

2012 No. 3070

DEFENCE

INCOME TAX

INHERITANCE TAX

The Visiting Forces and International Military Headquarters (EU SOFA) (Tax Designation) Order 2012

Made - - - - *12th December 2012*

Coming into force in accordance with Article 1(2)

At the Court at Buckingham Palace, the 12th day of December 2012

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 303 of the Income Tax (Earnings and Pensions) Act 2003^(a), section 833 of the Income Tax Act 2007^(b), section 155 of the Inheritance Tax Act 1984^(c), by and with the advice of Her Privy Council, makes the following Order—

Citation and commencement

1.—(1) This Order may be cited as the Visiting Forces and International Military Headquarters (EU SOFA) (Tax Designation) Order 2012.

(2) This Order shall come into force immediately after the coming into force of the EU SOFA in respect of the United Kingdom.

Interpretation

2. In this Order—

“the EU SOFA” means the Agreement between the member states of the European Union concerning the status of military and civilian staff seconded to the institutions of the European Union, of the headquarters and forces which may be made available to the European Union in the context of the preparation and execution of the tasks referred to in Article 17(2)(d) of the

(a) 2003 c.1. Section 303 was amended by paragraph 4 of Schedule 37 of the Finance Act 2012 (c.14) (“FA12”).

(b) 2007 c.3. Section 833 was amended by paragraph 5 of Schedule 37 of FA12.

(c) 1984 c.51. Section 155 was amended by paragraph 3 of Schedule 37 to FA12 and by Schedule 1 to the Hong Kong (British Nationality) Order 1986 (S.I. 1986/948).

(d) Article 17 is now, following the Treaty of Lisbon, Article 42 of the Treaty on European Union.

Treaty on European Union, including exercises, and of the military and civilian staff of the member states put at the disposal of the European Union to act in this context^(a);

“the Treaty on European Union” means the Treaty on European Union signed at Maastricht on 7 February 1992 (as amended by the Treaty of Lisbon)^(b).

Designation

3. For the purpose of giving effect to Article 16 of the EU SOFA, each of the countries specified in the First Schedule to this Order, and the international military headquarters specified in the Second Schedule to this Order, are hereby designated for the purposes of—

- (a) section 303 of the Income Tax (Earnings and Pensions) Act 2003;
- (b) section 833 of the Income Tax Act 2007^(c); and
- (c) section 155 of the Inheritance Tax Act 1984.

Richard Tilbrook
Clerk of the Privy Council

(a) OJ No C 321, 31.12.03, p2.

(b) OJ No.C.83, 30.03.10, p13

(c) As a result of a designation under section 833 of the Income Tax Act 2007 (c.3), section 11(1) of the Taxation of Chargeable Gains Act 1992 (c. 12) applies to provide an exemption from capital gains tax. Section 11 was substituted by paragraphs 294 and 297 of Part 2 of Schedule 1 to the Income Tax Act 2007 (c.3).

SCHEDULE 1

Article 3

Designated countries

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden.

SCHEDULE 2

Article 3

Designated International Military Headquarters

The European Union Operational Headquarters at Northwood.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order is necessary to give effect to the taxation provisions in Article 16 of the European Union Status of Forces Agreement (“the EU SOFA”). The EU SOFA is the Agreement between the member states of the European Union concerning the status of military and civilian staff seconded to the institutions of the European Union, of the headquarters and forces which may be made available to the European Union in the context of the preparation and execution of the tasks referred to in Article 42 of the Treaty on European Union, including exercises, and of the military and civilian staff of the Member States put at the disposal of the European Union to act in this context.

The Order enables the EU military and civilian staff of the EU member states listed in Schedule 1 to receive the tax exemptions set out in the EU SOFA. The Order further enables the EU military and civilian staff attached to the international military headquarters listed in Schedule 2 to receive the tax exemptions set out in the EU SOFA.

These exemptions are available under UK law by virtue of the following provisions. Section 303 of the Income Tax (Earnings and Pensions) Act 2003 (c.1) provides for an exemption from income tax on earnings. Section 833 of the Income Tax Act 2007 (c.3) provides for an exemption for non-UK source income. As a result of the designation under section 833 of the Income Tax Act 2007 (c.3), section 11 of the Taxation of Chargeable Gains Act 1992 (c.12) applies to provide for an exemption from capital gains tax. Section 155 of the Inheritance Tax Act 1984 (c.51) provides for an exemption from inheritance tax.

The Order will come into force on the date on which the EU SOFA enters into force in respect of the United Kingdom. The date will be published in the London, Edinburgh and Belfast Gazettes.

A Tax Information and Impact Note covering this instrument was published on 6 December 2011 alongside the draft Finance Bill clauses under which the instrument is made and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

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