

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

2010 No. 2686

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 a Protocol (“the Protocol”) made by the Governments of the United Kingdom and the United Mexican States. The Protocol amends a convention made in 1994 between the two countries for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains (“the Convention”).

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 Protocol. The arrangements in the Protocol 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 (Mexico) Order 2010 are compatible with the Convention rights”.

7. Policy background

- *What is being done and why*

7.1 The Protocol extends the type of Mexican taxes covered by the Convention to include the business flat rate tax. It also updates 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”). Finally, it provides for assistance to be given by each country to the other in the collection of their taxes. This again done in line with the international standard as set out in the Model Tax Convention on Income and Capital published by the 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.

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 more detailed guidance on the existing UK-Mexico Convention at:

<http://www.hmrc.gov.uk/manuals/dtmanual/DT13200+.htm>

This guidance will be updated once the Protocol enters into force.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible. The provisions of the Protocol 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 HMRC or the other country’s fiscal authority in order to benefit from the Protocol.

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

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

12. Monitoring & review

Both Governments will keep the Protocol scheduled to the Order under review to ensure that it meets 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.