Draft Order laid before the House of Commons under section 788(10) of the Income and Corporation Taxes Act 1988 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2008 No.

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX
INHERITANCE TAX

The Double Taxation Relief and International Tax Enforcement (Taxes on Income and Capital) (Isle of Man) Order 2008

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 788(10) of the Income and Corporation Taxes Act 1988(**1**) and section 173(7) of the Finance Act 2006(**2**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 788(1) of the Income and Corporation Taxes Act 1988 and section 173(1) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief and International Tax Enforcement (Taxes on Income and Capital) (Isle of Man) Order 2008.

Tax information exchange arrangements to have effect

2. It is declared that—

(**1**) 1988 c. 1: Section 788 was extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12). It has also been amended. The relevant amendments are as follows: Subsection (1) was amended by section 88(1) of the Finance Act 2002 (c. 23). Subsection (10) was substituted by section 176 of the Finance Act 2006 (c. 25).
(**2**) 2006 c. 25.

(a) the arrangements specified in the Exchange of Letters set out in Part 1 of the Schedule to this Order and in the Agreement set out in Part 2 of that Schedule have been made with the Government of the Isle of Man with a view to the exchange of information foreseeably relevant to the administration or enforcement or recovery of the taxes, and debts relating to the taxes, covered by the arrangements including, in particular, provisions about the prevention of fiscal evasion with respect to those taxes; and

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

Double taxation arrangements to have effect

3. It is also declared that—

(a) the arrangements specified in the Exchange of Letters set out in Part 1 of the Schedule to this Order and in the Arrangement set out in Part 3 of that Schedule, which vary the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1955(**3**), as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1991(**4**) and as further amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1994(**5**), have been made with the Government of the Isle of Man with a view to affording relief from double taxation in relation to income tax or corporation tax and taxes of a similar character imposed by the laws of the Isle of Man; and

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

Clerk of the Privy Council

(**3**) S.I. 1995/1205
(**4**) S.I. 1991/2880
(**5**) S.I. 1994/3208

SCHEDULE Article 2

PART 1

EXCHANGE OF LETTERS

BETWEEN THE UNITED KINGDOM AND THE ISLE OF MAN

CONCERNING

AN AGREEMENT BETWEEN THE GOVERNMENT OF THE ISLE OF MAN AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

AND

AN ARRANGEMENT AMENDING THE 1955 ARRANGEMENT BETWEEN THE TWO GOVERNMENTS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Sir,

Having regard to the wish of our respective governments to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes and respecting the constitutional relationship between the United Kingdom of Great Britain and Northern Ireland and the Isle of Man, I have the honour

- to propose to you the provisions contained in the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Isle of Man for the exchange of information relating to tax matters ("the Agreement") set out at Appendix 1 to this letter;
- to propose that the said provisions may come into force on the date provided for by Article 12 of the Agreement;
- to propose our mutual commitment to comply at the earliest date with our internal formalities required by our respective domestic law for the bringing into force of the Agreement, and to notify each other without delay through the formal channels when such formalities are completed.

I also have the honour to propose to you the Arrangement, further amending the 1955 Arrangement between Her Majesty's Government and the Government of the Isle of Man for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income at Appendix 2 to this letter and that this Arrangement shall have effect in accordance with paragraph 7 thereof.

In proposing these agreements, the United Kingdom remains committed to the principle of non-discrimination.

The United Kingdom and the Isle of Man recognise that we share a common commitment to comply with international standards of anti-money laundering and counter-terrorist financing legislation and financial regulation and to participate in international efforts to combat financial and other crimes including fiscal crime. The Government of the United Kingdom is pleased to note the actions that the Isle of Man has taken in recent years to comply with these international standards.

I have the honour to propose that, if the above is acceptable to the Government of the Isle of Man, this letter together with its Appendices and your confirmation shall together constitute our mutual

acceptance and making of the Agreement and the Arrangement between the United Kingdom of Great Britain and Northern Ireland and the Isle of Man.

The United Kingdom welcomes this agreement as a significant step in establishing the Isle of Man's status as a jurisdiction which complies with international standards in the field of taxation, and looks forward to further progress in this area.

Please accept, Sir, the assurance of our highest consideration,

For the Government of the United Kingdom of Great Britain and Northern Ireland

Michael Wills
Minister of State for Constitutional Renewal

Sir,

I have the honour to acknowledge receipt of your letter of 29th September 2008, which reads as follows:

"Sir,

Having regard to the wish of our respective governments to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes and respecting the constitutional relationship between the United Kingdom of Great Britain and Northern Ireland and the Isle of Man, I have the honour

- to propose to you the provisions contained in the Agreement between the United Kingdom of Great Britain and Northern Ireland and the Isle of Man for the exchange of information relating to tax matters ("the Agreement") set out at Appendix 1 to this letter;
- to propose that the said provisions may come into force on the date provided for by Article 12 of the Agreement;
- to propose our mutual commitment to comply at the earliest date with our internal formalities required by our respective domestic law for the bringing into force of the Agreement, and to notify each other without delay through the formal channels when such formalities are completed.

I also have the honour to propose to you the Arrangement, further amending the 1955 Arrangement between Her Majesty's Government and the Government of the Isle of Man for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income at Appendix 2 to this letter and that this Arrangement shall have effect in accordance with paragraph 7 thereof.

In proposing these agreements the United Kingdom remains committed to the principle of non-discrimination.

The United Kingdom and the Isle of Man recognise that we share a common commitment to comply with international standards of anti-money laundering and counter-terrorist financing legislation and financial regulation and to participate in international efforts to combat financial and other crimes including fiscal crime. The Government of the United Kingdom is pleased to note the actions that the Isle of Man has taken in recent years to comply with these international standards.

I have the honour to propose that, if the above is acceptable to the Government of the Isle of Man, this letter together with its Appendices and your confirmation shall together constitute our mutual acceptance and making of the Agreement and the Arrangement between the United Kingdom of Great Britain and Northern Ireland and the Isle of Man.

The United Kingdom welcomes this agreement as a significant step in establishing the Isle of Man's status as a jurisdiction which complies with international standards in the field of taxation, and looks forward to further progress in this area.

Please accept, Sir, the assurance of our highest consideration,"

I am able to confirm that the contents of your letter dated 29th September 2008 are acceptable to the Government of the Isle of Man, and therefore that this letter together with your letter and its Appendices constitute our mutual acceptance of the provisions of the Agreement and the Arrangement between the Isle of Man and the United Kingdom of Great Britain and Northern Ireland.

Please accept, Sir, the assurance of my highest consideration.

For the Government of the Isle of Man

J Anthony Brown
Chief Minister

PART 2

AGREEMENT BETWEEN THE ISLE OF MAN AND THE UNITED KINGDOM FOR THE EXCHANGE OF INFORMATION RELATING TO TAX MATTERS

Whereas the Isle of Man and the United Kingdom ("the Parties") recognise that present legislation already provides for cooperation and the exchange of information in criminal tax matters;

Whereas the Parties have long been active in international efforts in the fight against financial and other crimes, including the targeting of terrorist financing;

Whereas the Isle of Man on the 13th December 2000 entered into a political commitment to the OECD's principles of transparency and effective exchange of information and actively participated in the drafting of the OECD Model Agreement on Exchange of Information on Tax Matters;

Whereas the Parties wish to enhance and facilitate the terms and conditions governing the exchange of information relating to taxes;

Now, therefore, the Parties have agreed to conclude the following agreement which contains obligations on the part of the parties only:

ARTICLE 1

Object and Scope of the Agreement

The competent authorities of the Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration or enforcement of the domestic laws of the Parties concerning the taxes covered by this Agreement including information that is foreseeably relevant to the determination, assessment, enforcement or collection of tax with respect to persons subject to such taxes, or to the investigation of tax matters or the prosecution of tax matters in relation to such persons. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable. However, the requested Party shall use its best endeavours to ensure that the effective exchange of information is not thereby unduly prevented or delayed. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8.