

*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.*

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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**CAPITAL GAINS TAX  
CORPORATION TAX  
INCOME TAX**

**The Double Taxation Relief and International  
Tax Enforcement (Mexico) Order 2010**

*Made*     -     -     -     -     *[date] [Month] 2010*

At the Court at Buckingham Palace, the [date] day of [Month] 2010

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<sup>(1)</sup> and section 173(7) of the Finance Act 2006<sup>(2)</sup> 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 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 (Mexico) Order 2010.

**Double taxation and international tax enforcement arrangements to have effect**

2. It is declared that—

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

- (a) the arrangements specified in the Protocol set out in the Schedule to this Order, which vary the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Mexico) Order 1994<sup>(3)</sup>, have been made with the Government of the United Mexican States;
- (b) the arrangements have been made with a view to affording relief from double taxation in relation to income tax, corporation tax, capital gains tax and taxes of a similar character imposed by the laws of the United Mexican States and for the purpose of assisting international tax enforcement; and
- (c) it is expedient that those arrangements should have effect.

*Name*  
Clerk of the Privy Council

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<sup>(3)</sup> S.I. 1994/3212.

SCHEDULE

Article 2

**PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM  
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE  
GOVERNMENT OF THE UNITED MEXICAN STATES TO AMEND THE  
CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE  
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON  
INCOME AND CAPITAL GAINS, SIGNED AT MEXICO CITY ON 2 JUNE  
1994**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United Mexican States;

Desiring to conclude a Protocol to amend the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains, signed at Mexico City on 2nd June 1994 (hereinafter referred to as “the Convention”);

Have agreed upon the following provisions, which shall be an integral part of the Convention:

**ARTICLE I**

Sub-paragraph (a) of paragraph (1) of Article 2 of the Convention shall be replaced by:

- “(a) in the case of Mexico:
- (i) the income tax (el impuesto sobre la renta);
  - (ii) the business flat rate tax (el impuesto empresarial a tasa unica);
- (hereinafter referred to as “Mexican tax”);”.

**ARTICLE II**

1. Paragraphs (1) and (2) of Article 10 of the Convention shall be replaced by:

- “(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
- (2) However:
- (a) except as provided in sub-paragraph (b), such dividends shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident, if the beneficial owner of the dividends is a resident of the other Contracting State;
  - (b) other than where the beneficial owner of the dividends or distributions is a pension scheme, dividends or distributions paid out of income derived from immovable property within the meaning of Article 6 by an investment vehicle:
    - (i) which distributes most of this income annually; and
    - (ii) whose income from such immovable property is exempted from tax;

may be taxed in the Contracting State where the investment vehicle is resident but if the beneficial owner of the dividends or distributions is a resident of the other Contracting State the tax so charged shall not exceed 15 per cent of the gross amount of the dividends or distributions.

This paragraph shall not affect the taxation of the company or trust in respect of the profits out of which the dividends or distributions are paid.

In the case of Mexico distributions referred to in sub-paragraph (b) above mean 'the distributed taxable result' of real estate trusts referred to in articles 223 and 224 of the Income Tax Law or the distributions made by any other immovable property investment vehicle which may be incorporated in the Mexican legislation, where the conditions of such sub-paragraph are met."

2. The following paragraph shall be inserted after paragraph (5) of Article 10 of the Convention:

"(6) The provisions of paragraph (2) of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividends are paid to take advantage of this Article by means of that creation or assignment."

### ARTICLE III

Article 27 of the Convention shall be deleted and replaced by the following:

#### "ARTICLE 27 EXCHANGE OF INFORMATION

- (1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against legal avoidance. The exchange of information is not restricted by Articles 1 and 2 of this Convention.
- (2) Any information received under paragraph (1) of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in paragraph (1) of this Article, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
- (3) In no case shall the provisions of paragraphs (1) and (2) of this Article be construed so as to impose on a Contracting State the obligation:
  - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
  - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;