

*These notes refer to the Taxation (International and Other Provisions)  
Act 2010 (c.8) which received Royal Assent on 18 March 2010*

# **TAXATION (INTERNATIONAL AND OTHER PROVISIONS) ACT 2010**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes relate to the Taxation (International and Other Provisions) Act 2010 which received Royal Assent on 18 March 2010. They have been prepared by the Tax Law Rewrite project at HMRC to assist readers in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of its contents. So if a section or part of a section does not seem to require explanation or comment, none is given.
3. The commentary on each section, or rewritten provision inserted in another Act by Schedules 1 to 7, indicates the main origin or origins of the section or rewritten provision. A full statement of the origins of each section, and of the paragraphs of Schedules 1 to 7 making such insertions, is contained in the Act's Table of Origins.
4. At the end of the commentary, there is supporting material in two annexes:
  - *Annex 1* contains details of the minor changes in the law made by the Act.
  - *Annex 2* contains a list of provisions not included in the Act on the grounds of redundancy.

### ***Summary***

5. The main purpose of the Taxation (International and Other Provisions) Act 2010 is to rewrite primary legislation relating to a number of provisions with an international dimension so that they are clearer and easier to use but without changing their general effect.
6. It contains provisions about double taxation relief, transfer pricing, advance pricing agreements, tax arbitrage, tax treatment of financing costs and income, and offshore funds. It also relocates and rewrites other provisions where it seems helpful to users to do so.
7. The Act reproduces the law on which it is based. It does not generally change the meaning of the law. The minor changes which it does make are within the remit of the Tax Law Rewrite project and the Parliamentary process for the Act. In the main, such minor changes are intended to clarify existing provisions, make them consistent or bring the law into line with well established practice.

## **Background**

### **The Tax Law Rewrite project**

8. In December 1995 the Inland Revenue presented a report to Parliament on the scope for simplifying the UK tax system (*The Path to Tax Simplification*). The main recommendation was that UK direct tax legislation should be rewritten in clearer, simpler language.
9. This recommendation was warmly welcomed, both in Parliament and in the tax community. In his November 1996 Budget speech the then Chancellor of the Exchequer (the Rt Hon Kenneth Clarke QC MP) announced that the Inland Revenue would propose detailed arrangements for a major project to rewrite direct tax legislation in plainer language.
10. The project team has been carrying out this work. The aim is that the rewritten legislation should use simpler language and structure than previous tax legislation. The members of the project are drawn from different backgrounds. They include HMRC employees, private sector tax professionals and parliamentary counsel including (as head of the drafting team) a senior member of the Parliamentary Counsel Office.

### **Steering Committee**

11. The work of the project is overseen by a Steering Committee, chaired by the Rt Hon the Lord Newton of Braintree OBE DL. The membership of the Steering Committee as at 19 October 2009 was:

The Rt Hon the Lord Newton of Braintree OBE DL (Chairman)

Dr John Avery Jones CBE

Adam Broke

Nicholas Dee

Dave Hartnett CB

The Rt Hon Michael Jack MP

Eric Joyce MP

District Judge Rachel Karp

Professor John Tiley CBE

John Whiting OBE

### **Consultative Committee**

12. The work is also reviewed by a Consultative Committee, representing the accountancy and legal professions and the interests of taxpayers. The membership of the Consultative Committee as at 19 October 2009 was:

Robina Dyall	Chairman
Adam Broke	Special Committee of Tax Law Consultative Bodies
Colin Campbell	Formerly Confederation of British Industry
Russell Chaplin	London Chamber of Commerce & Industry
Mary Fraser	Association of Chartered Certified Accountants
Malcolm Gammie CBE QC	The Law Society

Julian Ghosh QC	Revenue Bar Association
Keith Gordon	Chartered Institute of Taxation
Terry Hopes	Institute of Chartered Accountants in England and Wales
Vic Peake	Federation of Small Businesses
Isobel d'Inverno	Law Society of Scotland
Simon McKie	Institute of Chartered Accountants in England and Wales
Lakshmi Narain	Chartered Institute of Taxation
Francis Sandison	The Law Society
Michael Templeman	Institute of Directors
Professor David Williams	Office of the Social Security Commissioners
Mervyn Woods	Confederation of British Industry

### ***Consultation***

13. The work produced by the project has been subject to public consultation. This has allowed all interested parties an opportunity to comment on draft clauses.
14. Consultation took the form of a series of papers presenting clauses in draft and documents containing responses to comments received. These were published between September 2007 and October 2009. A draft Bill was published for consultation in March 2009. All these documents are available on the Tax Law Rewrite website.
15. In addition to this consultation the project also presented its papers to the Consultative and Steering Committees to inform them and to seek their views on particular issues. The project also consulted on an informal basis with specialists in particular subject areas.
16. Those who responded in writing to one or more of the papers or to the draft Bill include:
  - BDO LLP
  - Bircham Dyson Bell LLP
  - The British Property Federation
  - CASCS Development Forum
  - The Charity Law Association
  - Chartered Institute of Taxation
  - Colin Campbell
  - Confederation of British Industry
  - Dr David Williams
  - Ernst & Young LLP
  - Francis Sandison
  - Freshfields Bruckhaus Deringer LLP
  - Horwath Clark Whitehill
  - Institute of Chartered Accountants in England and Wales

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KPMG LLP

Pinsent Masons LLP

PricewaterhouseCoopers LLP

Slaughter and May

The Law Society

The UK Oil Industry Taxation Committee

17. As there was some movement of material between this Act and the Corporation Tax Act 2010 during the course of the work on the Bills, this list includes respondents to both Bills. The list excludes any individuals who requested that their responses be treated in confidence.

***Taxation (International and Other Provisions) Act 2010***

18. The Act contains provisions relating to:
- double taxation relief;
  - transfer pricing;
  - advance pricing agreements;
  - tax arbitrage;
  - tax treatment of financing costs and income;
  - offshore funds; and
  - relocation of provisions of tax legislation.
19. The Act has 382 sections and 11 Schedules. The sections are arranged as follows:
- Part 1: Overview*
- Part 2: Double taxation relief*
- Part 3: Double taxation relief for special withholding tax*
- Part 4: Transfer pricing*
- Part 5: Advance pricing agreements*
- Part 6: Tax arbitrage*
- Part 7: Tax treatment of financing costs and income*
- Part 8: Offshore funds*
- Part 9: Amendments to relocate provisions of tax legislation*
- Part 10: General provisions*

20. The Schedules are:
- Schedule 1: Oil activities: new Chapter 16A of Part 2 of ITTOIA 2005*
- Schedule 2: Alternative finance arrangements*
- Schedule 3: Leasing arrangements: finance leases and loans*
- Schedule 4: Sale and lease-back etc: new Part 12A of ITA 2007*

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*Schedule 5: Factoring of income etc: new Chapters 5B and 5C of Part 13 of ITA 2007*

*Schedule 6: UK Representatives of non-UK residents*

*Schedule 7: Miscellaneous relocations*

*Schedule 8: Minor and consequential amendments*

*Schedule 9: Transitionals and savings etc*

*Schedule 10: Repeals and revocations*

*Schedule 11: Index of defined expressions used in Parts 2 to 8*

## **Glossary**

21. The commentary uses a number of abbreviations. They are listed below.

APA	advance pricing agreement
CAA	the Capital Allowances Act 2001
CRCA	the Commissioners for Revenue and Customs Act 2005
CTA 2009	the Corporation Tax Act 2009
CTA 2010	the Corporation Tax Act 2010
DTA	double taxation arrangement
DTR	double taxation relief
FA 1964	Finance Act 1964 (and similarly for other Finance Acts)
F(No 2)A	Finance (No 2) Act
GAAP	generally accepted accounting practice
HMRC	Her Majesty's Revenue and Customs
ICTA	the Income and Corporation Taxes Act 1988
ITA	the Income Tax Act 2007
ITEPA	the Income Tax (Earnings and Pensions) Act 2003
ITTOIA	the Income Tax (Trading and Other Income) Act 2005
OTA 1975	the Oil Taxation Act 1975
PRT	petroleum revenue tax
TCGA	the Taxation of Chargeable Gains Act 1992
TMA	the Taxes Management Act 1970