
EXPLANATORY NOTE

(This Note is not part of the Order)

The Agreement in relation to the territory of Taiwan is set out in Part I of the Schedule to this Order.

The Agreement provides for business profits not arising through a permanent establishment to be taxed only in the territory of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the territory in which the permanent establishment is situated (Articles 5 and 7).

Income from immovable property may be taxed in the territory in which the property is situated (Article 6).

International shipping and air transport profits are generally to be taxed only in the territory of residence of the operator (Article 8).

The Agreement includes rules for determining taxable profits when a company in one territory is related to a company in the other (Article 9).

The rate of tax imposed in the territory of source on dividends derived and beneficially owned by a resident of the other territory is not to exceed 10 per cent. of the gross amount of the dividends (Article 10).

The rate of tax imposed in the territory of source on interest derived by a resident of the other territory is not to exceed 10 per cent. of the interest flowing to the other territory. Certain categories of interest (e.g. interest paid to and beneficially owned by the other territory) will be exempt from tax in the source territory (Article 11).

The rate of tax imposed in the territory of source on royalties flowing to and beneficially owned by a resident of the other territory shall not exceed 10 per cent. of the gross amount of royalties paid (Article 12).

Capital gains arising from the disposal of movable property are normally to be taxed only in the territory of the taxpayer's residence. Gains arising from the disposal of immovable property situated in the other territory and assets of a permanent establishment or fixed base which the taxpayer has in the other territory may be taxed in that other territory (Article 13).

The earnings of temporary business visitors and some other individuals are, subject to certain conditions, to be taxed only in the territory of the taxpayer's residence (Articles 14 and 15).

Fees received by a resident of one territory in his capacity as a director of a company resident in the other territory may be taxed in the latter territory (Article 16).

Income derived from the activities of artistes and sportsmen may, with certain exemptions, be taxed in the territory in which those activities are exercised (Article 17).

Occupational pensions (other than those paid in respect of public service) and annuities are to be taxed only in the recipient's territory of residence (Article 18). Public service remuneration and pensions are normally taxable only by the paying territory (Article 19).

Subject to certain conditions, payments made to visiting students are to be exempt from tax in the territory visited (Article 20).

Other income not specified in the Agreement may be taxed by the territory of which the beneficial owner is a resident and by the territory in which it arises, if different (Article 21).

In general where income continues to be taxable in both countries, credit will be given by the territory of the taxpayer's residence in respect of tax imposed by the other territory (Article 22).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Double Taxation Relief (Taxes on Income)(Taiwan) Order 2002 No. 3137*

There are provisions safeguarding citizens or nationals and enterprises of one territory against discriminatory taxation in the other territory (Article 24). Provision is made for consultation and exchange of information between the competent authorities of the two territories (Articles 25 and 26).

The Annex set out in Part II of the Schedule clarifies the intended interpretation of particular aspects of the Agreement.

The Agreement will enter into force on the date of the later of the notifications by the signatories (the British Trade and Cultural Office, Taipei and the Taipei Representative Office in the United Kingdom) of the completion of the legislative procedures in each territory. The Agreement is to take effect in the United Kingdom on or after 1st April in respect of corporation tax, on or after 6th April for income tax and capital gains tax in the calendar year next following that in which it enters into force. The date of entry into force will in due course be published in the *London, Edinburgh and Belfast Gazettes*.