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STATUTORY INSTRUMENTS

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**2008 No. 1789**

**TAXES**

**The International Tax Enforcement (Bermuda) Order 2008**

*Made - - - - 9th July 2008*

A draft of this Order was laid before the House of Commons in accordance with section 173(7) of the Finance Act 2006(a) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by 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 International Tax Enforcement (Bermuda) Order 2008.

**Tax information exchange arrangements to have effect**

2. —(1) It is 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 2 of that Schedule have been made with the Government of Bermuda 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; and
  - (b) it is expedient that those arrangements should have effect.

*Judith Simpson*  
Clerk of the Privy Council

**PART 1**  
**EXCHANGE OF LETTERS**  
**BETWEEN THE UNITED KINGDOM AND BERMUDA**  
**CONCERNING A TAX INFORMATION EXCHANGE ARRANGEMENT**

Letter from the Parliamentary Under-Secretary of State, Foreign and Commonwealth Office

Madam,

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 Bermuda, I have the honour

- to propose to you the provisions contained in the Arrangement set out in the Appendix to this letter;
- to propose that the said provisions may come into force on the date mentioned in Paragraph 12 of the Arrangement;
- to propose our mutual commitment to undertake at the earliest date any internal legislative formalities necessary for the coming into force of the Arrangement and to notify each other without delay when such formalities are completed.

The Government of the United Kingdom welcomes the conclusion of this Arrangement with the Government of Bermuda, which represents an important step in delivering the commitment it made to the OECD in 2000 to respect the principles of transparency and exchange of information. The Government of the United Kingdom considers that this Arrangement demonstrates Bermuda's commitment to high standards for effective exchange of information with respect to both criminal and civil taxation matters within an acceptable timeline, consistent with the aims and objectives of the OECD Global Forum on Taxation.

The Government of the United Kingdom also recognises the important progress that Bermuda has made in negotiation of TIEAs with other countries and recognises that Bermuda is committed to combating tax abuse by putting in place mechanisms which enhance transparency.

In the event that a Territory applies prejudicial or restrictive measures based on harmful tax practices to residents or nationals of the other Territory, it is understood that that other Territory may suspend the operation of this Arrangement for so long as such measures apply.

For these purposes, a prejudicial or restrictive measure based on harmful tax practices means a measure applied by one Territory to residents or nationals of either Territory on the basis that the other Territory does not engage in effective exchange of information or because it lacks transparency in the operation of its laws, regulations or administrative practices, or on the basis of no or nominal taxes and one of the preceding criteria.

Without limiting the generality of the term "prejudicial or restrictive measures" it includes the denial of a deduction, credit or exemption, the imposition of a tax, charge or levy, or special reporting requirements. Such measures are not limited solely to taxation matters. However, they

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Please accept, Madam

*Meg Munn MP,*  
Parliamentary Under  
For the Government  
Signed in London on

Reply by the Deputy

Madam,

I have the honour to follows:

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

An Arrangement dealing with the exchange of information for tax purposes between the United Kingdom and the British Overseas Territory of Bermuda (“the Arrangement”) is set out in the Schedule to this Order.

Article 2 makes a declaration as to the effect and content of arrangements set out in the Exchange of Letters contained in Part 1 of the Schedule to the Order and in the Arrangement contained in Part 2 of that Schedule and that it is expedient that those arrangements should have effect.

A detailed explanation of the Arrangement can be found in the Explanatory Memorandum published with the Arrangement and which may be accessed on the web site of the Office of Public Sector Information at <http://www.opsi.gov.uk/stat.htm>.

The Arrangement will enter into force on the date of the later of the notifications by each country of the completion of its legislative procedures and will take effect from 4th December 2008.

The date of entry into force will, in due course, be published in the *London, Edinburgh and Belfast Gazettes*.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.