

2012 No. 3071

DEFENCE

INCOME TAX

INHERITANCE TAX

STAMP DUTY LAND TAX

**The Visiting Forces and International Military Headquarters
(NATO and PfP) (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 74A of the Finance Act 1960(a), section 155 of the Inheritance Tax Act 1984(b), section 303 of the Income Tax (Earnings and Pensions) Act 2003(c) and section 833 of the Income Tax Act 2007(d), 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 (NATO and PfP) (Tax Designation) Order 2012.

(2) This Order shall come into force on the day after the date on which it is made.

Revocations

2. The Orders in Schedule 1 are revoked.

(a) 1960 c.44. Section 74A was inserted by the Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2003 (SI 2003/2867). Section 74A was amended by paragraph 1 of Schedule 37 to the Finance Act 2012 (c.14) ("FA12").
(b) 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).
(c) 2003 c.1. Section 303 was amended by paragraph 4 of Schedule 37 to FA12.
(d) 2007 c.3. Section 833 was amended by paragraph 5 of Schedule 37 to FA12.

Interpretation

3. In this Order—

“NATO” means the North Atlantic Treaty Organisation based on the North Atlantic Treaty dated 4th April 1949;

“the NATO SOFA” means the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty dated 19th June 1951(a);

“the Paris Protocol” means the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty dated 28th August 1952(b);

“PfP” means the Partnership for Peace programme of practical bilateral cooperation between individual Partner countries and NATO;

“the PfP SOFA” means the Agreement among the State Parties to the North Atlantic Treaty and the Other States Participating in the Partnership for Peace regarding the Status of their Forces dated 19th June 1995(c).

NATO designation

4. For the purpose of giving effect to Article X of the NATO SOFA and Article VII of the Paris Protocol each of the countries specified in the Second Schedule to this Order, and each of the headquarters specified in the Fourth Schedule to this Order, is hereby designated for the purposes of section 74A of the Finance Act 1960, section 155 of the Inheritance Tax Act 1984, section 303 of the Income Tax (Earnings and Pensions) Act 2003 and section 833 of the Income Tax Act 2007(d).

PfP designation

5. For the purpose of giving effect to Article I of the PfP SOFA each of the countries specified in the Third Schedule to this Order is hereby designated for the purposes of section 74A of the Finance Act 1960, section 155 of the Inheritance Tax Act 1984, section 303 of the Income Tax (Earnings and Pensions) Act 2003 and section 833 of the Income Tax Act 2007.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE 1

Article 2

Designation Orders revoked

| <i>Orders revoked</i> | <i>References</i> |
|--|-------------------|
| The Visiting Forces and Allied Headquarters (Income Tax and Death Duties) (Designation) Order 1961 | S.I. 1961/580 |
| The Visiting Forces and Allied Headquarters (Stamp Duties) (Designation) Order 1961 | S.I. 1960/581 |
| The Visiting Forces and Allied Headquarters | S.I. 1998/1513 |

(a) Cmd. 9363.

(b) Cmd. 8687.

(c) Cmd. 3237.

(d) 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).

| | |
|---|----------------|
| (Income Tax and Capital Gains Tax) (Designation) Order 1998 | |
| The Visiting Forces (Income Tax and Capital Gains Tax) (Designation) Order 1998 | S.I. 1998/1514 |
| The Visiting Forces and Allied Headquarters (Inheritance Tax) (Designation) Order 1998 | S.I. 1998/1515 |
| The Visiting Forces (Inheritance Tax) (Designation) Order 1998 | S.I. 1998/1516 |
| The Visiting Forces and Allied Headquarters (Stamp Duties) (Designation) Order 1998 | S.I. 1998/1517 |
| The Visiting Forces (Stamp Duties) (Designation) Order 1998 | S.I. 1998/1518 |

SCHEDULE 2

Article 4

Designated NATO countries

Albania, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Turkey, United States of America.

SCHEDULE 3

Article 5

Designated PfP countries

Armenia, Austria, Azerbaijan, Belarus, Bosnia and Herzegovina, Finland, Georgia, Ireland, Kazakhstan, Kyrgyz Republic, Malta, Moldova, Montenegro, Russia, Serbia, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan, Ukraine, Uzbekistan.

SCHEDULE 4

Article 4

Designated Headquarters

Headquarters of the Supreme Allied Commander Transformation (HQ SACT)

Supreme Headquarters Allied Powers Europe (SHAPE)

Maritime Component Command Headquarters Northwood (CC-MAR HQ Northwood)

Commander Submarines Allied Naval Forces North (COMSUBNORTH)

NATO Airborne Early Warning and Control Force (NAEW&CF)

NATO Joint Electronic Warfare Core Staff (NATO JEWCS)

Headquarters United Kingdom–Netherlands Amphibious Force (UKNLAF)

Headquarters United Kingdom–Netherlands Landing Force (UKNLLF)

The European Air Group (EAG)

The Intelligence Fusion Centre (IFC)

Headquarters Allied Rapid Reaction Corps (HQ ARRC)

EXPLANATORY NOTE

(This note is not part of the Order)

The Order gives effect to the taxation provisions in Article X of the Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty dated 19th June 1951 (“the NATO SOFA”), Article VII of the Protocol on the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty dated 28th August 1952 (“the Paris Protocol”) and Article I of the Agreement among the State Parties to the North Atlantic Treaty and the Other States Participating in the Partnership for Peace regarding the Status of their Forces dated 19th June 1995 (“the PfP SOFA”).

The Order revokes the 1961 Orders which gave effect to the NATO SOFA and the 1998 Orders which gave effect to the PfP SOFA. The Order updates and consolidates the list of NATO countries, PfP countries and headquarters.

The Order provides for tax exemptions for the members of a visiting force of a NATO country listed in Schedule 2; for the members of a visiting force of a PfP country listed in Schedule 3 and for members of those forces who are attached to one of the headquarters listed in Schedule 4.

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. Section 74A of the Finance Act 1960 provides for an exemption from Stamp Duty Land Tax.

A Tax Information and Impact Note has not been prepared for this Instrument as it contains no substantive changes to tax policy but updates and consolidates previous Orders in Council.

STATUTORY INSTRUMENTS

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£4.00

E5223 12/2012 125223T 19585

ISBN 978-0-11-153238-6



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