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SCHEDULES

SCHEDULE 12

DOUBLE TAXATION RELIEF : REPUBLIC OF IRELAND

PART I

TEXT OF AGREEMENTS

Agreement of 14th April 1926

AGREEMENT MADE THE 14TH APRIL, 1926, BETWEEN THE BRITISH GOVERNMENT AND THE GOVERNMENT OF THE IRISH FREE STATE IN RESPECT OF DOUBLE INCOME TAX.

The British Government and the Government of the Irish Free State, being desirous of concluding an Agreement for the reciprocal exemption from income tax and super-tax of persons who are resident in Great Britain (including Northern Ireland) or in the Irish Free State but are not resident in both countries and for the reciprocal granting of relief from double taxation in respect of income tax (including super-tax) to persons who are resident in both countries, and being desirous of making such supplemental consequential and incidental provisions as appear necessary or proper for the purposes of such Agreement, have agreed as follows:—

1.
 - (a) Any person who proves to the satisfaction of the Commissioners of Inland Revenue that for any year he is resident in the Irish Free State and is not resident in Great Britain or Northern Ireland shall be entitled to exemption from British income tax for that year in respect of all property situate and all profits or gains arising in Great Britain or Northern Ireland and to exemption from British super-tax for that year.
 - (b) Any person who proves to the satisfaction of the Revenue Commissioners that for any year he is resident in Great Britain or Northern Ireland and is not resident in the Irish Free State shall be entitled to exemption from Irish Free State income tax for that year in respect of all property situate and all profits or gains arising in the Irish Free State, and to exemption from Irish Free State super-tax for that year.
 - (c) Exemption under this Article may be given either by discharge or by repayment of tax, or otherwise, as the case may require.

[*Note.—Article 2, which was superseded by Article 2 of the agreement of 25th April 1928, is omitted.*]

3.
 - (a) Any person who is entitled to exemption from British income tax by virtue of Article 1(a) of this Agreement in respect of property situate and profits or gains arising in Great Britain or Northern Ireland shall, if and so far as the Oireachtas of the Irish Free State so provides, and subject to any exemption or relief to which he may be entitled under the laws in force in the Irish

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- Free State, be chargeable to Irish Free State income tax in respect of such property profits or gains.
- (b) Any person who is entitled to exemption from Irish Free State income tax by virtue of Article 1(b) of this Agreement in respect of property situate and profits or gains arising in the Irish Free State shall, if and so far as the British Parliament so provides, and subject to any exemption or relief to which he may be entitled under the laws in force in Great Britain and Northern Ireland, be chargeable to British income tax in respect of such property profits or gains.
- (c) Any person who is entitled to relief by virtue of Article 2 of this Agreement shall, subject to such relief, be chargeable, if and so far as the British Parliament so provides, to British income tax in respect of property situate and profits or gains arising in the Irish Free State in like manner in all respects as if he were resident in Great Britain or Northern Ireland but not resident in the Irish Free State and shall, subject to such relief as aforesaid, be chargeable, if and so far as the Oireachtas of the Irish Free State so provides, to Irish Free State income tax in respect of property situate and profits or gains arising in Great Britain or Northern Ireland in like manner in all respects as if he were resident in the Irish Free State but not resident in Great Britain or Northern Ireland.
4. For the purpose of this Agreement a company, whether incorporated by or under the laws of Great Britain or of Northern Ireland or of the Irish Free State or otherwise, shall be deemed to be resident in that country only in which its business is managed and controlled.
5. The Commissioners of Inland Revenue and the Revenue Commissioners may from time to time make arrangements generally for carrying out this Agreement and may in particular make such arrangements as may be practicable to avoid the collection of both British and Irish Free State income tax on the same income without allowance for any relief due under this Agreement, and the Commissioners of Inland Revenue and the Revenue Commissioners may make such regulations as they respectively think fit for carrying out such arrangements.
6. The obligation as to secrecy imposed by any enactment with regard to income tax shall not prevent the disclosure by any authorised officer of the British Government to any authorised officer of the Government of the Irish Free State or by any authorised officer of the Government of the Irish Free State to any authorised officer of the British Government of such facts as may be necessary to enable full effect to be given to this Agreement.
7. Any question that may arise between the parties to this Agreement as to the interpretation of this Agreement or as to any matter arising out of or incidental to the Agreement shall be determined by such tribunal as may be agreed between them, and the determination of such tribunal shall, as between them, be final.
8. This Agreement shall be subject to confirmation by the British Parliament and by the Oireachtas of the Irish Free State and shall have effect only if and so long as legislation confirming the Agreement is in force both in Great Britain and Northern Ireland and in the Irish Free State.

Dated this fourteenth day of April, nineteen hundred and twenty-six.

(signed)

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WINSTON S. CHURCHILL,
Chancellor of the Exchequer.

EARNÁN DE BLAGHD,
Minister for Finance, Saorstát Éireann.

Agreement of 25th April 1928

AGREEMENT MADE THE 25TH DAY OF APRIL, 1928, BETWEEN THE BRITISH GOVERNMENT AND THE GOVERNMENT OF THE IRISH FREE STATE AMENDING THE AGREEMENT MADE ON THE 14TH DAY OF APRIL, 1926, BETWEEN THE SAID GOVERNMENTS IN RESPECT OF DOUBLE INCOME TAX.

With a view to making such alterations in the Agreement made the 14th April, 1926, between the British Government and the Government of the Irish Free State in respect of Double Income Tax as may be necessary in consequence of the alterations in the British Income Tax Acts effected by the British Finance Act, 1927, and of the alterations contemplated in the Irish Free State Income Tax Acts, it is hereby agreed between the said Governments that the said Agreement shall be amended as follows:—

1.
 - (a) In Article 1(a) of the said Agreement the words " British income tax " shall as respects the year 1928-29 and any subsequent year be construed as meaning British income tax charged or chargeable at the standard rate and the expression " British super-tax " shall for the year 1928-29 include British sur-tax and shall for subsequent years mean British sur-tax.
 - (b) In Article 1(b) of the said Agreement the expression "Irish Free State super-tax " shall for the year 1928-29 include Irish Free State sur-tax and shall for subsequent years mean Irish Free State sur-tax.
2. The following Article shall be substituted for Article 2 of the said Agreement:—
 - “2 (1) Relief from double taxation in respect of income tax (including sur-tax) in the case of any person who is resident both in Great Britain or Northern Ireland and in the Irish Free State shall be allowed from British income tax and Irish Free State tax respectively in accordance with and under the provisions of section 27 of the Finance Act, 1920, provided that—
 - (a) the rate of relief to be allowed from British income tax shall be one-half of that person's appropriate rate of British income tax or one-half of his appropriate rate of Irish Free State tax, whichever is the lower ;
 - (b) the rate of relief to be allowed from Irish Free State tax shall be one-half of that person's appropriate rate of British income tax or one-half of his appropriate rate of Irish Free State tax, whichever is the lower ;
 - (c) the appropriate rate of British income tax for any year shall in the case of a person whose income is chargeable to British income tax at the standard rate only be a rate ascertained by dividing the amount of tax payable by him for that year in respect of his total income (before deduction of any relief granted in respect of life assurance premiums or any relief granted under the provisions of Section 27 of the Finance Act, 1920, as amended by this Article) by the amount of his total income and shall in the case of a person part of whose total income is chargeable to British income tax at a rate or rates in excess of the standard rate be the sum of the following rates:—

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- (i) the rate which would have been the appropriate rate in the case of that person if his income had been chargeable at the standard rate only, and
- (ii) the rate ascertained by dividing the amount of the British sur-tax payable by that person for that year by the amount of his total income for that year;
- (d) the appropriate rate of Irish Free State tax for any year shall in the case of a person whose income is chargeable in the Irish Free State to income tax only be a rate ascertained by dividing the amount of tax payable by him for that year in respect of his total income (before deduction of any relief granted in respect of life assurance premiums or any relief granted under the provisions of Section 27 of the Finance Act, 1920, as amended by this Article) by the amount of his total income, and shall in the case of a person whose income is chargeable to Irish Free State sur-tax be the sum of the following rates:—
 - (i) the rate which would have been the appropriate rate in the case of that person if his income had been chargeable to income tax only, and
 - (ii) the rate ascertained by dividing the amount of the Irish Free State sur-tax payable by that person for that year by the amount of his total income for that year ;
- (e) relief under this Article from British income tax allowable to any person for any year shall be given as to such an amount as would be due if his income for the year were chargeable to British income tax at the standard rate only and to Irish Free State income tax only by repayment of or set off against the tax at the standard rate payable by him for that year, and as to any balance by repayment of or set off against any British sur-tax payable by him for that year ;
- (f) relief under this Article from Irish Free State tax allowable to any person for any year shall be given as to such an amount as would be due if his income for the year were chargeable to British income tax at the standard rate only and to Irish Free State income tax only by repayment of or set off against the income tax payable by him for that year, and as to any balance by repayment of or set off against any Irish Free State sur-tax payable by him for that year.

[Note.—Paragraph (2) of this Article, which related only to supertax for the year 1928-29, is omitted.]

- (3) For the purposes of this Article references to Section 27 of the Finance Act, 1920, shall in relation to British taxation be construed as references to that section subject to the amendments thereof effected by the British Finance Act, 1927, other than the amendment of the said section numbered (iv) in Part II of the Fifth Schedule to the said Act of 1927.”

- 3. This Agreement shall be subject to confirmation by the British Parliament and by the Oireachtas of the Irish Free State and shall have effect only if and so long as legislation confirming the Agreement is in force both in Great Britain and Northern Ireland and in the Irish Free State.

Dated this 25th day of April, nineteen hundred and twenty-eight.

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(signed)

WINSTON S. CHURCHILL,
Chancellor of the Exchequer.

EARNÁN DE BLAGHD,
Minister for Finance, Saorstát Éireann.

Agreement of 4th April 1959

[*Note.—(1) The agreement of 21st July 1947 referred to in italics in Article 1 of this agreement is not reproduced. It related solely to provisions of the Finance (No. 2) Act 1945 which, as re-enacted in section 350 of the Income Tax Act 1952, were repealed for years after 1965-66 by the Finance Act 1965.*

(2) Other passages italicised in the agreement are inoperative for years after 1965-66 by reason of the repeal for such years, by the Finance Act 1965, of section 4 of the Finance (No. 2) Act 1955.]

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND WITH RESPECT TO CERTAIN EXEMPTIONS FROM TAX.

The Government of the United Kingdom and the Government of the Republic of Ireland,

Considering the Agreement of the 14th April, 1926, between the British Government and the Government of the Irish Free State, in pursuance of which exemptions from tax are conferred on persons resident in one only of the countries from tax under the law of the other,

Considering that doubts have arisen as to the effect on the said exemptions of the provisions of subsection (2) of Section four of the United Kingdom Finance (No. 2) Act, 1955 (hereinafter called "the Act of 1955") and subsection (2) of Section fifty-one of the Irish Republican Finance Act, 1958 (hereinafter called "the Act of 1958") (which relate to purchases of shares by persons exempted from tax),

Desiring to remove these doubts for the year 1959-60 and subsequent years,

Have agreed as follows:—

Article 1

- (1) The said exemptions fall within, and are subject to, the said provisions of the Act of 1955 and the Act of 1958.
- (2) Subject as aforesaid the said Agreement of 1926 as amended by Agreements made on the 25th April, 1928, and the 21st July, 1947, continues in force.
- (3) Paragraph (1) of this Article does not relate to cases where the dividend in respect of which exemption is claimed is one on a holding of shares or stock acquired by the person claiming exemption, or regarded as having been acquired by him, before the eighth day of April, nineteen hundred and fifty-nine except in so far as that dividend is one falling within subsection (2) of the said Section four or subsection (2) of the said Section fifty-one by reason (directly or indirectly) that in respect of another dividend, received by a body corporate other than the person claiming exemption from a holding of shares or stock acquired, or regarded as acquired, by the body corporate on or after the said eighth day of April, a deduction is to be made in determining the income of that body corporate arising after a given date ; but this paragraph is without prejudice to any question as to the application of the said provisions of the

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Act of 1955 and the Act of 1958 in circumstances to which paragraph (1) of this Article does not relate.

Article 2

This Agreement shall become effective on the exchange of notes confirming that the necessary steps have been taken to give it the force of law in the United Kingdom and the Republic of Ireland, and thereafter shall remain effective only so long as it has the force of law in both countries.

Dated this fourth day of April, 1959.

For the Government of the United Kingdom	For the Government of the Republic of Ireland
D. HEATHCOAT AMORY	SÉAMAS O RIAIN

Agreement of 23rd June 1960

[*Note.—See paragraph (1) of note to agreement of 4th April 1959.*]

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND WITH RESPECT TO CERTAIN EXEMPTIONS FROM TAX.

The Government of the United Kingdom and the Government of the Republic of Ireland,

Considering the Agreement of the 14th April, 1926, between the British Government and the Government of the Irish Free State in pursuance of which exemptions from tax are conferred on persons resident in one only of the countries from tax under the law of the other,

Considering that legislation may be enacted in either country to maintain the proper incidence of liability to income tax and to prevent the obtaining of undue tax advantages,

Considering that such legislation may be insufficiently effective unless, as well as applying to persons resident in the country where it is enacted, it applies also to persons not so resident but resident in the other of the two countries and accordingly affects exemptions from tax conferred in pursuance of the said Agreement of 1926,

Recognising that the legislation which was the subject of the Agreement of the 4th April, 1959, made between the two Governments affected the said exemptions in particular ways, and desiring to supplement that Agreement by a more general Agreement,

Desiring to declare that save as provided by this Agreement the continuance in force of the said Agreement of 1926 shall not be affected by the enactment of such legislation,

Have agreed as follows:—

Article 1

Legislation enacted in either country at any time after the date of this Agreement and affecting in any way exemptions from income tax of that country of persons resident in that country shall, except as otherwise provided by the legislation and subject to the next following Article of this Agreement, have the like effect on exemptions from that tax which persons enjoy as not resident in that country but resident in the other of the two countries, and the enactment of such legislation shall not affect the continuance in force of the said Agreement of 1926, as amended by Agreements of the 25th April, 1928, the 21st July, 1947, and the 4th April, 1959, and this Agreement.

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Article 2

If the Government of either country represents that any provisions of legislation enacted in the other country, being provisions falling within Article 1 of this Agreement, are nevertheless not within the intention of the Agreement, the two Governments shall consult and if they agree that Article 1 ought not to apply the Government of the country in which the legislation was enacted shall take the necessary steps to secure that the said provisions shall not affect, or be deemed to have affected, exemptions from the income tax of that country which persons enjoy as not resident therein but resident in the other country.

Article 3

This Agreement shall become effective on the exchange of notes confirming that the necessary steps have been taken to give it the force of law in the United Kingdom and the Republic of Ireland, and thereafter shall remain effective only so long as it has the force of law in both countries.

Dated this 23rd day of June, 1960.

For the Government of the United Kingdom

D. HEATHCOAT AMORY

For the Government of the Republic of
Ireland

SÉAMAS O RIAIN
