PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (BRAZIL) ORDER 2023

DRAFT DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (SAN MARINO) ORDER 2023

Tuesday 27 June 2023

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not later than

Saturday 1 July 2023

The Committee consisted of the following Members:

Chair: SIR ROBERT SYMS

† Atkins, Victoria *(Financial Secretary to the Treasury)*
† Bailey, Shaun *(West Bromwich West)* (Con)
† Blomfield, Paul *(Sheffield Central)* (Lab)
† Bristow, Paul *(Peterborough)* (Con)
† Byrne, Liam *(Birmingham, Hodge Hill)* (Lab)
† Docherty-Hughes, Martin *(West Dunbartonshire)* (SNP)
† Duddridge, Sir James *(Rochford and Southend East)* (Con)
† Ellis, Sir Michael *(Northampton North)* (Con)
† Everitt, Ben *(Milton Keynes North)* (Con)
† Greenwood, Margaret *(Wirral West)* (Lab)
† Howell, Paul *(Sedgefield)* (Con)
† Murray, James *(Ealing North)* (Lab/Co-op)
† Stephenson, Andrew *(Lord Commissioner of His Majesty's Treasury)*
† Tolhurst, Kelly *(Rochester and Strood)* (Con)
† Twist, Liz *(Blaydon)* (Lab)
† Whitley, Mick *(Birkenhead)* (Lab)
Whittaker, Craig *(Calder Valley)* (Con)

Luanne Middleton, *Committee Clerk*

† attended the Committee

The following also attended (Standing Order No. 118(2)):

Longhi, Marco *(Dudley North)* (Con)

Fourth Delegated Legislation Committee

Tuesday 27 June 2023

[Sir Robert Syms *in the Chair*]

Draft Double Taxation Relief and International Tax Enforcement (Brazil) Order 2023

2.30 pm

The Financial Secretary to the Treasury (Victoria Atkins): I beg to move,

That the Committee has considered the draft Double Taxation Relief and International Tax Enforcement (Brazil) Order 2023.

The Chair: With this it will be convenient to consider the draft Double Taxation Relief and International Tax Enforcement (San Marino) Order 2023.

Victoria Atkins: It is a pleasure not only to serve under your chairmanship, Sir Robert, but to have a high-powered Committee scrutinising these important measures. Nestled among us is the United Kingdom trade envoy to Brazil, my hon. Friend the Member for Dudley North (Marco Longhi). He may wish to address the Committee in due course.

The orders give effect to double taxation conventions with Brazil and San Marino. Like all conventions, these agreements are based on the OECD model tax convention and will provide tax certainty to business and investors by removing double taxation without creating opportunities for the avoidance of tax. They will remove barriers to cross-border trade and investment, support growth, and provide a clear and fair framework for taxing businesses that invest and trade across borders. This will benefit businesses and the economies of both the UK and the respective treaty partner.

The agreements contain all the minimum standards that were introduced by the joint OECD/G20 project on base erosion and profit shifting, which ensure that such conventions are not used to avoid or evade tax. They are clear that it is not the purpose of such a convention to create opportunities for tax evasion and avoidance, and a principal purpose test denies treaty benefits in cases of abuse. Both conventions allow for the exchange of information between the two countries to facilitate tax transparency, which will strengthen our defences against tax avoidance and evasion.

I am delighted to bring the Brazil order before the Committee, because Brazil is the largest economy with which the United Kingdom does not—until now—have a comprehensive double taxation convention. It has long been the United Kingdom's ambition to reach an agreement with Brazil, and it has been a regular request from businesses. The convention will bring many benefits to the UK, including to our businesses and investors, and those who want to take advantage of the opportunity to trade in the country with the 10th largest GDP in the world, with a population of 214 million people.

This measure provides limits on the tax that can be charged on dividends, royalties and interest, which in many circumstances are less than the tax rates applied under Brazil's domestic law. It also limits the circumstances under which trading profits of United Kingdom enterprises may be taxed in Brazil. UK businesses will particularly welcome the fact that the convention phases out, over a four-year period, Brazilian taxes on some payments to United Kingdom-based service providers and provides for significantly lower taxes during that period.

The San Marino convention is really good for business. San Marino is smaller in terms of its population and economy; none the less, the agreement will exempt the majority of dividends, interests and royalties from source state taxation. That means that United Kingdom residents with investments in San Marino will not pay tax in San Marino on the income that they receive. The exception to this is in respect of United Kingdom real estate investment trusts, where the convention preserves the United Kingdom's right to these at 15%. That will ensure that the UK does not lose taxing rights where the profits from these structures are otherwise exempt. We have also set out rules on dispute resolution, which are in line with the OECD's expectations and provide certainty for parties in both countries. The taxpayer can refer any matter for independent arbitration if agreement cannot be reached by the two countries.

In summary, the United Kingdom and both Brazil and San Marino can be happy with these agreements. They protect United Kingdom revenue and provide a clear, fair, stable, long-term framework within which trade and investment between the UK and Brazil, and the UK and San Marino can continue to flourish. I commend the draft orders to the Committee.

2.35 pm

James Murray (Ealing North) (Lab/Co-op): It is a pleasure to serve with you in the Chair, Sir Robert. Double taxation agreements prevent income or gains from being taxed in both the territory in which they arise and the territory in which the recipient is resident. As the Minister set out, such agreements benefit taxpayers by ensuring certainty of treatment, and they include provisions to combat tax avoidance and evasion.

I understand that today's Brazil order brings into effect a convention and protocol made in 2022 between the UK Government and the Government of Brazil, superseding previous arrangements, while the San Marino order brings into effect a double taxation agreement for the first time. As the Minister said, both double taxation agreements follow the OECD model tax convention on income and capital and include the minimum standards recommended by the OECD/G20 base erosion and profit shifting project, both of which we welcome. The detail of each order sets out the scope and the definitions of, for example, "residents" and "permanent establishment" that will be used to put the arrangements into effect. The orders also set out the rules governing the taxation of different sources of income and gains, including employment income and capital gains, as well as gains that arise from sources such as dividends, royalties and interest.

We will not oppose either order, as we recognise the value of having up-to-date double taxation agreements in place between the UK and other countries, but I will ask the Minister one specific question for the Committee's interest. Will she explain how the double taxation agreements will operate where an individual is resident but non-domiciled in the UK? I realise that that may be a broad question, so I will give an example. Under the San Marino order, what would be the income tax treatment of someone who is resident in the UK, had income arising in San Marino, but was domiciled for UK tax purposes in San Marino and chose to pay tax on a remittance basis? I realise that that is a fairly specific scenario, but it would be helpful to understand how taxation would be applied in those circumstances, to help us better understand the interaction between double taxation agreements and non-dom tax status. I look forward to the Minister's response.

2.37 pm

Marco Longhi (Dudley North) (Con): It is a pleasure and an honour to be able to speak in this Committee, so I thank the Minister and colleagues for indulging me. The Brazil double taxation agreement was in fact signed by the UK and Brazil last year, following years of negotiations between HMRC and its Brazilian counterparts to iron out, as the Committee may imagine, many a detail. It is a fact that trade flows between countries improve GDPs and the health and wellbeing of populations, who benefit through extra jobs and job security.

The process now requires ratification by our own Parliament, which is why we are here, and the Brazilian Senate. I am personally assured by the President of the Brazilian Congress that, once he receives submission from the Federal Revenue of Brazil, he will progress it through their chamber expeditiously.

The absence of a double taxation agreement is the single biggest market access barrier preventing businesses from investing in both our countries, as we have heard. Brazil, as we have also heard, is the only G20 country with which we do not have a double taxation agreement, and we have well over 100 such agreements in place. I ask the Committee to please support the Brazil order and, indeed, the San Marino order.

2.39 pm

Victoria Atkins: The usual parliamentary appetite is for such Committees to be short and to the point, but I really did welcome the contribution from my hon. Friend the Member for Dudley North (Marco Longhi). As the UK's trade envoy to Brazil, he was able to add to our considerations not only the enthusiasm that the Brazilian authorities have for the order, but the intensely hard work that has gone into the agreements—and, of course, his role in helping to ensure that the Brazilian procedures run as smoothly as we would like, once we have done our part and passed the draft orders.

Turning to the shadow Minister's question about non-domiciled taxpayers, I gently remind him that the UK-San Marino agreement covers some £16 million in trade between both countries and that the Brazilian tax agreement covers some nearly £8 billion in trade. I am sure he will agree with the UK Government that it is right to try to ensure that we clear away the trade barriers that were so eloquently referred to by my hon. Friend the Member for Dudley North, to ensure that wealth and prosperity moves between both countries.

The Brazilian DTA applies only to remitted income from Brazil, but the remittance basis is not generally a factor in applying the double taxation agreement. Indeed, residence and source of income are the factors. In relation to the convention more generally, it takes effect only in respect of payments remitted to the UK. Relief cannot be given on unremitted amounts on which tax has not been paid.

I trust that the Committee is content with its consideration, and I am most grateful to its members for their contributions. I am asked to remind the Committee—although I think my hon. Friend dealt with this—that Brazil has not yet completed its processes for ratifying the convention, but we are playing our part in this place by ratifying our side of things. We look forward to Brazil doing the same imminently. I hope that the Committee will approve the draft orders today.

Question put and agreed to.

DRAFT DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (SAN MARINO) ORDER 2023

Resolved,

That the Committee has considered the draft Double Taxation Relief and International Tax Enforcement (San Marino) Order 2023.—*(Victoria Atkins.)*

2.42 pm

Committee rose.