Draft Order in Council laid before the House of Commons, under section 5(2) of the Taxation (International and Other Provisions) Act 2010 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX

The Double Taxation Relief and International Tax Enforcement (Guernsey) Order 2018

Made - - - - ***

At the Court at Buckingham Palace, the *** day of ***

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 section 173(7) of the Finance Act 2006(**2**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercising the powers conferred upon Her by section 2(1) of the Taxation (International and Other Provisions) Act 2010 and section 173(1) to (3) of the Finance Act 2006, by and with advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief and International Tax Enforcement (Guernsey) Order 2018.

Double taxation and international tax arrangements to have effect

2. It is declared that—

(a) the arrangements specified in the Schedule have been made with the States of Guernsey—

(**1**) 2010 c. 8.
(**2**) 2006 c. 25.

(i) with a view to affording relief from double taxation in relation to capital gains tax, corporation tax and income tax and taxes of a similar character imposed by the laws of the States of Guernsey, and

(ii) for the purpose of assisting international tax enforcement; and

(b) it is expedient that those arrangements should have effect.

Name
Clerk of the Privy Council

SCHEDULE Article 2

EXCHANGE OF LETTERS

BETWEEN HER MAJESTY'S GOVERNMENT AND THE STATES OF GUERNSEY CONCERNING AN AGREEMENT BETWEEN THE TWO GOVERNMENTS FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

Deputy Gavin St Pier

President, Policy & Resources Committee

Sir Charles Frossard House

La Charroterie

St Peter Port

Guernsey

GY1 1FH

London, 2nd July 2018

Dear Gavin,

I have the honour to propose to you the AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE (the AGREEMENT), at Appendix 1 to this letter, and the PROTOCOL, at Appendix 2 to this letter, which shall form an integral part of the AGREEMENT, and that both shall together have effect in accordance with Article 28 of the AGREEMENT.

I have the further honour to propose that, if the above is acceptable to the States of Guernsey, this letter and Appendices 1 and 2 together with your reply will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL.

Mel Stride

The Rt Hon Mel Stride MP

Financial Secretary to the Treasury and Paymaster General

HM Treasury

1 Horse Guards Road

London

SW1A 2HQ

London, 2nd July 2018

Dear Mel,

I have the honour to acknowledge receipt of your letter of 2 July 2018, which reads as follows

"I have the honour to propose to you the AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY FOR THE ELIMINATION OF DOUBLE TAXATION WITH

RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE (the AGREEMENT), at Appendix 1 to this letter, and the PROTOCOL, at Appendix 2 to this letter, which shall form an integral part of the AGREEMENT, and that both shall together have effect in accordance with Article 28 of the AGREEMENT.

I have the further honour to propose that, if the above is acceptable to the States of Guernsey, this letter and Appendices 1 and 2 together with your reply will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL."

I am able to confirm that the States of Guernsey is in agreement with the contents of your letter of 2 July 2018 and this letter will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL.

Yours sincerely,

Deputy G A St Pier

APPENDIX 1 TO THE EXCHANGE OF LETTERS

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

The Government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income and on capital gains without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States or territories),

Have agreed as follows:

ARTICLE 1

Persons covered

1. This Agreement shall apply to persons who are residents of one or both of the Territories.

2. For the purposes of this Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Territory shall be considered to be income of a resident of a Territory but only to the extent that the same income is treated, for purposes of taxation by that Territory, as the income of a resident of that Territory.

3. This Agreement shall not affect the taxation, by a Territory, of its residents except with respect to the benefits granted under paragraph 3 of Article 7, paragraph 2 of Article 9 and Articles 18, 19, 22, 24, and 25.

ARTICLE 2

Taxes covered

1. This Agreement shall apply to taxes on income and on capital gains imposed on behalf of a Territory or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital gains all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which the Agreement shall apply are in particular:

(a) in Guernsey, the income tax (hereinafter referred to as "Guernsey tax"):

(b) in the United Kingdom:

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax;

(hereinafter referred to as "United Kingdom tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Territories shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3

General definitions

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term "Guernsey" means the States of Guernsey and, when used in the geographical sense, means the islands of Guernsey, Alderney and Herm, and the territorial sea adjacent thereto, in accordance with international law, save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm;

(b) the term "United Kingdom" means Great Britain and Northern Ireland but, when used in a geographical sense, means the territory and territorial sea of Great Britain and Northern Ireland and the areas beyond that territorial sea over which Great Britain and Northern Ireland exercise sovereign rights or jurisdiction in accordance with their domestic law and international law;

(c) the terms "a Territory" and "the other Territory" mean Guernsey or the United Kingdom, as the context requires;

(d) the term "person" includes an individual, a company and any other body of persons;

(e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;