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STATUTORY INSTRUMENTS

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**2014 No. 1874**

**CAPITAL GAINS TAX  
CORPORATION TAX  
INCOME TAX**

**The Double Taxation Relief (Federal  
Republic of Germany) Order 2014**

*Made - - - - 16th July 2014*

At the Court at Buckingham Palace, the 16th day of July 2014

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 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, by and with the advice of Her Privy Council, orders as follows—

**Citation**

1. This Order may be cited as the Double Taxation Relief (Federal Republic of Germany) Order 2014.

**Double taxation arrangements to have effect**

2. It is declared that—

- (a) the arrangements specified in the Protocol set out in the Schedule to this Order, which amend the arrangements set out in the Schedule to the Double Taxation Relief and International Tax Enforcement (Federal Republic of Germany) Order 2010(2), have been made with the Federal Republic of Germany;

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(1) 2010 c. 8.  
(2) S.I. 2010/2975.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (b) the arrangements have been made with a view to affording relief from double taxation in relation to capital gains tax, corporation tax, income tax and taxes of a similar character imposed by the laws of the Federal Republic of Germany; and
- (c) it is expedient that those arrangements should have effect.

*Richard Tilbrook*  
Clerk of the Privy Council

**PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE FEDERAL REPUBLIC OF GERMANY FOR THE ELIMINATION OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION IN RESPECT TO TAXES ON INCOME AND CAPITAL GAINS  
LONDON ON 30 MARCH 2010**

The United Kingdom of Great Britain and Northern Ireland

Desiring to encourage the application and interpretation of the OECD Model Tax Convention on Income and on Capital as adopted by the Organisation for Economic Co-operation and Development in its Commentary,

Intending to harmonize the taxation rights under paragraph (1) of Article 7 of the Protocol of 30 March 2010 with sub-paragraph (c) of paragraph (1) of Article 7 of the Convention of 30 July 1956 between the Federal Republic of Germany and Northern Ireland,

Have agreed as follows:

**ARTICLE 1**

1. Paragraphs 1<sup>3</sup> to 6 of Article 7 shall be deleted and replaced by:

“(1) Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State, in which case it shall be taxable in that other State.”

## ARTICLE I

Paragraph 1 of Article 18 shall be deleted and replaced by

- “(1) Salaries, wages and other similar remuneration payable by a Contracting State to an individual in the other Contracting State, in respect of services rendered to that State, by that individual in the other Contracting State, in the exercise of an authority or some other legal entity under the law of that State. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of that State and also being a national of the first-mentioned State.”

## ARTICLE II

Article 30 shall be deleted and replaced by the following

### “ARTICLE 30

#### **Members of diplomatic missions**

- (1) Subject to the provisions of paragraph 2, nothing in this Convention shall affect the privileges and immunities of members of diplomatic missions or consular posts as provided in international law or under the provisions of special agreements.
- (2) Notwithstanding sub-paragraph (c) of paragraph 1 of Article 29 and sub-paragraph d) of paragraph 1 of Article 29, the Convention between the Federal Republic of Germany and the United Kingdom of Great Britain and Northern Ireland signed at Bonn on 23 November 1975 and sub-paragraph d) of paragraph 1 of Article 29 shall continue to apply.

- aa) in respect of income tax and capital gains tax on or after 6 April in the calendar year next enters into force;
- bb) in respect of corporation tax, for any financial year beginning in the calendar year next following that in which

**DONE** in duplicate at London on seventeenth March 2017, both texts being equally authoritative.

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

David Gauke

**For the**

Jörg R

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**EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Schedule to this Order contains a Protocol (“the Protocol”) which amends the Convention between the United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income and on Capital (“the Convention”). The Convention was scheduled to the Double Taxation Relief and International Tax Enforcement (Federal Republic of Germany) Order 2010 ([S.I. 2010/2975](#)). This Order brings the Protocol into effect.

The Convention aims to eliminate double taxation on 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 7 (Business Profits) to bring it into line with the latest approach of the Organisation for Economic Cooperation and Development (OECD) as set out in its Model Tax Convention on Income and on Capital. Article 18 (Government Service) is amended and Article 30 (Members of Diplomatic Missions and Consular Posts) is substituted to harmonise the taxation of government service income including that of consular employees with Article 14(1)(c) of the Consular Convention of 30 July 1956 between the Federal Republic of Germany and the United Kingdom of Great Britain and Northern Ireland.

Article 1 provides for citation.

Article 2 makes a declaration as to the effect and content of the Protocol.

The Protocol will enter into force on the day on which the United Kingdom and the Federal Republic of Germany exchange instruments of ratification. It will take effect in each country as follows:

- (a) in the United Kingdom:
  - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the Protocol enters into force;
  - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the Protocol enters into force; and
- (b) in Germany:
  - (i) in respect of taxes levied for periods beginning on or after 1 January in the calendar year next following that in which the Protocol enters into force.

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

A Tax Information and Impact Note has not been produced for this Order as it gives effect to a previously announced policy to enact a double taxation agreement.