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STATUTORY INSTRUMENTS

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**1994 No. 768**

**INCOME TAX**

**The Double Taxation Relief (Taxes  
on Income) (Austria) Order 1994**

*Made - - - - 15th March 1994*

At the Court at Buckingham Palace, the 15th day of March 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<sup>(1)</sup>, 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) (Austria) 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) (Austria) Order 1970<sup>(2)</sup>, as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Austria) Order 1979<sup>(3)</sup>, have been made with the Government of the Republic of Austria 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 Austria; and
  - (b) that it is expedient that those arrangements should have effect.

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<sup>(1)</sup> 1988 c. 1; section 788 is extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12).  
<sup>(2)</sup> S.I.1970/1947.  
<sup>(3)</sup> S.I. 1979/117.

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*N. H. Nicholls*  
Clerk of the Privy Council

## SCHEDULE

### PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF AUSTRIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT LONDON ON 30th APRIL 1969 AS AMENDED BY THE PROTOCOL SIGNED AT LONDON ON 17th NOVEMBER 1977

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

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, signed at London on 30 April 1969, as amended by the Protocol signed at London on 17th November 1977 (hereinafter referred to as “the Convention”);

Have agreed as follows:

#### *ARTICLE I*

Article 17 of the Convention shall be deleted and replaced by the following:

#### *“ARTICLE 17*

##### **Entertainers and athletes**

(1) Notwithstanding the provisions of Articles 7, 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.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, income derived from activities as defined in paragraph (1) performed under a cultural agreement or arrangement between the Contracting States or derived by a non-profit making organisation accepted as such on application to the competent authority of the Contracting State of which it is a resident under Article 27 of this Convention, or by an entertainer or athlete in respect of services provided to such an organisation shall be exempt from tax in the Contracting State in which those activities are exercised.”

#### *ARTICLE II*

(1) This Protocol shall be ratified and the instruments of ratification shall be exchanged at Vienna as soon as possible.

(2) This Protocol shall enter into force on the first day of the third month next following that in which the exchange of instruments of ratification takes place and its provisions shall have effect for taxation years beginning on or after 1st January 1994.

#### *ARTICLE III*

This Protocol shall remain in force as long as the Convention remains in force.

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In witness whereof, the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at London this 18th day of May 1993, in the English and German languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland:

*TRISTAN GAREL-JONES*

For the Republic of Austria:

*WALTER F MAGRUT*

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#### **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) (Austria) Order 1970, as amended by the Protocol set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Austria) Order 1979.

The Protocol replaces Article 17 of the Convention by a new Article providing that income derived by a resident of one State from activities as an artiste or athlete may be taxed in the other State. Furthermore, if the income accrues to a person other than the artiste or athlete then the income may also be taxed in the State where the activities are exercised.

Provision is also made for the fees of non-profit making organisations performing under cultural agreements to be exempt from tax in the State in which the activities are exercised.

The Protocol will enter into force on first day of the third month after ratification and will have effect both in the UK and Austria for tax years beginning on or after 1st January 1994.

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