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

DRAFT STATUTORY INSTRUMENTS

2014 No.

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX

The Double Taxation Relief (Federal Republic of Germany) Order 2014

Made - - - - ***

At the Court at Buckingham Palace, the *** day of *** 2014

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 approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 2 of the Taxation (International and Other Provisions) Act 2010, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief (Federal Republic of Germany) Order 2014.

Double taxation arrangements to have effect

2. It is declared that—

(a) the arrangements specified in the Protocol set out in the Schedule to this Order, which amend the arrangements set out in the Schedule to the Double Taxation Relief and

(**1**) 2010 c. 8.

International Tax Enforcement (Federal Republic of Germany) Order 2010(**2**), have been made with the Federal Republic of Germany;

(b) the arrangements have been made with a view to affording relief from double taxation in relation to capital gains tax, corporation tax, income tax and taxes of a similar character imposed by the laws of the Federal Republic of Germany; and

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

Name
Clerk of the Privy Council

(**2**) S.I. 2010/2975.

SCHEDULE Article 2

PROTOCOL AMENDING 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 SIGNED AT LONDON ON 30 MARCH 2010

The United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany

Desiring to encourage the application and interpretation of the new version of Article 7 of the Model Tax Convention on Income and on Capital as adopted on 22 July 2010 by the Council of the Organisation for Economic Co-operation and Development (OECD), together with its Commentary,

Intending to harmonize the taxation rights under paragraph 1 of Article 18 of the Convention of 30 March 2010 with sub-paragraph (c) of paragraph (1) of Article 14 of the Consular Convention of 30 July 1956 between the Federal Republic of Germany and the United Kingdom of Great Britain and Northern Ireland,

Have agreed as follows:

ARTICLE I

1. Paragraphs 1 to 6 of Article 7 shall be deleted and replaced by the following paragraphs:

"(1) Profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.

(2) For the purposes of this Article and Article 23, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

(3) Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other Contracting State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment if it agrees with the adjustment made by the first-mentioned State; if the other Contracting State does not so agree, the Contracting States shall endeavour to eliminate any double taxation resulting therefrom by mutual agreement.".

2. Paragraph 7 of Article 7 shall be renumbered as paragraph 4.