

EXPLANATORY MEMORANDUM TO

THE RECOVERY OF FOREIGN TAXES (AMENDMENT) REGULATIONS 2010

2010 No. 794

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. **Description**

2.1. The instrument amends the Recovery of Foreign Taxes Regulations 2007 (“the 2007 Regulations”). The main purpose of the amendments is to make clear that interest may be charged on a foreign tax claim as though it were a domestic income tax debt. The amendments also make clear that, where certain details are to be settled by agreement between HMRC and the relevant foreign authority, such agreement is possible solely where permitted by or under international arrangements which have themselves been given effect in the UK by Order in Council.

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

None.

4. **Legislative Background**

The powers to make the instrument are in section 175 subsections (1) and (4) of the Finance Act 2006(a).

5. **Extent**

This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

Since the instrument is subject to the negative resolution procedure and does not amend primary legislation, no ECHR statement is needed.

7. **Policy Background**

7.1. On the 24th of May 2007, the UK signed the Council of Europe-OECD Convention on Mutual Administrative Assistance in Tax Matters, which provides, among other things, for assistance in the recovery of tax debts. In fulfilment of the obligations that it had assumed under the Convention, the UK enacted the 2007 Regulations. Those

Regulations provide that, upon a proper claim being made for the purpose by a relevant overseas authority, a relevant foreign tax debt, together with any interest charged thereon, shall be recovered by HMRC though it were a UK income tax debt, and lays down the relevant procedures.

7.2. Doubts have arisen about whether the 2007 Regulations make it sufficiently clear that, if the relevant international arrangements so provide, interest shall be charged on the amount of the foreign claim, as though it were a UK income tax debt. The amendments put the matter beyond doubt and, in addition, make it equally clear that, where the 2007 Regulations refer to matters to be agreed between HMRC and the relevant foreign tax authority, that is because the relevant international arrangements so permit.

8. Consultation outcome

No consultation was necessary, since the amendments make no changes of substance.

9. Guidance

No additional guidance is required since no changes are made to existing procedures.

10. Impact

No Impact Assessment has been prepared because (for the reasons given above) there is no impact on business, charities, voluntary bodies or the public sector.

11. Regulating small business

The legislation may apply to small business but a Small Firms Impact Test has not been undertaken because the legislation does not alter the operation of existing procedures.

12. Monitoring & Review

Not appropriate.

13. Contact

Robert Horwill at HM Revenue & Customs Tel: 020 7147 2447 or e-mail: robert.horwill@hmrc.gsi.gov.uk can answer any queries regarding the instrument.