

## STATUTORY INSTRUMENTS

1980 No. 1960

## INCOME TAX

**The Double Taxation Relief (Taxes on Income)  
(Denmark) Order 1980***Laid before the House of Commons in draft**Made - - - - 17th December 1980*

At the Court at Buckingham Palace, the 17th day of December 1980

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 Income and Corporation Taxes Act 1970, 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) (Denmark) Order 1980.

2. It is hereby declared—

(a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Kingdom of Denmark with a view to affording relief from double taxation in relation to income tax, corporation tax, petroleum revenue tax, development land tax or capital gains tax and taxes of a similar character imposed by the laws of Denmark; and

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

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

(a) 1970 c. 10; section 497 was amended and extended by sections 98(2) and 100(1) of the Finance Act 1972 (c. 41) and section 10 of the Capital Gains Tax Act 1979 (c. 14).

## SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS.

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

Desiring to conclude a new Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains;

Have agreed as follows:

## ARTICLE 1

**Personal scope**

This Convention shall apply to persons who are residents of one or both of the Contracting States.

## ARTICLE 2

**Taxes covered**

(1) The taxes which are the subject of this Convention are:

(a) in the United Kingdom of Great Britain and Northern Ireland:

- (i) the income tax;
- (ii) the corporation tax;
- (iii) the capital gains tax;
- (iv) the petroleum revenue tax; and
- (v) the development land tax

(hereinafter referred to as "United Kingdom tax");

(b) in the case of Denmark the income taxes to the state and to the municipalities (*indkomstskatterne til staten og til kommunerne*);

(hereinafter referred to as "Danish tax").

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

## ARTICLE 3

**General definitions**

(1) In this Convention, unless the context otherwise requires:

(a) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;

(b) the term "Denmark" means the Kingdom of Denmark, including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within

which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil; the term does not comprise the Faroe Islands and Greenland.

- (c) the term “national” means:
- (i) in relation to the United Kingdom, any citizen of the United Kingdom and Colonies, or any British subject not possessing that citizenship or the citizenship of any other Commonwealth country or territory, provided in either case he has the right of abode in the United Kingdom, and any legal person, partnership or association deriving its status as such from the law in force in the United Kingdom;
  - (ii) in relation to Denmark, any individual possessing the nationality of Denmark and any legal person, partnership or association deriving its status as such from the law in force in Denmark;
- (d) the term “tax” means United Kingdom tax or Danish tax, as the context requires;
- (e) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Denmark, as the context requires;
- (f) the term “person” comprises an individual, a company and any other body of persons;
- (g) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (h) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term “competent authority” means in the case of the United Kingdom the Commissioners of Inland Revenue or their authorised representative, and in the case of Denmark the Minister for Inland Revenue, Customs and Excise or his authorised representative.

(2) As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

#### ARTICLE 4

##### **Fiscal domicile**

(1) For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:

- (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
  - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
- (3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

#### ARTICLE 5

##### Permanent establishment

- (1) For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
- (2) The term “permanent establishment” includes especially:
- (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop; and
  - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
- (3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.
- (4) Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
- (5) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, where a person—other than an agent of an independent status to whom paragraph (6) of this Article applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
- (6) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a

broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

- (7) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

#### ARTICLE 6

##### **Income from immovable property**

- (1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
- (2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
- (3) The provisions of paragraph (1) of this Article shall apply to income derived from the direct use, letting, or use in any other form, of immovable property.
- (4) The provisions of paragraphs (1) and (3) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

#### ARTICLE 7

##### **Business profits**

- (1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
- (2) Subject to the provisions of paragraph (3) of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
- (3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
- (4) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
- (5) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

## ARTICLE 8

**Shipping and air transport**

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) If the place of effective management of a shipping enterprise is aboard a ship then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the State of which the operator of the ship is a resident.

(3) The provisions of paragraph (1) of this Article shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

(4) With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium, known as the Scandinavian Airlines System (SAS), the provisions of paragraphs (1) and (3) of this Article shall only apply to such part of the profits as corresponds to the shareholding in the consortium held by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

## ARTICLE 9

**Associated enterprises**

(1) Where:

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any income, deductions, receipts or outgoings which would, but for those conditions, have been attributed to one of the enterprises, but, by reason of those conditions, have not been so attributed, may be included in the profits or losses of that enterprise and taxed accordingly.

(2) Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the items so included comprise income, deductions, receipts or outgoings which would have been attributed to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then the competent authorities of the Contracting States may consult together with a view to reaching an agreement on the adjustment of profits or losses in both Contracting States.

## ARTICLE 10

**Dividends**

(1) Dividends derived from a company which is a resident of a Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases.

(3) As long as an individual resident in the United Kingdom is entitled under United Kingdom law to a tax credit in respect of dividends paid by a company which is resident in the United Kingdom, paragraph (2) of this Article shall not apply to dividends derived from a company which is a resident of the United Kingdom by a resident of Denmark. In these circumstances the following provisions of this paragraph shall apply:

- (a) (i) Where a resident of Denmark is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph, tax may also be charged in the United Kingdom and according to the laws 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.
  - (ii) Where a resident of Denmark is entitled to a tax credit in respect of such a dividend under sub-paragraph (c) of this paragraph, tax may also be charged in the United Kingdom and according to the laws 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 5 per cent.
  - (iii) Except as provided in sub-paragraphs (a)(i), (a)(ii) and (d) of this paragraph dividends derived from a company which is a resident of the United Kingdom and which are beneficially owned by a resident of Denmark shall be exempt from any tax in the United Kingdom which is chargeable on dividends.
- (b) A resident of Denmark who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraphs (c) and (d) of this paragraph and provided he is the beneficial owner of the dividends, 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 tax in the United Kingdom.
- (c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the beneficial owner of the dividends is a company which either alone or together with one or more associated companies controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend. In these circumstances a company which is a resident of Denmark and receives dividends from a company which is a resident of the United Kingdom shall, provided it is the beneficial owner of the dividends, be entitled to a tax credit equal to one half of the tax credit 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 its liability to tax in the United Kingdom. For the purposes of this sub-paragraph, two companies shall be deemed to be associated if one controls directly or indirectly more than 50 per cent of the voting power in the other company, or a third company controls more than 50 per cent of the voting power in both of them.
- (d) The provisions of sub-paragraph (b) of this paragraph shall not apply where the beneficial owner of the dividends is exempt from tax in Denmark in respect of the dividends. In these circumstances the dividends may be taxed in the United Kingdom and according to the laws of the United Kingdom at a rate not exceeding 15 per cent.

(4) As long as an individual resident in Denmark is entitled under Danish law to a tax-credit (*skattegodtgørelse*) in respect of dividends paid by a company which is resident in Denmark, paragraph (2) of this Article shall not apply to dividends derived from a company which is a resident of Denmark by a resident of the United Kingdom. In these circumstances the following provisions of this paragraph shall apply:

- (a) A resident of the United Kingdom who receives dividends from a company which is a resident of Denmark shall, subject to the provisions of sub-paragraphs (c) and (d) of this paragraph and provided he is the beneficial owner of the dividends be entitled to the tax-credit in respect thereof to which an individual resident in Denmark would have been entitled had he received those dividends, and to the payment of any excess of that tax-credit over his liability to tax in Denmark.

- (b) Where a resident of the United Kingdom is entitled to a tax-credit in respect of such a dividend under sub-paragraph (a) of this paragraph tax may also be charged in Denmark and according to the laws of Denmark 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) The provisions of sub-paragraph (a) of this paragraph shall not apply where the beneficial owner of the dividends is a company which is a resident of the United Kingdom and which holds directly at least 25 per cent of the capital in the company paying the dividends. In these circumstances the dividends shall be exempt from any tax in Denmark which is chargeable on dividends.
- (d) The provisions of sub-paragraph (a) of this paragraph shall not apply where the beneficial owner of the dividends is exempt from tax in the United Kingdom in respect of the dividends. In these circumstances the dividends may be taxed in Denmark and according to the laws of Denmark at a rate not exceeding 15 per cent.
- (5) The term “dividends” for United Kingdom tax purposes includes any item which under the law of the United Kingdom is treated as a distribution and for Danish tax purposes includes any item which under the law of Denmark is treated as a distribution.
- (6) The provisions of paragraph (1) and of paragraphs (2), (3) or (4) of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
- (7) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## ARTICLE 11

### Interest

- (1) Interest arising in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
- (2) The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures but does not include income dealt with in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
- (3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.



(4) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(5) Any provision in the law of either Contracting State relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a resident of the other Contracting State to be treated as a distribution by the company paying such interest.

## ARTICLE 12

### Royalties

(1) Royalties derived and beneficially owned by a resident of a Contracting State shall be taxable only in that State.

(2) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 13

### Capital gains

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

(3) Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) Gains from the alienation of any property other than that referred to in paragraphs (1), (2) and (3) of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

#### ARTICLE 14

##### **Independent personal services**

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

(2) The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

#### ARTICLE 15

##### **Dependent personal services**

(1) Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the taxable year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Denmark.

#### ARTICLE 16

##### **Directors' fees**

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

## ARTICLE 17

**Artistes and athletes**

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

## ARTICLE 18

**Pensions and annuities**

(1) Subject to the provisions of paragraph (2) of Article 19 pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, pensions paid under the social security legislation of a Contracting State may be taxed in that State.

(3) The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

## ARTICLE 19

**Government service**

(1) (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

(2) (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

(3) The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## ARTICLE 20

**Students**

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

## ARTICLE 21

**Other income**

(1) Items of income of a resident of a Contracting State, who is subject to tax there in respect thereof, which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

(2) The provisions of paragraph (1) of this Article shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

## ARTICLE 22

**Elimination of double taxation**

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

(a) Danish tax payable under the laws of Denmark and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Denmark (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Danish tax is computed;

(b) in the case of a dividend paid by a company which is a resident of Denmark to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Danish tax creditable under the provisions of sub-paragraph (a) of this paragraph) the Danish tax payable by the company in respect of the profits out of which such dividend is paid.

(2) (a) Subject to the provisions of sub-paragraph (c) of this paragraph where a resident of Denmark derives income which in accordance with this Convention may be taxed in the United Kingdom, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the United Kingdom.

(b) Such deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable, to the income which may be taxed in the United Kingdom.

(c) Where a resident of Denmark derives income which in accordance with this Convention shall be taxable only in the United Kingdom, Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from the United Kingdom.

(3) For the purposes of paragraphs (1) and (2) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

#### ARTICLE 23

##### **Non-discrimination**

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(3) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

(4) Except where the provisions of paragraph (1) of Article 9, paragraph (4) of Article 11, or paragraph (4) of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

(5) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(6) The provisions of this Article shall apply to taxes of every kind and description.

#### ARTICLE 24

##### **Mutual agreement procedure**

(1) Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

(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.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

#### ARTICLE 25

##### Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(2) In no case shall the provisions of paragraph (1) of this Article be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

#### ARTICLE 26

##### Diplomatic agents and consular officers

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

#### ARTICLE 27

##### Territorial extension

(1) This Convention may be extended, either in its entirety or with any necessary modifications, to any State or territory for whose international relations the United Kingdom or Denmark is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

(2) Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention to any State or territory to which it has been extended under this Article.

## ARTICLE 28

**Miscellaneous Rules**

(1) Where under any provision of this Convention income is relieved from Danish tax and, under the law in force in the United Kingdom, an individual, in respect of the said income is subject to tax by reference to the amount thereof which is remitted to or received in the United Kingdom and not by reference to the full amount thereof, then the relief to be allowed under this Convention in Denmark shall apply only to so much of the income as is remitted to or received in the United Kingdom.

(2) The term "political subdivision", in relation to the United Kingdom, includes Northern Ireland.

(3) Payments made by an individual who is resident in a Contracting State, but is not a national of that State, to a pension scheme established in the other Contracting State may be relieved from tax in the first-mentioned State provided that:—

- (a) the individual was contributing to the pension scheme before he became a resident of the first-mentioned State; and
- (b) the pension scheme is accepted by the Competent Authority of that State as corresponding to a pension scheme recognised as such for tax purposes by that State.

In such a case relief from tax shall be given in the same way as if the pension scheme was recognised as such by that State and payments to the pension scheme by the enterprise paying his remuneration shall not be deemed to be taxable income of the individual.

## ARTICLE 29

**Entry into force**

(1) This Convention shall come into force on the date when the last of all such things shall have been done in the United Kingdom and Denmark as are necessary for the entry into force in the United Kingdom and Denmark, and shall thereupon have effect:

- (a) in the United Kingdom:
  - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April, 1978;
  - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April, 1978;
  - (iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1st January, 1978; and
  - (iv) in respect of development land tax, for any realised development value accruing on or after 1st January, 1978.
- (b) in Denmark in respect of income assessable for the calendar year 1978 and subsequent years.

(2) Subject to the provisions of paragraph (3) of this Article the Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at London on 27th March, 1950(a), as amended by the Protocol signed at London on 7th July, 1966(b), and by the Supplementary Protocol signed at London on 18th December, 1968(c) and by the Supplementary Protocol signed at Copenhagen on 8th February, 1973(d), (hereinafter referred to as "the 1950 Convention"), shall terminate upon the entry into force of this Convention and thereupon cease to have effect in respect of taxes to which this Convention, in accordance with the provisions of paragraph (1) of this Article, applies.

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(a) S.I. 1950/1195.  
(c) S.I. 1969/1068.

(b) S.I. 1967/163.  
(d) S.I. 1973/1326.

(3) Where any provision of the 1950 Convention 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 or financial year; and
- (b) in Denmark, for any taxable year

beginning, in either case, before 1st January, 1981.

(4) This Convention shall not affect any Agreement in force extending the 1950 Convention in accordance with Article XX thereof.

(5) The Agreement dated 18th December, 1924(a) between the United Kingdom and Denmark for the Reciprocal Exemption from Income Tax in certain cases of Profits accruing from the Business of Shipping shall terminate upon entry into force of this Convention.

#### ARTICLE 30

##### Termination

(1) This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1983. In such event, the Convention shall cease to have effect:

- (a) in the United Kingdom:
  - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;
  - (ii) in respect of corporation tax and development land tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given;
  - (iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1st January in the calendar year next following that in which the notice is given.
- (b) in Denmark in respect of income assessable for the calendar year next following that in which the notice of termination is given, and subsequent years.

(2) The termination of this Convention shall not have the effect of reviving any treaty or arrangement abrogated by this Convention or by treaties previously concluded between the Contracting States.

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

Done in duplicate at Copenhagen this 11th day of November 1980 in the English and Danish languages both texts being equally authoritative.

For the Government of the United  
Kingdom of Great Britain and North-  
ern Ireland:

DAME ANNE WARBURTON

For the Government of the Kingdom of  
Denmark:

KJELD OLESEN

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(a) S.R. & O. 1925/102.



**EXPLANATORY NOTE**

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

The Convention with Denmark set out in the schedule to this Order replaces the Convention signed on 27th March, 1950, as amended by the Protocols of 1966, 1968 and 1973.

It provides that certain trading profits (not being profits arising through a permanent establishment in the other country), interest, royalties, pensions (other than Government pensions) and the earnings of temporary business visitors are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence. Government salaries and pensions are normally to be taxed by the paying Government only. Payments made for the maintenance of visiting students and trainees are to be exempt from tax in the country visited. Provision is made for income and capital gains derived from immovable property to be taxed in the country in which the property is situated. Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence unless they arise from the disposal of assets of a permanent establishment which the taxpayer has in the other country. Shipping and air transport profits are to be taxed only in the country in which the place of effective management of the enterprise is situated.

Where a company which is a resident of one of the countries pays a dividend to a resident of the other country the recipient is, subject to the provisions concerning certain companies referred to below, to receive the tax credit to which an individual resident in the country of which the paying company is a resident would be entitled had he received that dividend. Income tax at a rate not exceeding 15 per cent on the aggregate of the dividend and the tax credit may be charged in the country of source of the dividend. The tax credit is generally not available to recipients exempt from taxation in their country of residence.

A United Kingdom company which controls at least 25 per cent of the capital of the Danish company paying the dividend will not be entitled to the Danish tax credit but will be exempt from the Danish tax chargeable on dividends.

A Danish company which controls at least 10 per cent of the voting power of the United Kingdom company paying the dividend will receive one half of the United Kingdom tax credit referred to above, less a sum of not more than 5 per cent of the aggregate amount of the dividend and the credit.

Where income continues to be taxable in both countries, relief from double taxation is to be given by the country of the taxpayer's residence. There are also provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country and for the exchange of information and for consultation between the taxation authorities of the two countries.

An individual who makes deductible pension contributions in one country and then takes up residence in the other may continue to contribute to the pension fund in his home State and enjoy the same income tax reliefs as if his contributions were made to an approved scheme in the host country.

The Convention is, generally, to take effect in the United Kingdom for the year of assessment or financial year beginning in 1978.

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