

1979 No. 118

INCOME TAX

**The Double Taxation Relief (Taxes on Income)
(Norway) Order 1979**

Laid before the House of Commons in draft

Made - - - - 6th February 1979

At the Court at Buckingham Palace, the 6th day of February 1979

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(a), 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, section 98(2) of the Finance Act 1972(b) and section 39 of the Finance Act 1965(c), as amended, 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) (Norway) Order 1979.

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 Kingdom of Norway 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 Norway; and
- (b) that it is expedient that these arrangements should have effect.

N. E. Leigh,
Clerk of the Privy Council.

(a) 1970 c. 10.

(b) 1972 c. 41.

(c) 1965 c. 25.

SCHEDULE

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF NORWAY, FURTHER AMENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL, SIGNED IN LONDON ON 22 JANUARY 1969 AND AMENDED BY A PROTOCOL SIGNED IN LONDON ON 23 JUNE 1977

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

Desiring to conclude a Protocol to amend the Convention between the Contracting States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital, signed in London on 22 January 1969 and amended by a Protocol signed in London on 23 June 1977 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

The following new Article shall be inserted immediately after Article 31.

"ARTICLE 31 A

Miscellaneous Rules applicable to certain Offshore Activities

Notwithstanding any other provision of this Convention:

(1) A person who is a resident of a Contracting State and carries on activities in the other Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that other Contracting State shall, subject to paragraphs (2), (3) and (4) of this Article, be deemed to be carrying on a trade in that other Contracting State through a permanent establishment situated therein.

(2) The taxable profits in a Contracting State of a resident of the other Contracting State in respect of the operation of a drilling rig during any period in the first-mentioned Contracting State shall, if that resident so claims to the Competent Authority of the first-mentioned Contracting State, be computed by reference to the Capital allowances (or other reliefs for depreciation) in respect of the rig which have been allowed in the other Contracting State to that resident for that period under the laws of that Contracting State.

(3) Profits derived by a resident of a Contracting State from the transportation of supplies to a location where activities in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in a Contracting State, or from the operation of tugboats and similar vessels in connection with such activities, shall be taxable only in the Contracting State of which he is a resident.

(4) (a) Subject to sub-paragraphs (b) and (c) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in the other Contracting State shall, to the extent that the duties are performed offshore in that other Contracting State, be taxable only in that other Contracting State.

(b) Subject to sub-paragraph (c) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies to a location where activities connected with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in a Contracting State, or in respect of an employment exercised aboard a tugboat or similar vessel in connection with such activities, shall be taxable only in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

(c) Sub-paragraphs (a) and (b) of this paragraph shall apply only where documentary evidence is produced which is satisfactory to the Competent Authority of the other Contracting State that tax has been paid in the Contracting State which has the sole right to tax the remuneration referred to in sub-paragraphs (a) and (b) of this paragraph. Otherwise, the domestic laws of the Contracting States relating to the taxation of such remuneration shall apply, double taxation being relieved in accordance with Article 26 of this Convention."

ARTICLE II

The following new sub-paragraph shall be inserted immediately after sub-paragraph (c) of paragraph (2) of Article 26:

"(d) Where a resident of Norway derives income or owns capital which, in accordance with the provisions of Article 31 A, may be taxed in the United Kingdom, Norway shall allow:

- (i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the United Kingdom;
- (ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in the United Kingdom.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in the United Kingdom."

ARTICLE III

Paragraph (3) of Article 29 of the Convention shall be deleted and replaced by the following:

"(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. They may also consult together to consider measures to counteract improper use of the provisions of the Convention."

ARTICLE IV

(1) 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 therefrom have effect:

(a) in the United Kingdom,

- (i) in relation to paragraph (4) of Article 31 A, for any year of assessment beginning on or after 6 April 1978; and

- (ii) in relation to all other provisions of this Protocol, for any year of assessment, financial year or chargeable period beginning on or after 1 April 1977;
- (b) in Norway,
 - (i) in relation to paragraph (4) of Article 31 A, for income derived on or after 1 January 1978; and
 - (ii) in relation to all other provisions of this Protocol, for income derived on or after 1 January 1977 or capital as at 1 January 1978 or later.
- (2) Where any provision of the Convention before amendment by this Protocol would have afforded any greater relief from tax any such provision as aforesaid shall continue to have effect:
 - (a) in the United Kingdom, for any year of assessment, financial year or chargeable period beginning before the entry into force of this Protocol;
 - (b) in Norway, for income derived in the income year or chargeable period beginning before the entry into force of this Protocol and for capital as at 1 January in the next following year.

ARTICLE V

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 Oslo this 29th day of March, 1978, in the English and Norwegian languages, both texts being equally authoritative.

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

A. T. LAMB.

For the Government of the Kingdom of Norway:

PER KLEPPE.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Protocol scheduled to this Order amends the Convention with Norway signed on 22nd January 1969, by, inter alia, providing rules for avoidance of the double taxation of United Kingdom and Norwegian residents in respect of income and profits from activities connected with offshore oil and gas exploration or exploitation on the United Kingdom and Norwegian Continental Shelves.

Trading profits from such activities are deemed to arise through a permanent establishment and may therefore be taxed in the country in which the activities are carried on; however, profits connected with the transportation of supplies are to be taxed only in the country of the taxpayer's residence.

Employees are, in general, to be taxed only in the country in which the employment is exercised, or if they are employed on a supply ship or aircraft, only in the country in which the operator of the ship or aircraft is resident.

There is provision for drilling rig owners to claim capital allowances on the basis used in their country of residence.

Where income from such activities continues to be taxable in both countries, relief from double taxation is to be given, by way of credit, by the country of the taxpayer's residence.

The Protocol is in general to take effect in the United Kingdom from 1st April 1977. The provisions relating to remuneration from employments are to take effect from 6th April 1978.

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