

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

## DRAFT DOUBLE TAXATION RELIEF AND INTERNATIONAL TAX ENFORCEMENT (TAIWAN) ORDER 2021

*Thursday 25 November 2021*

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**Monday 29 November 2021**

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**The Committee consisted of the following Members:**

*Chair:* CHRISTINA REES

Brennan, Kevin ( <i>Cardiff West</i> ) (Lab)	† Mak, Alan ( <i>Lord Commissioner of Her Majesty's Treasury</i> )
Byrne, Liam ( <i>Birmingham, Hodge Hill</i> ) (Lab)	† Murray, James ( <i>Ealing North</i> ) (Lab/Co-op)
† Chapman, Douglas ( <i>Dunfermline and West Fife</i> ) (SNP)	† Richardson, Angela ( <i>Guildford</i> ) (Con)
† Elmore, Chris ( <i>Ogmore</i> ) (Lab)	† Stafford, Alexander ( <i>Rother Valley</i> ) (Con)
† Frazer, Lucy ( <i>Financial Secretary to the Treasury</i> )	Sultana, Zarah ( <i>Coventry South</i> ) (Lab)
Hendrick, Sir Mark ( <i>Preston</i> ) (Lab/Co-op)	† Syms, Sir Robert ( <i>Poole</i> ) (Con)
† Jones, Andrew ( <i>Harrogate and Knaresborough</i> ) (Con)	† Thomas, Derek ( <i>St Ives</i> ) (Con)
† Lewer, Andrew ( <i>Northampton South</i> ) (Con)	† Williams, Craig ( <i>Montgomeryshire</i> ) (Con)
† Logan, Mark ( <i>Bolton North East</i> ) (Con)	Nick Taylor, Natalia Janiec-Janicki, <i>Committee Clerks</i>
	† <b>attended the Committee</b>

## Fourth Delegated Legislation Committee

Thursday 25 November 2021

[CHRISTINA REES *in the Chair*]

### Draft Double Taxation Relief and International Tax Enforcement (Taiwan) Order 2021

**The Chair:** I encourage Members to wear masks when they are not speaking. That is in line with Government guidance and that of the House of Commons Commission. Please give each other and members of staff space when seated and when entering and leaving the room. Members should send their speaking notes by email to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk). Similarly, officials in the Public Gallery should communicate electronically with Ministers.

11.30 am

**The Financial Secretary to the Treasury (Lucy Frazer):** I beg to move,

That the Committee has considered the draft Double Taxation Relief and International Tax Enforcement (Taiwan) Order 2021.

It is a pleasure to appear before you again, Ms Rees.

The draft order will give effect to a protocol that was agreed in August to amend the existing double taxation agreement, or DTA, in relation to Taiwan. The order inserts into legislation important provisions recommended by the Organisation for Economic Co-operation and Development and the G20's project on base erosion and profit shifting, or BEPS, to prevent abuse of the DTA and to improve dispute resolution.

The draft order also includes the latest exchange-of-information provisions following the OECD model tax convention, which informs bilateral treaty negotiations and is largely followed by the UK. Furthermore, the order adds a rule to protect the UK's taxing rights over dividends paid from investment vehicles linked to land and property such as UK real estate investment trusts, or REITs.

I will now give a brief explanation of the draft order's context before talking in more detail about the changes that it makes. As Members may recall, the BEPS project was an international effort co-ordinated by the OECD to tackle tax avoidance and improve the operation of double taxation agreements generally. It recommended a range of provisions that could be adopted in DTAs to ensure that they continued to fulfil their main purpose of supporting global trade and investment while limiting the opportunity for the agreements to be used for tax evasion or avoidance.

The draft order includes all the minimum standards that were recommended by the BEPS project to prevent avoidance through the abuse of tax treaties and to improve dispute resolution in relation to the Taiwan DTA. Specifically, the order gives effect to the minimum standard on preventing treaty abuse by adding a rule known as the principal purpose test. This ensures that the DTA does not provide opportunities for non-taxation or reduced taxation through evasion or avoidance, including

through so-called treaty shopping arrangements, where transactions are routed through particular jurisdictions to take advantage of benefits provided by its DTA. Furthermore, the order changes the preamble of the DTA to make it clear that the contracting parties do not intend it to be used to avoid tax.

The draft order gives effect to the minimum standard on improving dispute resolution set out in the final recommendations of the BEPS project by changing the provisions that govern how disputes involving the application of the DTA are resolved. Those changes mean that, where a taxpayer considers that the DTA has not been applied correctly, they can present their case to either tax authority, rather than just that of the territory where they are resident. It will also ensure that any resolution of the dispute must be implemented even if the time limits in the domestic law of either territory would otherwise prevent that.

The draft order includes other changes that were optional recommendations of the BEPS project. Such provisions clarify the treatment of fiscally transparent entities and insert a so-called saving clause, which makes it clear that the DTA cannot be used to sidestep domestic anti-avoidance rules. In addition, the order updates the tiebreaker rule, which determines the residence of dual resident companies under the DTA. Furthermore, a new provision ensures that, where a dividend is paid out of investment vehicles linked to land and real property, such as UK real estate investment trusts, the UK has the right to withhold tax at 15% on the dividend. That is an important provision included in recent UK DTAs and it protects the UK's taxing rights over income from land and property situated in its territory.

Finally, the draft order updates the provision relating to capital gains. This allows the UK to tax gains on shares and comparable interests that derive at least 50% of their value from immovable property. I hope hon. Members have found this explanation of the context and detail of the order helpful. To sum up, the order implements improvements to the DTA in relation to Taiwan to tackle tax avoidance and evasion and to improve dispute resolution in line with current international standards. I commend the order to the Committee.

11.35 am

**James Murray (Ealing North) (Lab/Co-op):** Thank you for the opportunity to respond on behalf of the Opposition, Ms Rees, as we consider this order on double taxation relief and international tax enforcement with the territory of Taiwan. It is a pleasure to serve under your chairmanship again.

The schedule to the order contains a protocol that amends an agreement in relation to the territory of Taiwan dealing with the elimination of double taxation with respect to capital gains tax, corporation tax and income tax, the prevention of tax avoidance and evasion and international tax enforcement. The agreement aims to eliminate the double taxation of income gains arising in one territory and paid to residents of another territory. As we have heard, that is done by allocating the taxing rights that each territory has under its domestic law over the same income and gains, and by providing relief from double taxation. There are also specific measures combating discriminatory tax treatment and providing for assistance in international tax enforcement.

As we can see, the amendments to the agreement are relatively minor and technical in nature, mostly updating terminology to bring about consistency with similar bilateral agreements with other states and territories. Various articles within the schedule replace outdated terminology, and further technical amendments are added to the schedule, relating to persons covered, taxes covered, general definitions, residents, dividends, interest, royalties, capital gains, limitation of relief, non-discrimination, mutual agreement procedure and exchange of information. An article relating to entitlement of benefits is also added to the agreement.

The Opposition will not oppose this order. It is, of course, important that bilateral agreements concerning taxation are clear and up to date, and that revenue generated from taxation is neither inappropriately drawn nor inappropriately allocated. Similarly, we support the measure to reduce the administrative burden on Her Majesty's Revenue and Customs, which would otherwise have to process rebate applications.

While we are on the matter of international taxation, however, I would like to briefly ask the Minister, as this is the first time we have had the chance to discuss the matter, her view on the global minimum corporation tax rate that the OECD and G20 recently agreed. In her response, I would be grateful if the Minister could confirm whether 15% is the rate the Government had hoped for, or whether they had hoped it might be higher or lower.

**The Chair:** I am not sure that question is quite in scope, but it is at the Minister's discretion whether she responds to it.

11.37 am

**Douglas Chapman** (Dunfermline and West Fife) (SNP): I have a quick question; I do not think there are any complications on the Opposition side of the House

regarding the order, but I am looking at paragraph 14.2 of the explanatory memorandum, on monitoring and review, which says:

“The instrument does not include a statutory review clause.”

The OECD might in future decide to review the OECD model used here in light of experience. Can the Minister give a commitment today that, should the OECD review the model and recommend changes to or strengthening of the legislation, the Government would be willing to support that same level of commitment?

11.38 am

**Lucy Frazer:** I thank both Opposition Members for their contributions; it is helpful to hear from the hon. Members for Dunfermline and West Fife and for Ealing North that they will not be opposing the instrument today. The hon. Member for Ealing North gave a very clear summary, and he will know that on matters of international taxation we are very grateful to work with our international partners. I am very happy to discuss those wider matters of international taxation with him on another occasion. I am also happy to take up the point that the hon. Member for Dunfermline and West Fife mentioned. He will know that we always review our laws at appropriate times.

To sum up, the order strengthens the integrity of our network of DTAs, which play such an important part in facilitating the UK's cross-border trade and investment. This legislation will ensure that our DTA in relation to Taiwan continues to meet the latest international standards on preventing treaty abuse and improving dispute resolution. In doing so, it will further support the already warm relationship we share with Taiwan.

*Question put and agreed to.*

11.40 am

*Committee rose.*

