

2011 No. 976

CAPITAL GAINS TAX

INCOME TAX

**The Penalties, Offshore Income etc. (Designation of Territories)
Order 2011**

Made - - - - *28th March 2011*

Coming into force - - *6th April 2011*

The Treasury make the following Order in exercise of the powers conferred by paragraph 21A(1) to (4) of Schedule 24 to the Finance Act 2007(a).

In accordance with paragraph 21A(7) of Schedule 24 to that Act, a draft of this instrument was laid before the House of Commons and approved by a resolution of that House.

Citation and commencement

1. This Order may be cited as the Penalties, Offshore Income etc. (Designation of Territories) Order 2011 and comes into force on 6th April 2011.

Designation of territories

2. The territories specified in the left hand column of the Table in the Schedule to this Order are designated as category 1 territories for the purposes of Schedule 24 to the Finance Act 2007(b) (penalties for errors).

3. The territories specified in the right hand column of the Table in the Schedule to this Order are designated as category 3 territories for the purposes of Schedule 24 to the Finance Act 2007.

*Michael Fabricant
James Duddridge*

28th March 2011

Two of the Lords Commissioners of Her Majesty's Treasury

(a) 2007 c. 11. Paragraph 21A of Schedule 24 to the Finance Act 2007 is inserted by paragraphs 1 and 5 of Schedule 10 to the Finance Act 2010 (c. 13) from a day to be appointed.

(b) See also paragraph 6A(7) of Schedule 41 to the Finance Act 2008 (c. 9) (penalties: failure to notify and certain VAT and excise wrongdoing) and paragraph 6A(7) of Schedule 55 to the Finance Act 2009 (c. 10) (penalties for failure to make returns etc). Paragraph 6A(7) of Schedule 41 to the Finance Act 2008 and paragraph 6A(7) of Schedule 55 to the Finance Act 2009 are inserted by paragraphs 8 and 12, respectively, of Schedule 10 to the Finance Act 2010 from a day to be appointed.

SCHEDULE

Articles 2 and 3

Designated Territories

<i>Category 1 territories</i>	<i>Category 3 territories</i>
Anguilla	Albania
Aruba	Algeria
Australia	Andorra
Belgium	Antigua and Barbuda
Bulgaria	Armenia
Canada	Bahrain
Cayman Islands	Barbados
Cyprus	Belize
Czech Republic	Bonaire, Sint Eustatius and Saba
Denmark (not including Faroe Islands and Greenland)	Brazil
Estonia	Cameroon
Finland	Cape Verde
France	Colombia
Germany	Congo, Republic of the
Greece	Cook Islands
Guernsey	Costa Rica
Hungary	Curaçao
Ireland	Cuba
Isle of Man	Democratic People's Republic of Korea
Italy	Dominica
Japan	Dominican Republic
Korea, South	Ecuador
Latvia	El Salvador
Lithuania	Gabon
Malta	Grenada
Montserrat	Guatemala
Netherlands (not including Bonaire, Sint Eustatius and Saba)	Honduras
New Zealand (not including Tokelau)	Iran
Norway	Iraq
Poland	Jamaica
Portugal	Kyrgyzstan
Romania	Lebanon
Slovakia	Macao
Slovenia	Marshall Islands
Spain	Mauritius
Sweden	Micronesia, Federated States of
United States of America (not including overseas territories and possessions)	Monaco
	Nauru
	Nicaragua
	Niue
	Palau
	Panama
	Paraguay
	Peru
	Saint Kitts and Nevis
	Saint Lucia
	Saint Vincent and the Grenadines
	San Marino
	Seychelles

	Sint Maarten Suriname Syria Tokelau Tonga Trinidad and Tobago United Arab Emirates Uruguay
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EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates certain territories as category 1 territories or as category 3 territories for the purposes of Schedule 24 to the Finance Act 2007 (c. 11), as amended by Schedule 10 to the Finance Act 2010 (c. 13).

Schedule 10 to the Finance Act 2010 amends the level of penalties that may be charged in cases of non-compliance with UK income tax and capital gains tax obligations with respect to offshore income, gains and assets.

New paragraphs 4 and 4A of Schedule 24, inserted by paragraph 2 of Schedule 10, provide that every inaccuracy falls into one of three categories. The changes made by paragraphs 3 and 4 of Schedule 10 mean that existing penalty levels will apply to category 1 inaccuracies (which includes all domestic inaccuracies and inaccuracies relating to taxes other than income tax and capital gains tax). However, inaccuracies in category 2 and 3 are increased by factors of 1.5 and 2 respectively.

The categories of inaccuracies are defined by reference to whether the territory, to which the inaccuracy in connection with offshore income, gains or assets relates, is a category 1 territory, a category 2 territory or a category 3 territory. Every territory in the world, other than the UK, falls into one of these categories. Paragraph 21A of Schedule 24 to the Finance Act 2007 (inserted by paragraph 5 of Schedule 10 to the Finance Act 2010) provides for this classification of territories. Territories falling into category 1 and 3 are listed in this Order and any territory, other than the UK, not listed in category 1 or category 3 falls by default into category 2.

Paragraph 21A of Schedule 24 also has effect for the purposes of Schedule 41 to the Finance Act 2008 (c. 9) (penalties for failure to notify chargeability) and Schedule 55 to the Finance Act 2009 (c. 10) (the late filing of returns) (see paragraph 6A(7) of Schedule 41 to the Finance Act 2008 and paragraph 6A(7) of Schedule 55 to the Finance Act 2009, inserted by paragraphs 8 and 12, respectively, of Schedule 10 to the Finance Act 2010).

A full Impact Assessment has not been produced for this instrument as a negligible impact on the private and voluntary sectors is foreseen.

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