

EXPLANATORY MEMORANDUM TO
THE RECOVERY OF FOREIGN TAXES REGULATIONS 2007

2007 No. 3507

- 1.** This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

The instrument contains the necessary machinery for recovering foreign taxes on behalf of countries not members of the European Union, where an appropriate international agreement providing for assistance is in force.

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

None

4. Legislative Background

4.1. The powers to make this instrument are in section 175(1) of the Finance Act 2006.

4.2. The Regulations provide the necessary machinery for recovering foreign taxes, under any arrangements relating to international tax enforcement made under s.173 FA 2006, which may include arrangements with any territory outside of the United Kingdom.

4.3. We need Regulations to fulfil our obligations under the Council of Europe-OECD Convention on Mutual Administrative Assistance in Tax Matters and under any bilateral international agreement providing for reciprocal assistance in tax collection. The Regulations provide for a claim for a relevant foreign tax debt by an overseas authority to be treated as if it were a United Kingdom income tax debt. The Regulations set out procedures to be followed by the overseas authority and HMRC and set down other rules such as the rate of interest to be charged.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

These Regulations are subject to annulment and do not amend primary legislation. Accordingly the Financial Secretary is satisfied that no statement as to compatibility with the Convention rights is required.

7. Policy background

7.1. On 24th May 2007, the UK signed the Council of Europe-OECD Convention on Mutual Administrative Assistance in Tax Matters, which provides among other things for assistance in the recovery of tax debts. The UK has not yet ratified the Convention but we expect the ratification process to be completed within the next few weeks. The Convention should come into force with respect to the UK early in 2008. The existing parties to the Convention are Azerbaijan, Belgium, Denmark, Finland, France, Iceland, Italy, the Netherlands, Norway, Poland, Sweden and the United States. Canada and Ukraine are also signatories to the Convention but have also yet to ratify it.

7.2. In addition, the United Kingdom has signed bilateral agreements with the Faroes and with New Zealand, each of which includes provisions on assistance in tax collection. These agreements are not yet in force, but it is expected they will enter into force in 2008.

8. Impact

8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2. The impact on the public sector is not significant.

9. Contact

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