implement EU legislation.

5. Territorial extent and application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Financial Secretary to the Treasury, Stephen Timms, has made the following statement regarding human rights:

'In my view the provisions of the draft Double Taxation Relief and International Tax Enforcement (Libya) Order 2009 are compatible with the Convention rights'.

7. Policy background

Conventions of this kind aim to eliminate the double taxation of income or gains arising in one country and paid to residents of another country. They do this by dividing the taxing rights that each treaty partner has under its domestic law over the same income and gains and/or by providing relief from taxation in the form of credits. They provide additional protection for taxpayers by specific measures combating discrimination in tax treatment. More generally, such conventions benefit the taxpayer by ensuring certainty of treatment and, as far as possible, by reducing compliance burdens. They also serve an Exchequer protection role by including provisions to combat tax avoidance and evasion — not least by measures providing for the exchange of information between revenue authorities. They also encourage and maintain international consensus on the appropriate tax treatment of cross-border economic activity and thus promote international trade and investment.

8. Consultation outcome

HM Revenue & Customs regularly consults with external stakeholders, including business representatives, about the effectiveness of existing arrangements for the avoidance of double taxation as well as new needs. The annual treaty negotiating programme is agreed with Ministers and published on the HMRC web site at http://www.hmrc.gov.uk/si/dtc-2010.htm.

9. Guidance

General guidance on the operation of the UK's double taxation conventions can be found on the HMRC website at http://www.hmrc.gov.uk/manuals/intmanual/INTM150000.htm. The guidance will be updated to include the UK-Libya Convention shortly.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible. The provisions of the Convention do not introduce new tax burdens; rather, they provide relief from tax and thus are of benefit to business both large and small. Taxpayers may have to make a claim to HM Revenue & Customs or to Libya's fiscal authority in order to benefit from the Convention. However, UK business will benefit from reduced costs of doing business abroad and, in many cases, from having to deal with just one fiscal authority.

10.2 There is no impact on the UK public sector. HM Revenue & Customs already operates the terms of many other similar conventions currently in force.

Impact on the Exchequer

Under the Convention, the taxing rights ceded by the UK to Libya will be offset by the corresponding concession from Libya so that there should be no net tax loss to the Exchequer. In fact, by encouraging cross-border economic activity, the arrangements should lead to an increase in tax revenue. In the absence of such relief, the economic activity in question, may stagnate or dwindle.

10.3 No impact assessment has been prepared for this instrument.

11. Regulating small business

The Convention only applies to small businesses if they have taxed income arising in Libya and it is unlikely that there are many if any such businesses. Given also that the Convention provides relief from tax and does not introduce new tax burdens, no special approach for small business is necessary.

12. Monitoring & review

Both the UK Government and the Government of Libya will keep the Convention scheduled to the instrument under review to ensure that it meets the policy objectives set out above.

13. Contact

Geoff Barnard at HM Revenue & Customs (Tel: 020 7147 2734 / Email: Geoff.Barnard@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.

ANNEX

GENERAL

All the UK's recent double taxation conventions largely follow the approach adopted in the OECD's *Model Tax Convention on Income and on Capital*. This Convention continues that approach.

NOTES ON DETAILS

ARTICLE 1 – Persons Covered

This article sets out the general scope of the Convention.

It provides that the Convention is to apply to persons who are residents of one or both of the contracting states (the UK and Libya).

ARTICLE 2 – Taxes Covered

This article lists the taxes to which the Convention is to apply.

The existing UK taxes to which the Convention applies are income tax, corporation tax and capital gains tax.

The existing Libyan taxes to which the Convention applies are income tax and the additional income tax for the Libyan Society of Islamic Call.

The Convention will also apply to any identical or substantially similar taxes subsequently imposed by either state in addition to or in place of the taxes mentioned above, and it obliges each state to notify the other of significant changes in their taxation laws.

ARTICLE 3 – General Definitions

This article defines a number of terms used in the Convention and provides a rule for determining the meaning of terms not defined in the Convention.

ARTICLE 4 - Residence

This article establishes the meaning of "resident of a contracting state" and lays down detailed rules for resolving cases where individuals or other persons may be considered residents of both states for tax purposes under their domestic laws.

Paragraph 1 defines the term "resident of a contracting state".

Paragraph 2 sets out the rules for determining the residence status of an individual who is dual resident under paragraph 1 of the article.

Paragraph 3 sets out the rules for determining the residence status of a person other than an individual who is dual resident under paragraph 1 of the article.

ARTICLE 5 – Permanent Establishment

This article defines the term "permanent establishment" for the purposes of the Convention. It largely follows article 5 in the OECD Model Tax Convention. Taken together with article 8, it describes in general terms the circumstances and manner in which enterprises of one state may be taxed on their business profits arising in the other.

ARTICLE 6 – Source State Taxation

This article makes clear that, unless provided otherwise in the Convention, income may be taxed in the state in which it arises.

ARTICLE 7 – Income from Immovable Property

This article allows the state in which the property is situated to tax income from immovable property. It also defines immovable property.

ARTICLE 8 – Business Profits

This article provides that unless an enterprise of one state carries on business in the other through a permanent establishment situated there, its profits will be taxable only in its state of residence. Where the enterprise has a permanent establishment in the other state, that state will be entitled to tax profits attributable to the permanent establishment.

ARTICLE 9 – Shipping and Air Transport

This article governs the taxation of shipping and air transport operated in international traffic.

Paragraph 1 provides that profits of an enterprise of one state from the operation of ships or aircraft in international traffic shall be taxable only in that country.

Paragraph 2 provides that profits from the operation of ships or aircraft include profits from the rental of ships, aircraft or the use, maintenance or rental of containers. In each case the use, rental or maintenance must be incidental to the operations in international traffic.

Paragraph 3 clarifies that paragraph 1 also applies to profits from participation in a pool, a joint business or an international operating agency.

ARTICLE 10 – Associated Enterprises

This article provides that appropriate adjustments may be made in determining the profits of an enterprise of one state where conditions made or imposed between the enterprise and an associated enterprise of the other state differ from those that would be made between independent enterprises.

Where such an adjustment is made to the profits of an enterprise by one state, the other state will make an appropriate adjustment to the amount of tax charged on those profits, in order to relieve the double taxation which might otherwise arise as a result of an adjustment by just one state.

ARTICLE 11 – Dividends

This article contains the rules for the taxation of dividends paid by a company that is a resident of one state to a resident of the other.

Paragraph 1 provides that dividends paid by a company resident in one state to a resident of the other may be taxed in that other state.

Paragraph 2 (a) provides that, except in the circumstances set out in paragraph 2 (b), the state of which the company paying the dividends is a resident shall not tax the dividends where the beneficial owner of the dividends is a resident of the other state.

Paragraph 2 (b) provides that, unless the beneficial owner of the dividends is a pension scheme, qualifying dividends paid by a property investment company may be taxed in the state where the company paying the dividend is resident, but it places a limit on the amount of tax which may be charged by that state. The tax charged by that state may not exceed 15 per cent of the gross amount of the dividends.

Paragraph 3 defines the term “dividends”.

Paragraph 4 provides that paragraphs 1 and 2 shall not apply where a resident of one state receives dividends from the other and the dividends are attributable to a permanent establishment or fixed base through which that resident carries on business or performs independent personal services in the state of which the payer is a resident. In such circumstances, the taxation of the dividends is governed by article 8 (Business Profits) or article 15 (Independent Personal Services).

Paragraph 5 prevents the extra-territorial taxation by one state of dividends paid by a company that is a resident of the other state. The first state may not tax the dividends unless they are attributable to a permanent establishment or a fixed base in that state or are paid to a resident of that state. There is a similar provision concerning undistributed profits.

Paragraph 6 ensures that the provision of the article will not apply to any dividend paid under arrangements where the main purpose, or one of the main purposes, in assigning or creating the relevant shares, is to take advantage of the article.

ARTICLE 12 – Interest

This article contains the rules for the taxation of interest paid by a resident of one state to a resident of the other.

Paragraph 1 provides that interest arising in one state and paid to a resident of the other state shall be taxable only in that other state.

Paragraph 2 defines “interest”.

Paragraph 3 provides that paragraph 1 shall not apply where a resident of one state receives income from debt-claims from the other state and the income from debt-claims is attributable to a permanent establishment or fixed base through which that resident carries on business or performs independent personal services in the state of which the payer is a resident. In such circumstances, the taxation of the income from debt-claims is governed by article 8 (Business Profits) or article 15 (Independent Personal Services).

Paragraph 4 provides that where, because of a special relationship between the payer and the beneficial owner, the amount of income from debt-claims paid exceeds the amount which would have been paid in the absence of that special relationship, the article will apply only to the income from debt-claims that would have been payable in the absence of the special relationship. The “excess” part of the payment shall remain taxable according to the laws of each country.

Paragraph 5 ensures that the benefits of the article will not apply to interest paid under arrangements where the main purpose, or one of the main purposes, of the creation or assignment of the relevant debt claim is to take advantage of the article.

ARTICLE 13 – Royalties

This article contains the rules for the taxation of royalties arising in one state and derived by a resident of the other.

Paragraph 1 provides that royalties arising in one state and paid to a resident of the other may be taxed in that other state.

Paragraph 2 defines the term “royalties”.

Paragraph 3 provides that paragraphs 1 shall not apply where a resident of one state receives royalties from the other and the royalties are attributable to a permanent establishment or fixed base through which that resident carries on business or performs independent personal services in the state of which the payer is a resident. In such circumstances, the taxation of the income from debt-claims is governed by article 8 (Business Profits) or article 15 (Independent Personal Services).

Paragraph 4 provides that where, because of a special relationship between the payer and the beneficial owner, the amount of royalties paid exceeds the amount which would have been paid in the absence of that special relationship, the article will apply only to the amount that would have been agreed upon by the two parties in the absence of the special relationship. The “excess” part of the payment shall remain taxable according to the laws of each state.

Paragraph 5 ensures that the benefits of the Article will not apply to royalties paid under arrangements where the main purpose, or one of the main purposes, of the creation or assignment of the relevant right or property is to take advantage of the article.

ARTICLE 14 – Capital Gains

This article contains the rules for the taxation of gains deriving from the alienation of property situated in one state by a resident of the other.

Paragraph 1 provides that gains derived by a resident of one state that are attributable to the alienation of immovable property situated in the other state may be taxed in the state in which the property is situated.

Paragraph 2 provides that gains derived by a resident of one state from the alienation of shares or compatible interests, other than shares in which there is substantial and regular trading on a Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other state may be taxed in that other state.

Paragraph 3 provides that gains derived by an enterprise of a state from the alienation of movable property forming part of the business property of a permanent establishment or pertaining to a fixed base maintained by that enterprise in the other state may be taxed in that other state. The paragraph also applies to gains derived from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base.

Paragraph 4 provides that gains derived by a resident of a state from the alienation of ships or aircraft operated in international traffic or of movable property pertaining to the operation or use of such ships or aircraft shall be taxable only in the state where the alienator is resident.
Paragraph 5 provides that gains from the alienation of any property, other than that detailed in paragraphs 1 to 4, shall be taxable only in the state of which the alienator is a resident.

Paragraph 6 is an anti-avoidance provision which provides that paragraph 5 does not affect the right of the state in which the property is located to levy tax on a person according to its domestic law where that person has been resident in that state during the preceding six fiscal years or at any time during the fiscal year in which the property is alienated.

ARTICLE 15 – Independent Personal Services

This article contains the rules for the taxation of what are commonly called professional services. It is no longer in the OECD Model, such services falling within article 7, but can be retained if the treaty partners so agree, as was the case here.

Paragraph 1 provides that income derived by a resident individual of one state in respect of professional services or other activities of an independent nature shall be taxable only in that state. However, if there is a fixed base in the other state or if the individual's stay in the other state exceeds 183 days in any 12 month period commencing or ending in the fiscal year concerned, the individual may be taxed there on the profits attributable to that fixed base or on the activities performed in that other state.

Paragraph (2) provides examples of what is meant by the term "professional services".

ARTICLE 16 – Dependent Personal Services

This article contains the rules for the taxation of employment income.

Paragraph 1 provides that, in general, employment income of a resident of one state can be taxed in the other state if the employment is exercised there.

Paragraph 2 provides an exception to the general rule where an employee is present in the other state for not more than 183 days in any twelve-month period beginning or ending in the fiscal year concerned, the remuneration is paid by or on behalf of an employer who is not a resident of the other state and the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other state. Where all three conditions are satisfied, the remuneration will be taxable only in the employee's state of residence.

Paragraph 3 provides that remuneration derived by a resident of either state from an employment aboard a ship or aircraft operated in international traffic may be taxed in the state in which the enterprise operating the ship or aircraft is resident.

ARTICLE 17 – Directors' Fees

This article provides that directors' fees, etc. may be taxed in the state of which the company paying them is a resident.

ARTICLE 18 – Artistes and Sportsmen

This article contains the rules for the taxation of income derived from personal activities as an entertainer or sportsperson.

Paragraph 1 provides that income of a resident of one state from his activities as an entertainer or sportsperson in the other state may be taxed in that other state.

Paragraph 2 provides that such income may also be taxed in the other state if it accrues to a third person, for example a personal service company owned by the entertainer or sportsperson.

ARTICLE 19 – Pensions

This article provides that pensions and other similar remuneration (except for government service pensions) paid to an individual who is a resident of one state shall be taxable only in that state.

ARTICLE 20 – Government Service

This article contains rules for the taxation of remuneration and pensions paid in respect of government service.

Paragraph 1 provides that salaries, wages and other similar remuneration paid by one state, or by one of its political subdivisions or local authorities, will generally be taxable only in that state. However, such remuneration will be taxable only in the other state if the services are rendered in that other state by a national of that other state who is resident there or by a resident of that state who did not become a resident solely to render the services.

Paragraph 2 provides that a pension paid out of funds created by one state, or by one of its political subdivisions or local authorities, shall be taxable only in that state. Such pensions will, however, be taxable solely in the other state if the recipient is a resident and a national of that other state.

Paragraph 3 provides that paragraphs 1 and 2 shall not apply to remuneration or pensions for services rendered in connection with a business. Such income will be dealt with under Articles 16, 17, 18 or 19 as appropriate.

ARTICLE 21 – Students

This article contains the rules which govern the taxation of visiting students and business apprentices.

ARTICLE 22 – Other Income

This article contains the rules for the taxation of income not dealt with elsewhere in the Convention.

Paragraph 1 provides that income not covered elsewhere in the Convention will be taxed only by the state of which the recipient is a resident.

Paragraph 2 provides that paragraph 1 shall not apply, except in the case of income from immovable property, where the recipient of the income is a resident of one state and carries on business in the other through a permanent establishment or performs independent personal services from a fixed base and the income is attributable to the permanent establishment or fixed base. In such circumstances, the taxation of the income is governed by article 8 (Business Profits), article 15 (Independent Personal Services) or article 16 (Dependent Personal Services).

Paragraph 3 provides that, notwithstanding paragraphs 1 and 2 of the article, items of income not covered elsewhere in the Convention may also be taxed in the source state.

ARTICLE 23 – Elimination of Double Taxation

This article sets out the methods by which the contracting states will relieve double taxation.

Paragraph 1 sets out how the UK will relieve double taxation.

Sub-paragraph (a) provides that Libyan tax on profits, income or chargeable gains from sources within Libya is to be allowed as a credit against any UK tax computed by reference to the same income, profits or chargeable gains.

Sub-paragraph (b) provides that, in the case of a dividend paid by a company resident in Libya to a company resident in the UK which controls at least 10 per cent of the voting power in the paying company, the credit will take into account Libyan tax payable by the company in respect of the profits out of which the dividend is paid.

Paragraph 2 sets out how Libya will relieve double taxation.

Sub-paragraph (a) provides that, where a resident of Libya derives income or owns capital which, under this Convention, may be taxed in the UK, Libya shall exempt such income or capital from tax, except in the circumstances described in sub-paragraphs (b) and (c).

Sub-paragraph (b) provides that, where a resident of Libya derives income from a property investment company (under sub-paragraph 2 (b) of Article 11) which, under this Convention may be taxed in the UK, Libya shall give a credit for the amount of tax paid in the UK.

Sub-paragraph (c) provides that Libya may take into account any income or capital exempted by the Convention when calculating the tax due on the remaining income or capital.

Paragraph 3 provides that, for the purposes of paragraphs 1 and 2, profits, income and capital gains owned by a resident of one state which may be taxed in the other state under the terms of the Convention, will be deemed to arise from sources in that other state.

Paragraph 4

Sub-paragraph (a) provides that, where gains may be taxed by a contracting state by reason only of paragraph 6 of article 14, that contracting state and not the other contracting state shall eliminate double taxation in accordance with the methods set out in this article as if the gains arose from sources in the other contracting state.

Sub-paragraph (b) provides that, where gains may be taxed by one state by reason of paragraphs 1, 2 or 3 of article 14, the other state and not the first-mentioned state, shall eliminate double taxation in accordance with the methods set out in paragraph 1 or 2 of the article.

ARTICLE 24 – Partnerships

Provides that, where a resident of one state is a member of a partnership established under the laws of the other state, nothing in the Convention shall prevent the first-mentioned state from taxing that resident on his share of any income, profits or gains of that partnership.

ARTICLE 25 – Non-discrimination

Subject to certain conditions, this article provides that neither country shall impose discriminatory taxes or other requirements on the nationals, state establishments and enterprises of the other.

Paragraph 1 sets out the basic principle: nationals of one state shall not be subjected in the other to any taxation, or any requirement connected with taxation, which is more burdensome than those imposed on nationals of the other state who are in the same circumstances, particularly with respect to residence.

Paragraph 2 is concerned with the taxation of permanent establishments; it provides that a permanent establishment maintained by an enterprise of one state in the other state may not be exposed in that other state to taxation which is less favourably levied than the taxation levied on enterprises of that other state carrying on the same activities.

Paragraph 3 provides that, except where the provisions of paragraph 1 of article 10, paragraph 4 or 5 of article 12, or paragraph 4 or 5 of article 13, apply, interest, royalties and other disbursements paid by a resident of one state to a resident of the other state shall be deductible in computing the payer's taxable profits in the same way as if they had been paid to a resident of the first state.

Paragraph 4 provides that enterprises of one state which are wholly or partly owned or controlled, directly or indirectly, by residents of the other state, shall not be subjected to any taxation, or any requirement connected with taxation, which is more burdensome than the taxation or requirements to which other similar enterprises of the first state are subjected.

Paragraph 5 provides that the article does not oblige a state to grant to individuals not resident in that state any of the personal allowances, reliefs and reductions for tax purposes which are granted to residents of that state.

Paragraph 6 provides that the article applies to the taxes which are the subject of the Convention.

ARTICLE 26 – Mutual Agreement Procedure

This article authorises the competent authorities of the two states to endeavour to resolve, by mutual agreement, cases of taxation not in accordance with the Convention and to settle points of doubt or difficulty in the application or interpretation of the Convention.

Paragraph 1 provides that, where a person considers that the actions of one or both states will result in taxation not in accordance with the Convention, he may present his case to the competent authority of the country of which he is a resident or national. The right applies irrespective of any remedies provided by domestic law. The paragraph also sets out time-limits for the presentation of a case: a case must be presented within three years of the first notification of the action resulting in taxation not in accordance with the Convention or, if later, within six years from the end of the taxable year or chargeable period in respect of which that taxation is imposed or proposed.

Paragraph 2 requires the competent authority to which the case is presented to endeavour, if it considers the objection justified and if it is unable to deal with the matter unilaterally, to resolve the case by mutual agreement with the competent authority of the other state. The paragraph also provides that any agreement reached between the competent authorities shall be implemented notwithstanding any time-limits or other procedural limitations in the domestic law of the states, except such limitations as apply for the purposes of giving effect to such an agreement.

Paragraph 3 provides that the competent authorities shall endeavour to resolve by mutual agreement any difficulties or doubts arising over the interpretation or application of the Convention. It also provides they may consult on cases not provided for in the Convention, for the purposes of eliminating double taxation and to consider measures to counteract improper use of provisions of the Convention.

Paragraph 4 permits the competent authorities to communicate directly with one another (i.e. not through diplomatic channels) for the purposes of reaching agreement under the article.

ARTICLE 27 – Exchange of Information

This article contains rules governing the exchange of information between the countries.

Paragraph 1 requires the competent authorities to exchange such information as is foreseeably relevant for carrying out the provisions of the Convention or of their domestic laws. The exchange of information is not restricted by articles 1 and 2, which means that information concerning persons not resident in either state and information relevant to all taxes, not just those covered by the Convention, may be exchanged.

Paragraph 2 provides that information exchanged in accordance with paragraph 1 shall be treated as secret, although it may be disclosed to certain specified persons or authorities. Such information may be disclosed in public court proceedings or in judicial decisions.

Paragraph 3 imposes certain limitations on the exchange of information. Sub-paragraphs (a), (b) and (c) cannot impose an obligation on a state to carry out administrative measures at variance with the laws and administrative practices of either state, to supply information which is not obtainable under the laws or in the normal course of the administration of either state or to supply information that would disclose any trade, business, industrial, commercial or professional secret or trade process, or information whose disclosure would be contrary to public policy.

Paragraph 4 provides that the state from which information is requested shall use its information-gathering powers to obtain the requested information even though that state may have no domestic tax interest in that information. The obligation is subject to the limitations of paragraph 3 but a state cannot decline to supply information solely because it has no domestic tax interest in that information.

Paragraph 5 makes clear that paragraph 3 cannot be applied to permit a state to decline to supply information requested solely because the information is held by a financial institution or a nominee, or because it relates to ownership information.

ARTICLE 28 – Members of Diplomatic or Permanent Missions and Consular Posts

This article ensures that diplomatic or consular officials shall not receive less favourable treatment under the Convention than they are entitled to under international law or under the provisions of special agreements (such as the Vienna Convention on Diplomatic Relations).

ARTICLE 29 – ENTRY INTO FORCE

This article contains the provisions governing how and when the Convention will enter into force and take effect.

Paragraph 1 provides that each country will notify the other through diplomatic channels of the completion of the necessary domestic legal procedures required to bring the Convention into force. This Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

a) in the UK:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date on which this Convention enters into force;

(ii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which this Convention enters into force; and

b) in Libya, for any calendar year, or financial year as the case may be subject to the discretion of the Tax Department, beginning on or after 1st January next following the date on which this Convention enters into force.

ARTICLE 30 – Termination

This article provides that the Convention may be terminated by either state giving notice of termination through diplomatic channels. Notice shall be given at least six months before the end of any calendar year after the expiry of five years from the date the Convention enters into force.

In the event of termination, the Convention shall cease to have effect:

a) in the United Kingdom:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date on which the notice is given;

(ii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which the notice is given;

b) in Libya, for any calendar year, or financial year as the case may be subject to discretion of the Tax Department, beginning on or after 1st January next following the date on which the notice is given.