Double Taxation Treaties (Developing Countries) Bill

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TO

Place a duty on the Chancellor of the Exchequer to align the outcomes of double taxation treaties with developing countries with the goal of the United Kingdom's overseas development aid programme for reducing poverty and to report to Parliament thereon; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Duty to have regard to reducing poverty overseas in entering negotiations

(1) A double taxation treaty is a treaty, agreement, convention or similar instrument between Her Majesty's Government and the government of a developing country ("double taxation treaty with a developing country"), which contains provisions to relieve a taxpayer in either country of the liability to pay some or all of the tax due in both countries on the same income or capital.

(2) In entering into negotiations with a developing country, the objective of which is a double taxation treaty, it shall be the duty of the Chancellor of the Exchequer to have regard to the aims and objectives of Her Majesty's Government's overseas development aid programme for reducing poverty in that country.

2 Duty to assess and report on reducing poverty before a treaty is signed

(1) A double taxation treaty between Her Majesty's Government and the government of a developing country must not be signed until the Chancellor of the Exchequer has assessed and reported that assessment to the House of Commons on the extent to which the terms of the treaty support the aims and objectives of the Government's overseas development aid programme for reducing poverty in that country.

(2) In making the assessment and report required by subsection (1), the Chancellor of the Exchequer shall have regard to, but not be restricted to, the following—

(a) the ability of the government of the developing country to collect and disburse tax revenues to promote development in the country, including the expected impact of—

(i) the rate of capital gains tax that the developing country would be able to collect under the terms of the double taxation treaty and when the developing country would have the right to collect such tax;

(ii) the rate of withholding tax that the developing country would be able to collect under the terms of the double taxation treaty;

(iii) the amount of profit tax the developing country would be able to collect, including any impact the definition of taxable business presence, usually known in treaties as the "permanent establishment", set out in the double taxation treaty would have on this; and

(iv) any other provisions in the double taxation treaty that could impact on tax revenue in the developing country; and

(b) in foregoing tax revenue how much additional foreign investment the developing country is likely to secure.

3 List of developing countries

(1) Subject to subsection (2), the Chancellor of the Exchequer must within three months of this section coming into force publish a list of developing countries, to enable the other provisions in this Act to come into operation.

(2) In compiling the list of developing countries to whom the provisions of this Act will apply the Chancellor of the Exchequer shall have regard to—

(a) the economic development and well-being of countries,

(b) Her Majesty's Government's definition of low and middle income country used for the purposes of reports required by the International Development (Reporting and Transparency) Act 2006,

(c) any other definition of developing countries which Her Majesty's Government currently uses or publishes, and

(d) the categorisation of countries used and published by the—

(i) the United Nations,

(ii) the World Trade Organization,

(iii) the Word Bank, and

(iv) the International Monetary Fund.

4 Annual report

(1) It shall be the duty of the Chancellor of the Exchequer each year to lay before the House of Commons a report about double taxation treaties with developing countries (the "annual report") meeting the requirement of this section and section 5.

(2) The annual report should cover the period of 12 months ending with 31st March.

(3) An annual report shall, subject to subsection (5), be laid as soon as practicable after 31st March each year.

(4) An annual report may revise anything contained in a previous annual report.

(5) Nothing in this Act shall be read as preventing an annual report being combined with any other report which the Chancellor of the Exchequer lays before the House of Commons.

5 Progress towards reducing poverty overseas

(1) Each annual report must include the Chancellor of the Exchequer‘s assessment of the impact that double taxation treaties currently in force between Her Majesty’s Government’s and the governments of the developing countries have made towards the aims and objectives of Her Majesty’s Government’s overseas development aid programme for reducing poverty.

(2) Each annual report must include an assessment of previously ratified double taxation treaties with developing countries identifying those—

(a) where the terms of the treaty are significantly at variance with the terms of treaties signed with broadly comparable countries in the previous 12 months to the detriment of the signatory of the previous treaty, or

(b) which no longer contribute to the aims and objectives of Her Majesty’s Government’s overseas development aid programme for reducing poverty.

6 Short title, commencement and extent

(1) This Act may be cited as the Double Taxation Treaties (Developing Countries) Act 2017.

(2) Section 3 shall come into force at the end of a period of three months beginning with the day on which this Act is passed.

(3) Sections 1, 2, 4 and 5 shall come into force at the end of a period of six months beginning with the day on which this Act is passed.

(4) This Act extends to England and Wales, Scotland and Northern Ireland.

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