
STATUTORY INSTRUMENTS

1981 No. 1546

INCOME TAX

**The Double Taxation Relief (Taxes
On Income) (Thailand) Order 1981**

Laid before the House of Commons in draft

Made - - - - 28th October 1981

At the Court at Buckingham Palace, the 28th day of October 1981

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons in accordance with the provisions of section 497(8) of the Income and Corporation Taxes Act 1970⁽¹⁾, and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the said Income and Corporation Taxes Act 1970, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Thailand) Order 1981.

2. It is hereby declared—

- (a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Kingdom of Thailand with a view to affording relief from double taxation in relation to income tax, corporation tax or capital gains tax and taxes of a similar character imposed by the laws of Thailand; and
- (b) that it is expedient that those arrangements should have effect.

N.E. Leigh
Clerk of the Privy Council

(1) section 497 was amended and extended by sections 98(2) and 100(1) of the Finance Act 1972 (c. 41) and section 10 of the Capital Gains Tax Act 1979 (c. 14).

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SCHEDULE

“CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF THAILAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United Kingdom of Great Britain and Northern Ireland; and the Government of the Kingdom of Thailand;

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Have agreed as follows:

Personal scope

ARTICLE 1. This Convention shall apply to persons who are residents of one or both of the Contracting States.

Taxes covered

ARTICLE 2.—(1) The existing taxes which are the subject of this Convention are:

- (a) in the United Kingdom:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the capital gains tax;
 - (iv) the development land tax; and
 - (v) the petroleum revenue tax;(hereinafter referred to as “United Kingdom tax”);
- (b) in Thailand:
 - (i) the income tax; and
 - (ii) the petroleum income tax;(hereinafter referred to as “Thai tax”).

(2) The Convention shall also apply to any tax which is subsequently imposed by either Contracting State in addition to, or in place of, the existing taxes provided that it is agreed by the competent authorities of the Contracting States to be identical or substantially similar to the taxes existing at the date of signature of the Convention. The competent authorities of the Contracting States shall notify each other of any changes which are made in their respective taxation laws.

General definitions

ARTICLE 3.—(1) In this Convention, unless the context otherwise requires:

- (a) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and subsoil and their natural resources may be exercised;

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- (b) the term “Thailand” means the Kingdom of Thailand and any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the sea bed and subsoil and their natural resources may be exercised;
- (c) the term “nationals” means:
 - (i) in relation to the United Kingdom, citizens of the United Kingdom and Colonies and British subjects not possessing that citizenship or the citizenship of any other Commonwealth country or territory, provided in all cases they are patrial within the meaning of the Immigration Act 1971, and all legal persons, partnerships, associations or other entities deriving their status as such from the law in force in the United Kingdom;
 - (ii) in relation to Thailand, all individuals possessing the nationality of Thailand and all legal persons, partnerships and associations deriving their status as such from the law in force in Thailand;
- (d) the term “tax” means United Kingdom tax or Thai tax, as the context requires;
- (e) the terms “a Contracting State” and “the other Contracting State” means the United Kingdom or Thailand, as the context requires;
- (f) the term “person” comprises an individual, a company and any body of persons which is treated as an entity for tax purposes;
- (g) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (h) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (i) the term “competent authority” means, in the case of the United Kingdom the Commissioners of Inland Revenue or their authorised representative, and in the case of Thailand, the Minister of Finance or his authorised representative;
- (j) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (k) the term “political subdivision”, in relation to the United Kingdom, includes Northern Ireland.

(2) As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

Fiscal domicile

ARTICLE 4.—(1) For the purposes of this Convention, the term “resident of a Contracting State” means, subject to the provisions of paragraphs (2) and (3) of this Article, any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management, place of incorporation, or any other criterion of a similar nature.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting

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States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

Permanent establishment

ARTICLE 5.—(1) For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a warehouse, in relation to a person providing storage facilities for others;
- (g) a mine, oil well, quarry or other place of extraction of natural resources;
- (h) a building site or construction or assembly project which exists for more than six months.

(3) The term “permanent establishment” shall not be deemed to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on the activities of providing the services within that other Contracting State of public entertainers or athletes referred to in Article 18.

(5) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than a broker, general commission agent or any other agent of an independent status to whom

paragraph (6) applies—shall be deemed to be a permanent establishment in the first-mentioned State, but only if:

- (a) he has and habitually exercises in the first-mentioned State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or
- (c) he habitually secures orders for the sale of goods or merchandise in the first-mentioned State exclusively or almost exclusively on behalf of the enterprise itself or on behalf of the enterprise and other enterprises controlled by it or which have a controlling interest in it.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it transacts business through a broker, general commission agent or any other agent of an independent status in the other Contracting State, where such persons are acting in the ordinary course of their business. For this purpose, an agent shall not be considered to be an agent of an independent status if it acts as an agent exclusively or almost exclusively for the enterprise and carries on any of the activities described in paragraph (5) of this Article.

(7) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Limitation of relief

ARTICLE 6. Where under any provision of this Convention income arising in one of the Contracting States is relieved from tax in that Contracting State and, under the law in force in the other Contracting State a person, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State.

Income from immovable property

ARTICLE 7.—(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

- (a) (2) (a) The term “immovable property” shall, subject to the provisions of subparagraph (b) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.
- (b) The term “immovable property” shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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(4) The provisions of paragraphs (1) and (3) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Business profits

ARTICLE 8.—(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

(2) Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In the determination of the profits of a permanent establishment there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) which are incurred for the purposes of, and are related to, the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts or, in the case of a person who does not claim taxation on the basis of the actual net profits of the permanent establishment, on the basis of a certain reasonable percentage of the gross receipts of the permanent establishment, nothing in paragraph (2) of this Article shall preclude such State from determining the profits to be taxed by such a method. The method adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(7) Where profits include items which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

(8) For the purposes of this Article the term “profits” does not include income from the operation of ships.

Air transport

ARTICLE 9.—(1) Income from the operation by an enterprise of a Contracting State of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) The provisions of this Article shall likewise apply to the share in respect of participation in aircraft pools of any kind by such an enterprise engaged in air transport.

Associated enterprises

ARTICLE 10. Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State;

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Dividends

- (a) **ARTICLE 11.** (1) (a) A dividend paid by a company which is a resident of the United Kingdom to a resident of Thailand may be taxed in Thailand.
- (b) Where, under paragraph (2) of this Article, a resident of Thailand is entitled to a tax credit in respect of that dividend, tax may also be charged in the United Kingdom and according to the laws of the United Kingdom on the aggregate of the amount or value of the dividend and the amount of the tax credit at a rate not exceeding 15 per cent.
- (c) Except as provided in sub-paragraph (b) of this paragraph, a dividend paid by a company which is a resident of the United Kingdom to a resident of Thailand who is subject to tax in Thailand in respect of that dividend shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(2) A resident of Thailand who receives a dividend from a company which is a resident of the United Kingdom and who is subject to tax in Thailand on that dividend shall be entitled to the tax credit in respect of that dividend which an individual resident in the United Kingdom would have been entitled to had he received that dividend and to the payment of any excess of that tax credit over his liability to United Kingdom tax. However, this paragraph shall not apply where the recipient of the dividend is a company which either alone or together with one or more associated companies directly or indirectly controls at least 10 per cent of the voting power in the company paying the dividend; for this purpose, two companies shall be deemed to be “associated” if one is directly or indirectly controlled by the other, or both are directly or indirectly controlled by a third company.

(3) A dividend paid by a company which is a resident of Thailand to a resident of the United Kingdom may be taxed in the United Kingdom. The dividend may also be taxed in Thailand but where the recipient of the dividend is subject to tax thereon in the United Kingdom the Thai tax so charged shall not exceed:

- (a) 15 per cent of the gross amount of the dividend if the company paying the dividend engages in an industrial undertaking and the recipient of the dividend is a company which is a resident of the United Kingdom and controls at least 25 per cent of the voting power of the company paying the dividend;
 - (b) 20 per cent of the gross amount of the dividend if the company paying the dividend engages in an industrial undertaking or if the recipient of the dividend is a company which is a resident of the United Kingdom and controls at least 25 per cent of the voting power of the company paying the dividend.
- (4) For the purposes of paragraph (3) of this Article, the term “industrial undertaking” means:
- a) any undertaking engaged in:
 - (i) manufacturing, assembling and processing;
 - (ii) construction, civil engineering and ship building;
 - (iii) mining, exploration for and exploitation of natural resources;

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- (iv) production of electricity, hydraulic power, gas or the supply of water; or
 - (v) agriculture, forestry and fishery and the carrying on of a plantation;
- (b) any other undertaking within the scope of the laws of Thailand relating to the promotion of industrial investment;
- (c) any other undertaking declared to be an “industrial undertaking” for the purposes of this Article by the competent authority of Thailand.
- (5) The preceding paragraphs of this Article shall not affect the taxation of the company in respect of the profits out of which the dividend is paid.
- (6) The provisions of paragraphs (1) and (2) or, as the case may be, paragraph (3) of this Article shall not apply if the recipient of the dividend, being a resident of a Contracting State, has in the other Contracting State of which the company paying the dividend is a resident, a permanent establishment with which the holding by virtue of which the dividend is paid is effectively connected. In such a case the provisions of Article 8 shall apply.
- (7) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on a dividend paid by the company to persons who are not residents of that other State, or subject the undistributed profits of the company to a tax on undistributed profits, even if the dividend paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.
- (8) As used in this Article the term “dividend” means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights treated in the same manner as income from shares by the taxation law of the State of which the company making the distribution is a resident and any other item treated as a distribution under that law.

Interest

ARTICLE 12.—(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) Such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but where the interest is paid to a resident of the other Contracting State who is subject to tax in that other State in respect of it, the tax so charged in the State in which the interest arises shall not exceed:

- (a) 10 per cent of the gross amount of the interest, if the interest is derived by a bank or any other financial institution (including an insurance company) which is a resident of the other State;
- (b) 25 per cent of the gross amount of the interest, in all other cases.

(3) Notwithstanding the provisions of paragraph (2) of this Article, interest arising in a Contracting State and paid to the Government of the other Contracting State, a political subdivision or a local authority thereof, the Central Bank of that other Contracting State, or any agency (other than an agency with share capital) wholly owned by that Government, political subdivision or local authority shall be exempt from tax in the first-mentioned Contracting State. The competent authorities of the Contracting States may determine by mutual agreement any other governmental institution to which this paragraph shall apply.

(4) The term “interest” as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as other income assimilated to income from money lent by the taxation law of the State in which the income arises.

(5) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such case, the provisions of Article 8 shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(7) Where, owing to a special relationship between the payer and the recipient of the interest or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been paid in the absence of such relationship, the provisions of this Article shall apply to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Royalties

ARTICLE 13.—(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) Such royalties may also be taxed in the Contracting State in which they arise, and according to the law of that State, but where the royalties are paid to a resident of the other Contracting State who is subject to tax in that other State in respect of them, the tax so charged in the State in which the royalties arise shall not exceed:

- (a) 5 per cent of the gross amount of such payments if they are made as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work;
- (b) 15 per cent of the gross amount of such payments if they are made as consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, or for the use of, or the right to use, cinematograph films or films or tapes for radio or television broadcasting.

(3) The term “royalties” as used in this Article means payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, information concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 8 shall apply.

(5) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reason, the amount which would have been paid in the absence of such relationship, the provisions of this Article

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shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

(7) The provisions of this Article shall likewise apply to gains from the alienation of any right or property giving rise to such royalties if such right or property is alienated by a resident of a Contracting State for exclusive use in the other Contracting State and the payment for such right or property is borne by an enterprise of that other State or by a permanent establishment situated therein.

Capital gains

ARTICLE 14.—(1) Capital gains from the alienation of immovable property, as defined in paragraph (2) of Article 7, may be taxed in the Contracting State in which such property is situated.

(2) Capital gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

(3) Notwithstanding the provisions of paragraph (2) of this Article, capital gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting State.

(4) Capital gains from the alienation of any property other than those mentioned in paragraphs (1) and (2) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

(5) The provisions of paragraph (4) of this Article shall not affect the right of a Contracting State to levy, according to its own law, a tax on capital gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property.

Independent personal services

ARTICLE 15.—(1) Where a resident of a Contracting State derives income from the other Contracting State in respect of professional services or other independent activities of a similar character he shall be subject to tax in that other State but only in respect of such part of that income as is attributable to his services in that State. In determining the income attributable to such services, there shall be allowed as a deduction expenses incurred in the performance of those services including reasonable administrative and general expenses so incurred, whether in the State in which the services are performed or elsewhere.

(2) The term “professional services” includes especially independent scientific, literary, artistic, educational and teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Dependent personal services

ARTICLE 16.—(1) Subject to the provisions of Articles 19 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If

the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Directors' fees

ARTICLE 17. Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Artistes and athletes

ARTICLE 18.—(1) Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

(2) Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person that income may, notwithstanding the provisions of Articles 8, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

(3) The provisions of paragraphs (1) and (2) of this Article and paragraph (4) of Article 5 shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by public entertainers if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision or local authority thereof.

Governmental services

- (a) **ARTICLE 19.** (1) (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services of a governmental nature rendered to that State or subdivision or local authority thereof shall be taxable only in that State.
- (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient is a resident of that other Contracting State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of performing the services.

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- (a) (2) (a) Any pension paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services of a governmental nature rendered to that State or subdivision or local authority thereof shall be taxable only in that State.
 - (b) However, such pension shall be taxable only in the other Contracting State if the recipient is a national of and a resident of that State.
- (3) The provisions of Articles 16 and 17 shall apply to remuneration in respect of services rendered in connection with any business carried on by one of the Contracting States or a political subdivision or local authority thereof.

Students

ARTICLE 20.—(1) An individual who, immediately before visiting a Contracting State, was a resident of the other Contracting State and whose visit to the first-mentioned Contracting State is solely for the purpose of:

- (a) studying at a university or other recognised educational institution; or
- (b) securing training to qualify him to practise a profession or trade; or
- (c) studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organisation;

shall be exempt from tax in the first-mentioned State on:

- (i) remittances from abroad for the purposes of his maintenance, education, study, research or training;
- (ii) the grant, allowance or award; and
- (iii) income from personal services rendered in that State (other than services rendered by an articulated clerk, or other individual undergoing training, to the person or partnership to whom he is articulated or who is providing the training) provided the income constitutes earnings reasonably necessary for his maintenance and education.

(2) In no event shall an individual have the benefit of the provisions of paragraph (1)(iii) of this Article for more than five years.

Teachers

ARTICLE 21.—(1) A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching or engaging in research at a university, college or other recognised educational institution in that Contracting State and who was immediately before that visit a resident of the other Contracting State, shall be exempted from tax by the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that State for such purpose.

(2) This Article shall only apply to income from research if such research is undertaken by the professor or teacher in the public interest and not primarily for the benefit of some other private person or persons.

Diplomatic and consular privileges

ARTICLE 22.—(1) Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

(2) Notwithstanding paragraph (1) of Article 4, an individual who is a member of the diplomatic, consular or permanent mission of a Contracting State or any third State which is situated in the other

Contracting State and who is within the scope of the Vienna Convention shall not be treated as a resident of that other State.

Elimination of double taxation

ARTICLE 23.—(1) In the case of the United Kingdom and subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

- (a) Thai tax payable under the laws of Thailand and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Thailand (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Thai tax is computed.
- (b) Where a dividend is paid by a company which is a resident of Thailand to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Thai tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Thai tax payable by the company in respect of the profits out of which such dividend is paid.

(2) For the purposes of paragraph (1) of this Article, the term “Thai tax payable” shall be deemed to include any amount which would have been payable as Thai tax for any year but for an exemption or reduction of tax granted with a view to promoting industrial, commercial, scientific, educational or other development in Thailand, for that year or any part thereof under:

- (a) Sections 31 and 35(3) (but only to the extent that the exemption or reduction allowed by those provisions would not have been available if those provisions had not been enacted), 33, 34, 35(2) and 35(4) of the Investment Promotion Act BE 2520 so far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or
- (b) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from or reduction of Thai tax was first granted in respect of that source.

(3) In the case of Thailand, United Kingdom tax payable in accordance with this Convention in respect of income from sources within the United Kingdom shall be allowed as a credit against Thai tax payable in respect of that income. The credit shall not, however, exceed that part of the Thai tax, as computed before the credit is given, which is appropriate to such item of income.

(4) For the purposes of paragraphs (1) and (3) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

(5) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing wholly independently with each other, the amount included in the profits of both enterprises shall be

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treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (3) of this Article.

Non-discrimination

ARTICLE 24.—(1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(3) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

(4) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

(5) In this Article the term “taxation” means taxes of every kind and description.

Mutual agreement procedure

ARTICLE 25.—(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Exchange of information

ARTICLE 26.—(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention or for the prevention of fraud or for the administration of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court or administrative body) concerned with the assessment or collection of, or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention.

(2) In no case shall the provisions of paragraph (1) of this Article be construed so as to impose on the competent authority of either Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws or administrative practice prevailing in either Contracting State;
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or the other Contracting State;
- (c) to supply information which would disclose any business, trade, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Entry into force

ARTICLE 27.—(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.

(2) This Convention shall enter into force immediately after the expiration of thirty days following the date on which the instruments of ratification are exchanged⁽²⁾ and shall thereupon have effect:

- (a) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April of the calendar year in which this Convention enters into force;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April of the calendar year in which this Convention enters into force;
 - (iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January of the calendar year in which this Convention enters into force; and
 - (iv) in respect of development land tax, for any realised development value accruing on or after 1 April of the calendar year in which this Convention enters into force;
- (b) in Thailand:

in respect of Thai tax for taxable years and accounting periods beginning on or after 1 January of the calendar year in which this Convention enters into force.

Termination

ARTICLE 28. This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year beginning on or after the expiration of a period of five years from the date of its entry into force. In such event, the Convention shall cease to have effect:

- (a) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;
 - (iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January in the year next following that in which the notice is given; and
 - (iv) in respect of development land tax, for any realised development value accruing on or after 1 April in the year next following that in which the notice is given;
- (b) in Thailand:

(2) Instruments of ratification were exchanged on 20 October 1981.

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in respect of Thai tax, for taxable years and accounting periods beginning after the end of the calendar year in which the notice is given.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at Bangkok this eighteenth day of February in the year nineteen hundred and eighty one in the Christian Era corresponding to the two thousand five hundred and twenty fourth year in the Buddhist Era in the English and Thai languages, both texts being equally authoritative. For the Government of the United Kingdom of Great Britain and Northern Ireland:

(PETER TRIPP)
Ambassador

For the Government of the Kingdom of Thailand:

(SIDDHI SAVETSILA)
Air Chief Marshal Minister of Foreign Affairs”

EXPLANATORY NOTE

Under the Convention with Thailand scheduled to this Order air transport profits, certain trading profits not arising through a permanent establishment and the salaries of temporary business visitors are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence. Where an enterprise which is a resident of one country carries on business through a permanent establishment in the other, the profits of the enterprise which are attributable to that permanent establishment may be taxed in that other country.

Governmental remuneration and pensions are normally to be taxed by the paying Government only. The remuneration of visiting teachers and certain payments made to visiting students will, subject to certain conditions, be exempt in the country visited. Income derived by a resident of one country from independent personal services performed in the other country may be taxed in that other country and income derived by public entertainers from their personal activities may normally be taxed in the country in which those activities are exercised.

Income from immovable property and capital gains arising from the disposal of such property may be taxed in the country in which the property is situated. Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence unless they arise from the disposal of assets of a permanent establishment or a fixed base which the taxpayer has in the other country.

Where income continues to be taxable in both countries relief from double taxation is to be given by the country of the taxpayer's residence. The credit to be given in the United Kingdom for tax payable in Thailand is to include credit for tax spared under certain provisions of Thai law.

The Convention provides that where a United Kingdom company pays a dividend to a resident of Thailand (other than to a company which controls 10 per cent or more of the voting power in the paying company), the recipient will, subject to certain conditions, receive the tax credit to which an individual resident in the United Kingdom and in receipt of such a dividend would be entitled, less tax at a rate not exceeding 15 per cent on the aggregate of the dividend and the tax credit. In the case of a dividend paid by a Thai company to a resident of the United Kingdom the tax charged in Thailand is not to exceed 15 per cent where the Thai company is engaged in an industrial undertaking and the recipient of the dividend is a United Kingdom company which controls at least 25 per cent of the voting power in the paying company. If only one of these conditions is met then the Thai tax may not exceed 20 per cent.

The rate of tax to be imposed by the country of source on interest paid to a resident of the other country is, in general, not to exceed 25 per cent of the gross amount of the interest. In the case of interest paid to a bank or other financial institution the rate of tax in the country of source is not to exceed 10 per cent. The country of source will exempt from tax interest payable to the Government, a local authority, or Central Bank (or any agency wholly owned by such Government or local authority) of the other country.

The rate of tax in the country of source on royalties flowing to the other country is not to exceed 5 per cent in the case of copyright royalties and 15 per cent in the case of patent and certain other royalties.

There are also provisions for safeguarding residents of one country against discriminatory taxation in the other country and for the exchange of information and consultation between the competent authorities of the two countries.

The Convention is to take effect in the United Kingdom in the calendar year in which the instruments of ratification are exchanged.