

**EXPLANATORY MEMORANDUM TO
THE MUTUAL ASSISTANCE PROVISIONS ORDER 2004**

2004 No. 3207

1. This explanatory memorandum has been prepared by the Inland Revenue and is laid before the House of Commons by Command of Her Majesty.

2. **Description**

This Order amends a definition contained in section 197 of the Finance Act 2003 of the EC Directive on Mutual Assistance in the field of taxation, following the adoption of a new Council Directive amending the original Mutual Assistance Directive.

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

None

4. **Legislative Background**

- 4.1 Section 197 Finance Act 2003 permits the exchange of information between the Commissioners of Inland Revenue or the Commissioners of Customs and Excise and the competent authorities of another EU Member State, for the purposes of giving effect to the provisions of EC mutual assistance legislation. Subsection (5) of section 197 contains a power to enable the definition of the relevant EC legislation to be updated from time to time. The power has already been used on one previous occasion (see SI 2003/3092).

- 4.2 This Order is required following the adoption in April 2004 of Council Directive 2004/56/EC, which amends existing EC mutual assistance legislation, in particular Council Directive 77/799/EEC.

5. **Extent**

This Order applies to all of the United Kingdom.

6. **European Convention on Human Rights**

It is not considered that this legislation has any ECHR implications. The Order is subject to annulment by the House of Commons.

7. Policy background

7.1 The EC Mutual Assistance Directive in the field of direct taxes was originally adopted in 1977. Its purpose is to allow administrative co-operation and the exchange of information between Member States in order to detect and prevent tax fraud and evasion and to enable Member States to make a correct assessment of tax due under their national laws. The Government fully supports the aims of the Directive. Over the years the Directive has been amended several times, including to extend its scope to certain indirect taxes and taxes on insurance premiums.

7.2 The latest amendment to the Directive, to which this Order relates, does not alter the range of taxes covered, but updates and modernises the Directive. The Government again supported the amendments, which were adopted unanimously in the Council.

7.3 This Order makes no substantive change to UK legislation, but allows existing UK rules on the exchange of tax information with other EU Member States to be read by reference to the Directive as amended. Any substantive new UK legislation considered appropriate as a result of the amendments made to the Directive will be presented to Parliament in a Finance Bill in the usual way.

8. Impact

This Order will have no regulatory impact on business, charities or voluntary bodies and no measurable impact on the Exchequer.

9. Contact

Jeff Worrell at the Inland Revenue Tel: 020 7147 2723 or e-mail: jeff.worrell@ir.gsi.gov.uk can answer any queries regarding the instrument.