
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.