

EXPLANATORY MEMORANDUM ON THE EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA UPDATING AND AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA TO IMPROVE INTERNATIONAL TAX COMPLIANCE AND TO IMPLEMENT FATCA DONE AT LONDON ON 12 SEPTEMBER 2012

20 May 2013

Title of the Treaty

Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America Updating and Amending the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America to Improve International Tax Compliance and Implement FATCA done at London on 12 September 2012.

Command Paper Number

8656

Subject matter

The Agreement to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act facilitates automated exchange of tax information between the US and the UK. The UK's obligations under the Agreement include that it will collect from United Kingdom Financial Institutions, and exchange with the US, information about financial accounts maintained by those institutions for certain account holders, broadly those who are resident for tax purposes in the US. Annex II exempts from the scope of that obligation Financial Accounts of specified categories and Financial Institutions of specified categories. Annex II also makes provision for specification of exempt accounts and institutions to be updated by mutual agreement between the parties, using the procedure specified at Articles 8 and 10 of the agreement. This exchange of notes is intended to effect mutually agreed changes to Annex II as contemplated by the Agreement.

Ministerial responsibility

The Secretary of State for Foreign and Commonwealth Affairs has overall responsibility for UK relations with the United States of America. The Exchequer Secretary to the Treasury has direct policy interest in the Treaty.

Policy Considerations:

General

The Agreement imposes a range of reciprocal obligations on the US and the UK around exchange of tax information (and allows UK Financial Institutions to be released from what would otherwise be their obligations under the US legislation "Foreign Tax Compliance Act (FATCA)" introduced in "The US Hiring incentives to Restore Employment Act HIRE" in 2010). Consistent with the terms of the Treaty, the amendments in this exchange of letters allow UK business to have the benefit of the more favourable view on risks presented by certain types of financial institutions and products that has emerged as US domestic regulations and negotiations of Treaties with other territories by the USA have developed. Thus these amendments will result in a wider range of Financial Institutions and Financial Accounts than before being exempt from the scope UK/US information exchange.

Financial

These amendments to Annex II to the Agreement take advantage of changes made in the USA to exempt a greater number of UK businesses and products from the reporting obligations leading to a reduction in administrative and compliance burdens for businesses.

Reservations and Declarations

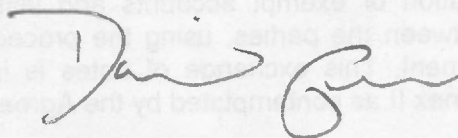
There are no reservations or declarations.

Implementation

The Agreement itself will be implemented in the UK by legislation in Finance Bill 2013 and secondary legislation arising out of that. No specific provision will be required in either to cater for the changes to Annex II.

Consultations

Since February 2012 HMRC and HM Treasury have undertaken extensive stakeholder engagement with representative bodies and businesses to better understand the scale of impact of FATCA and the key issues/concerns of the various impacted stakeholder groups. Negotiation of the amendments to Annex II that are the subject matter of this Exchange of Notes are a response to consultation feedback.



DAVID GAUKE