

Draft Order in Council laid before the House of Commons under section 5(2) of the Taxation (International and Other Provisions) Act 2010 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2010 No.

**CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX**

**The Double Taxation Relief and International
Tax Enforcement (Georgia) Order 2010**

Made - - - - [date] [Month] 2010

At the Court at Buckingham Palace, the [date] day of [Month] 2010

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 5(2) of the Taxation (International and Other Provisions) Act 2010⁽¹⁾ and section 173(7) of the Finance Act 2006⁽²⁾ and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 2 of the Taxation (International and Other Provisions) Act 2010 and section 173(1) 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 Double Taxation Relief and International Tax Enforcement (Georgia) Order 2010.

Double taxation and international tax enforcement arrangements to have effect

2. It is declared that—

(1) 2010 c. 8.
(2) 2006 c. 25.

- (a) the arrangements specified in the Protocol set out in the Schedule to this Order, which vary the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Georgia) Order 2004(3), have been made with the Government of Georgia;
- (b) the arrangements have been made with a view to affording relief from double taxation in relation to income tax, corporation tax, capital gains tax and taxes of a similar character imposed by the laws of Georgia and for the purposes of assisting international tax enforcement; and
- (c) it is expedient that those arrangements should have effect.

Name
Clerk of the Privy Council

SCHEDULE

Article 2

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF GEORGIA TO AMEND THE AGREEMENT FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL, SIGNED AT LONDON ON 13 JULY 2004

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Georgia, desiring to conclude a Protocol to amend the Agreement between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, signed at London on 13 July 2004, (hereinafter referred to as “the Agreement”), have agreed as follows:

Article I

In paragraph 1 of Article 3 of the Agreement, after sub-paragraph l) the following shall be inserted:

- “m) the term “pension scheme” means any plan, scheme, fund, trust or other arrangement established in a Contracting State which:
 - (i) is generally exempt from income taxation in that State; and
 - (ii) operates principally to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements.”

Article II

In paragraph 3 of Article 5 of the Agreement, the words “six months” shall be replaced by the words “twelve months”.

Article III

Paragraph 2 of Article 10 of the Agreement shall be deleted and replaced by the following:

“2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State:

- a) except as provided in sub-paragraph b), such dividends shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident;

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Double Taxation Relief and International Tax Enforcement (Georgia) Order 2010 No. 2972*

- b) other than where the beneficial owner of the dividends is a pension scheme, where dividends are paid out of income derived directly or indirectly from immovable property within the meaning of Article 6 by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax, the tax charged by the Contracting State of which the company paying the dividends is a resident shall not exceed 15 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.”

Article IV

Each of the Contracting States shall notify the other, through diplomatic channels, of the completion of the procedures required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications and shall thereupon have effect:

- (a) in Georgia, in respect of taxes chargeable, for any fiscal year beginning on or after 1st January in the calendar year next following that in which this Protocol enters into force;
- (b) 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 in the calendar year next following that in which this Protocol enters into force;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which this Protocol enters into force.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done in duplicate, at Tbilisi this third day of February 2010, in the Georgian and English languages, both texts being equally authoritative.

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

Denis Keefe

For the Government of the Georgia:

Kakha Baindurashvili

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order contains a Protocol (“the Protocol”) which amends the agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Georgia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital (“the Agreement”). The Agreement was scheduled to the Double Taxation Relief (Taxes on Income) (Georgia) Order 2004 (S.I. 2004/3325). This Order brings the Protocol into effect.

The Agreement aims to eliminate the double taxation of income or gains arising in one country and paid to residents of the other country. It does this by allocating the taxing rights that each country has under its domestic law over the same income and gains, and/or by providing relief from double taxation. It also has specific measures which combat discriminatory tax treatment and provide for assistance in international tax enforcement. The Protocol continues that approach.

The Protocol amends Article 3 of the Agreement to include a definition of “pension scheme”. Article 5 is amended to extend to 12 months the time limit after which a building site or construction project will constitute a permanent establishment. Article 10 is amended to provide for dividends, other than those paid by property investment vehicles, to be paid free of withholding tax.

Article 1 provides for citation.

Article 2 makes a declaration as to the effect and content of the arrangements set out in the Protocol.

The Protocol will enter into force on the date of the later of the notifications by each country of the completion of its legislative procedures. It will have effect:

- (a) in respect to taxes chargeable in Georgia, for any fiscal year beginning on or after 1st January in the year next following the date of entry into force;
- (b) in respect to income tax and capital gains tax in the United Kingdom, for any year of assessment beginning on or after 6th April in the year next following the date of entry into force; and
- (c) in respect to corporation tax in the United Kingdom, for any financial year beginning on or after 1st April in the year next following the date of entry into force.

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

A full and final Impact Assessment has not been produced for this Order as a negligible impact on the private or voluntary sectors is foreseen.