
STATUTORY INSTRUMENTS

1994 No. 3215

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Switzerland) Order 1994

Made - - - - 14th December 1994

At the Court at Buckingham Palace, the 14th day of December 1994

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 788(10) of the Income and Corporation Taxes Act 1988⁽¹⁾ 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 788 of the said Act, 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) (Switzerland) Order 1994.
2. It is hereby declared—
 - (a) that the arrangements specified in the Protocol set out in the Schedule to this Order, which vary the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Switzerland) Order 1978⁽²⁾ as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Switzerland) Order 1982⁽³⁾, have been made with the Swiss Federal Council 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 Switzerland; and
 - (b) that it is expedient that those arrangements should have effect.

⁽¹⁾ 1988 c. 1; section 788 is extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12).

⁽²⁾ S.I.1978/1408.

⁽³⁾ S.I. 1982/714.

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R. P. Bulling
Deputy Clerk of the Privy Council

SCHEDULE

PROTOCOL

BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND AND THE SWISS CONFEDERATION
AMENDING THE CONVENTION FOR THE AVOIDANCE OF
DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME,
SIGNED AT LONDON ON 8TH DECEMBER 1977, AS AMENDED
BY THE PROTOCOL SIGNED AT LONDON ON 5TH MARCH 1981

The Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council;

Desiring to conclude a Protocol to amend the Convention between the Contracting Parties for the Avoidance of Double Taxation with respect to Taxes on Income, signed at London on 8th December 1977, as amended by the Protocol signed at London on 5th March 1981 (hereinafter referred to as “the Convention”);

Have agreed as follows:

ARTICLE I

Paragraph (1) of Article 11 (Interest) of the Convention shall be deleted and replaced by the following:

“(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if that resident is the beneficial owner of the interest.”

ARTICLE II

Paragraphs (1) and (4) of Article 12 (Royalties) of the Convention shall be deleted and replaced by the following:

“(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if that resident is the beneficial owner of the royalties.

... ..

(4) Where, by reason of a special relationship between the payer and the beneficial owner, or between both of them and some other person, the amount of the royalties paid exceeds 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 III

Paragraph (4) of Article 23 (Non-discrimination) of the Convention shall be deleted and replaced by the following:

“(4) Except where the provisions of paragraph (1) of Article 9, paragraphs (4) and (6) 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.”

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ARTICLE IV

(1) Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol.

(2) The Protocol shall enter into force on the date of the receipt of the later of these notifications and shall thereupon have effect:

- (a) in the United Kingdom, for any year of assessment, financial year or chargeable period beginning on or after 1st April 1995;
- (b) in Switzerland, for any taxable year beginning on or after 1st January 1995.

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

Done in duplicate at Berne this 17th day of December 1993 in the English and French languages, both texts being equally authoritative.

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

David Beattie

For the Swiss Federal Council:

Cotti

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) (Switzerland) Order 1978 as amended by the arrangements set out in the schedule to the Double Taxation Relief (Taxes on Income) (Switzerland) Order 1982.

The Protocol amends Articles 11 and 12 of the Convention by providing that interest or royalties arising in one State and paid to a resident of the other State shall be taxable only in the other State if that resident is the beneficial owner of the interest or royalties.

The Protocol will enter into force on the date of the later of the notifications of each country of the completion of its legislative procedures. It will take effect in the United Kingdom for any year of

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assessment, financial year or chargeable period beginning on or after 1st April 1995. The date of entry into force will be published in the *London, Edinburgh and Belfast Gazette*.