

EXPLANATORY MEMORANDUM TO
THE DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX
ENFORCEMENT (AUSTRIA) ORDER 2010

2010 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.

2. **Purpose of the instrument**

The Order brings into effect arrangements set out in the two Protocols (“the Protocols”) made by the Governments of the United Kingdom and the Republic of Austria. The Protocols further amend the convention (“the Convention”) between the two countries for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, which was previously amended by the arrangements scheduled to the Double Taxation Relief (Taxes on Income) Order 1979 and the arrangements scheduled to the Double Taxation Relief (Taxes on Income) (Austria) Order 1994.

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

None

4. **Legislative context**

- 4.1 General

The Order is being made to give effect in UK legislation to the Protocols. The arrangements in the Protocols amending the Convention are scheduled to the Order, and are thus given domestic legislative effect.

- 4.2 EU legislation

The Order does not implement EU legislation.

5. **Territorial extent and application**

The Order applies to all of the United Kingdom.

6. **European Convention on Human Rights**

The Exchequer Secretary to the Treasury, David Gauke, has made the following statement regarding human rights:

“In my view the provisions of the Double Taxation Relief and International Tax Enforcement (Austria) Order 2010 are compatible with the Convention rights”.

7. Policy background

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

7.1 The Protocols update the exchange of information article in the Convention to bring it into line with the new international standard for exchange of information as set out in article 26 of the Model Tax Convention on Income and on Capital published by the Organisation for Economic Cooperation and Development (“OECD”).

- ***Consolidation***

7.2 Not applicable

8. Consultation outcome

HMRC regularly consults with external interested parties, including business representatives, about the effectiveness of existing arrangements for the avoidance of double taxation and fiscal evasion as well as new needs. The need for the exchange of information provisions contained in such arrangements to be updated was considered and acknowledged in the course of such consultation. 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 web site at:

<http://www.hmrc.gov.uk/manuals/intmanual/INTM150000.htm>

There is also more detailed guidance on the existing UK-Austria Convention at:

<http://www.hmrc.gov.uk/manuals/dtmanual/dt2750+.htm>

This guidance will be updated once the Protocols enter into force.

10. Impact

10.1 None of the provisions of the Protocols affects the taxation of businesses, charities and voluntary bodies and the impact on these sectors is negligible.

10.2 There is no impact on the UK public sector. HMRC already operates the terms of many other similar arrangements currently in force.

10.3 No impact assessment has been prepared for this Order.

11. Regulating small business

None of the provisions of the Protocols affects the taxation of small business.

12 Monitoring & review

Both Governments will keep the Protocols scheduled to the Order under review to ensure that they meet the policy objectives set out above in section 7.

13. Contact

Douglas Rankin at HM Revenue & Customs (tel: 020 7147 2696/email: douglas.rankin@hmrc.gsi.gov.uk) can answer any queries regarding the Order.