

1971 No. 718

INCOME TAX

**The Double Taxation Relief (Taxes on Income) (France)
Order 1971***Laid before the House of Commons in draft*

Made - - - - 30th April 1971

At the Court at Windsor Castle, the 30th day of April 1971

Present,

The Queen's Most Excellent Majesty in Council

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

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 others 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) (France) Order 1971.

2. It is hereby declared—

(a) that the arrangements specified in the Protocol set out in the Schedule to this Order have been made with the Government of the French Republic with a view to affording relief from double taxation in relation to income tax, or corporation tax and taxes of a similar character imposed by the laws of France varying the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (France) Order 1968(b); and

(b) that it is expedient that those arrangements should have effect.

W. G. Agnew.

SCHEDULE

PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND FRANCE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT LONDON ON 22 MAY, 1968

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

Desiring to amend the Convention between the United Kingdom of Great Britain and Northern Ireland and France for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on 22 May, 1968 (hereinafter referred to as "the Convention");

(a) 1970 c. 10. (b) S.I. 1968/1869 (1968 III, p. 4924).

Have agreed as follows:

ARTICLE 1

Article 9 of the Convention shall be amended by deleting the existing paragraphs numbered (5) and (6) and by adding new paragraphs numbered (5), (6) and (7) as follows:

“(5) (a) A resident of the United Kingdom who receives from a company which is a resident of France dividends which, if received by a resident of France would entitle such resident to a fiscal credit (*avoir fiscal*), shall be entitled to a payment from the French Treasury equal to such credit (*avoir fiscal*) subject to the deduction of the tax provided for in sub-paragraph (b) of paragraph (2) of this Article.

(b) The provisions of sub-paragraph (a) of this paragraph shall apply only to a resident of the United Kingdom, being either:

(i) an individual ; or

(ii) a company which :

(aa) controls directly less than 10 per cent of the voting power of the company paying the dividends referred to in sub-paragraph (a) of this paragraph, and

(bb) is not entitled in computing the amount of credit to be allowed against United Kingdom tax in respect of tax payable in a territory outside the United Kingdom to take into account the French tax payable on the profits out of which the said dividends are paid.

(c) The provisions of sub-paragraph (a) of this paragraph shall not apply if the recipient of the payment from the French Treasury provided for under sub-paragraph (a) of this paragraph is not subject to United Kingdom tax in respect of that payment.

(d) Payments from the French Treasury provided for under sub-paragraph (a) of this paragraph shall be deemed to be dividends for the purposes of this Convention.

(6) (a) The limitations on the rate of tax for which paragraph (2) of this Article provides shall not apply if the recipient of the dividends being a resident of a Contracting State has, in the other Contracting State of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected.

(b) The provisions of sub-paragraph (a) of paragraph (5) of this Article shall not apply if the resident of the United Kingdom who receives the dividends has in France a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected.

(7) (a) Where the prepayment (*précompte*) is levied in respect of dividends paid by a company which is a resident of France to a resident of the United Kingdom who is not entitled to the payment from the French Treasury referred

to in paragraph (5) of this Article with respect to such dividends, that resident of the United Kingdom shall be entitled to the refund of that prepayment, subject to the deduction of tax with respect to the refunded amount in accordance with paragraph (2) of this Article.

(b) Amounts refunded under the provisions of sub-paragraph (a) of this paragraph shall be deemed to be dividends for the purposes of this Convention."

ARTICLE 2

Each of the Contracting States shall notify to the other the completion of the procedure required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications and shall thereupon have effect in relation to dividends declared on or after the date of entry into force of the Protocol.

ARTICLE 3

This Protocol shall remain in force as long as the Convention remains in force.

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

Done in duplicate at London, this 10th day of February, 1971, in the English and French languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland :

Anthony Royle.

For the Government of the French Republic:

G. de Courcel.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Protocol scheduled to this Order makes certain alterations to the Convention with France signed on 22nd May 1968 to provide that, where a French company pays a dividend to an individual resident in the United Kingdom or to a United Kingdom company which controls less than 10 per cent of the voting power in the paying company, the recipient is, subject to certain conditions, to receive from the French Treasury a payment equivalent to the amount of credit (known as the "avoir fiscal") to which a French recipient of such a dividend would normally be entitled.

The Protocol is to apply to dividends declared on or after the date on which it enters into force.