

1973 No. 1328

## INCOME TAX

**The Double Taxation Relief (Taxes on Income)  
(France) Order 1973***Laid before the House of Commons in draft**Made - - - 27th July 1973*

At the Court at Buckingham Palace, the 27th day of July 1973

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, as amended by section 98 of the Finance Act 1972(b), 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) (France) Order 1973.

2. It is hereby declared—

(a) that the arrangements specified in the Supplementary Protocol set out in the Schedule to this Order have been made with the Government of France 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(c) as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (France) Order 1971(d); and

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

*W. G. Agnew.*

(a) 1970 c. 10.

(c) S.I. 1968/1869 (1968 III, p. 4924).

(b) 1972 c. 41.

(d) S.I. 1971/718 (1971 II, p. 1940).

## SCHEDULE

SUPPLEMENTARY 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, AS MODIFIED BY THE PROTOCOL SIGNED AT LONDON ON 10 FEBRUARY 1971

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, as modified by the Protocol signed at London on 10 February 1971 (hereinafter referred to as "the Convention");

Have agreed as follows:

## ARTICLE I

(1) Paragraph (5) of Article 6 of the Convention shall be amended by replacing the words "in Article 9 (dividends) excluding paragraph (5)" by the words "in Article 9 (dividends) excluding paragraph (8)".

(2) Article 9 of the Convention shall be deleted and replaced by the following:

## "Article 9

## A--DIVIDENDS PAID BY COMPANIES WHICH ARE RESIDENTS OF THE UNITED KINGDOM

(1)(a) Dividends paid by a company which is a resident of the United Kingdom to a resident of France may be taxed in France.

(b) Where a resident of France is entitled to a tax credit in respect of such a dividend under paragraph (2) of this Article tax may also be charged in the United Kingdom, and according to the law of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.

(c) Except as provided in sub-paragraph (b) of this paragraph, dividends which are paid by a company which is a resident of the United Kingdom to a resident of France who is subject to tax in respect thereof in France shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(2) A resident of France who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of paragraphs (3) and (4) of this Article and provided that he is subject to tax in respect of those dividends in France, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.

(3) The provisions of paragraph (2) of this Article shall not apply where the recipient of the dividend is a company which controls the company paying the dividend.

(4) If the recipient of the dividend is a company which owns 10 per cent or more of the class of shares in respect of which the dividends are paid then paragraph (2) of this Article shall not apply to the dividends to the extent that they can have been paid only out of income which accrued to the company paying the dividends in a period ending 12 months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the recipient of the dividends became the owner of 10 per cent or more of the class of shares in question.

Provided that this paragraph shall not apply if the shares were acquired for bona fide commercial reasons and not primarily for the purposes of securing the benefit of this Article.

B—DIVIDENDS PAID BY COMPANIES WHICH ARE RESIDENTS OF FRANCE

(5) Dividends paid by a company which is a resident of France to a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in France but provided the recipient of the dividends is subject to tax in respect thereof in the United Kingdom the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the recipient is a company which controls the company paying the dividend;
- (b) in all other cases 15 per cent of the gross amount of the dividends.

(6)(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 (5) 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) does not control 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.

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

C—GENERAL

(8) The provisions of paragraphs (1) (2) (5) and (6) of this Article 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 is paid is effectively connected. In this case, the provisions of Article 6 shall apply.

(9) The term "dividends" as used in this Article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income treated as a distribution by the taxation law of the State of which the company making the distribution is a resident.

(10) For the purposes of this Article, a company shall be deemed to control another company when either alone or together with one or more associated companies it controls directly or indirectly at least 10 per cent of the voting power in that other company, and two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company."

#### ARTICLE II

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 Supplementary Protocol. This Supplementary Protocol shall enter into force on the date of the later of these notifications and shall thereupon have effect in relation to dividends paid on or after 6 April 1973.

#### ARTICLE III

This Supplementary 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 Supplementary Protocol.  
Done in duplicate at London this 14 day of May, 1973 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:  
J. DE BEAUMARCHAIS.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

The Supplementary Protocol scheduled to this Order makes certain alterations to the Convention with France signed on 22nd May 1968 (as amended by the Protocol signed on 10th February 1971). These alterations follow from the introduction of the new United Kingdom corporation tax system which, so far as it relates to the tax treatment of dividends paid by a United Kingdom company to an overseas shareholder, came into operation on 6th April 1973. The Supplementary Protocol provides that where a United Kingdom company pays a dividend to a resident of France other than a company which controls 10 per cent or more of the voting power in the paying company, the recipient is, subject to certain conditions, to receive the tax credit to which an individual resident in the United Kingdom and in receipt of such a dividend would be entitled less income tax at a rate not exceeding 15 per cent on the aggregate of the dividend and the tax credit.

The Supplementary Protocol is expressed to take effect in relation to dividends paid on or after 6th April 1973.



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