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STATUTORY INSTRUMENTS

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1980 No. 710

INCOME TAX

**The Double Taxation Relief (Taxes on Income)  
(Finland) Order 1980**

*Laid before the House of Commons in draft*

Made - - - - 21st May 1980

At the Court at Buckingham Palace, the 21st day of May 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) (Finland) Order 1980.

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 Republic of Finland 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 Finland varying the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Finland) Order 1970(b) as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Finland) Order 1973(c); and

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

*N. E. Leigh,*

Clerk of the Privy Council.

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(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).

(b) S.I. 1970/153.

(c) S.I. 1973/132.

## SCHEDULE

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF FINLAND AMENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL, SIGNED AT LONDON ON 17 JULY 1969 AS MODIFIED BY THE PROTOCOL SIGNED AT LONDON ON 17 MAY 1973

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

Desiring to conclude a Protocol to amend the Convention between the Contracting Parties for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital, signed at London on 17 July 1969, as modified by the Protocol signed at London on 17 May 1973 (hereinafter referred to as "the Convention");

Have agreed as follows:

## ARTICLE I

Paragraph (1) of Article 2 of the Convention shall be deleted and replaced by the following:

"(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 petroleum revenue tax;
- (iv) the development land tax; and
- (v) the capital gains tax;

(b) in Finland:

- (i) the state income and capital tax;
- (ii) the communal tax;
- (iii) the church tax;
- (iv) the sailors' tax; and
- (v) the tax withheld at source from non-residents' income."

## ARTICLE II

Article 11 of the Convention shall be deleted and replaced by the following:

## "ARTICLE 11

**Dividends**

(1) Dividends derived from a company which is a resident of Finland by a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in Finland, and according to the laws of Finland, but provided that the beneficial owner of the dividends is a resident of the United Kingdom the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.

(2) Dividends derived from a company which is a resident of the United Kingdom by a resident of Finland may be taxed in Finland. Such dividends may also be taxed in the United Kingdom, and according to the laws of the United Kingdom, but provided that the beneficial owner of the dividends is a resident of Finland the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.

(3) However, as long as an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom, the following provisions of this paragraph shall apply instead of the provisions of paragraph (2):

- (a) (i) Dividends derived from a company which is a resident of the United Kingdom by a resident of Finland may be taxed in Finland.
  - (ii) Where a resident of Finland 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.
  - (iii) Where a resident of Finland 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.
  - (iv) Except as provided in sub-paragraph (a) (ii) and (iii) of this paragraph, dividends derived from a company which is a resident of the United Kingdom by a resident of Finland who is the beneficial owner of those dividends shall be exempt from any tax which is chargeable in the United Kingdom on dividends.
- (b) A resident of Finland who receives a dividend from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (c) of this paragraph and provided he is the beneficial owner of the dividend, 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 that dividend, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.

- (c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the beneficial owner of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. In these circumstances a company which is a resident of Finland and receives a dividend from a company which is a resident of the United Kingdom shall, provided it is the beneficial owner of the dividend, 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 that dividend, and to the payment of any excess of that tax credit over its liability to United Kingdom tax. For the purpose of this sub-paragraph 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; and a company shall be deemed to be controlled by another company if the latter controls more than 50 per cent of the voting power in the first-mentioned company.
- (4) The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident and also includes any other item (other than interest or royalties relieved from tax under the provisions of Article 12 or Article 13 of this Convention) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.
- (5) The provisions of paragraphs (1), (2) and (3) of this Article shall not apply if the beneficial owner 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 and the holding by virtue of which the dividends are paid is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 8 shall apply.
- (6) If the beneficial owner of the dividends being a resident of one of the States owns 10 per cent or more of the class of shares in respect of which the dividends are paid and does not suffer tax thereon in that State then paragraphs (1), (2) and (3) of this Article shall not apply to the dividends to the extent that they can have been paid only out of profits which the company paying the dividends earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the beneficial owner of the dividends became the owner of 10 per cent or more of the class of shares in question. Provided that this paragraph shall apply only if the shares were acquired primarily for the purpose of securing the benefit of this Article and not for *bona fide* commercial reasons.
- (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 the company's 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 III

Sub-paragraphs (b) and (c) of paragraph (2) of Article 25 of the Convention shall be deleted and replaced by the following:

- "(b) Where a resident of Finland derives income or chargeable gains which, in accordance with the provisions of paragraphs (2) or (3) of Article 11 or

paragraph (5) of Article 14 may be taxed in the United Kingdom, Finland shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in the United Kingdom. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income or chargeable gains derived from the United Kingdom. The provisions of this sub-paragraph shall not apply to dividends which are exempt from Finnish tax under the provisions of sub-paragraph (c) of this paragraph.

- (c) Where a company which is a resident of Finland receives a tax credit under sub-paragraph (c) of paragraph (3) of Article 11 in respect of a dividend paid by a company which is resident of the United Kingdom, the first-mentioned company shall be exempt from Finnish tax on the amount of the dividend. In that case, Finland shall allow as a deduction from the tax on the income of that company an amount equal to such proportion of the tax paid in the United Kingdom as the tax credit bears to the aggregate of the dividend and the tax credit. Such deduction shall not exceed that part of the Finnish tax as computed before the deduction is given, as is appropriate to the United Kingdom tax credit. The exemption given under this sub-paragraph to dividends derived from the United Kingdom shall not apply unless in accordance with the laws of Finland the dividends would have been exempt from Finnish tax if the company paying the dividend had been a resident of Finland and not a resident of the United Kingdom.”

#### ARTICLE IV

Each of the Contracting Parties 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 thirty days after the date of the later of these notifications and shall thereupon have effect in relation to dividends paid on or after 6 April 1975.

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

Done in duplicate at London this 16th day of November 1979, in the English and Finnish languages, both texts being equally authoritative.

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

For the Government of the Republic  
of Finland:

DOUGLAS HURD.

RICHARD TÖTTERMAN.

## EXPLANATORY NOTE

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

The Protocol scheduled to this Order makes certain alterations to the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Finland) Order 1970 as modified by the Protocol set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Finland) Order 1973.

Where a United Kingdom company pays a dividend to a Finnish company controlling 10 per cent. or more of its voting power, the Finnish company receiving the dividend will be entitled to a tax credit equal to one half of the tax credit which would be payable to a United Kingdom resident individual less a sum of not more than 5 per cent. of the aggregate amount of the dividend and the tax credit paid. Where the recipient is an individual resident of Finland or a Finnish company controlling less than 10 per cent. of the voting power of the United Kingdom company, the tax credit payable will be equal to the tax credit which would be payable to a United Kingdom resident individual less a sum not exceeding 15 per cent. of the aggregate of the dividend and the tax credit.

The Protocol also amends the list of taxes covered by the Convention and makes changes in the arrangements for credit against Finnish tax consequent on the revision of the dividends article.

The Protocol is to have effect in relation to dividends paid on or after 6th April 1975.