

2016 No. 749

CORPORATION TAX

INCOME TAX

The Double Taxation Relief (Isle of Man) Order 2016

Made - - - - *13th July 2016*

At the Court at Buckingham Palace, the 13th day of July 2016

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 5(2) of the Taxation (International and Other Provisions) Act 2010(a) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercising the powers conferred upon Her by section 2 of the Taxation (International and Other Provisions) Act 2010, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief (Isle of Man) Order 2016.

Double taxation arrangements to have effect

- 2.—(1) It is declared that there has been made with the Government of the Isle of Man—
 - (a) the Exchange of Letters set out in Part 1 of the Schedule to this Order, and
 - (b) the Arrangement referred to in the Exchange of Letters, as set out in Part 2 of that Schedule, which varies the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1955(b), as amended by the arrangements set out in—
 - (i) the Schedule to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1991(c),
 - (ii) the Schedule to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1994(d),

(a) 2010 c. 8.
(b) S.I. 1955/1205.
(c) S.I. 1991/2880.
(d) S.I. 1994/3208.

(iii) the Schedule to the Double Taxation Relief and International Tax Enforcement (Taxes on Income and Capital) (Isle of Man) Order 2009^(a), and

(iv) the Schedule to the Double Taxation Relief and International Tax Enforcement (Isle of Man) Order 2013^(b),

with a view to affording relief from double taxation in relation to income tax or corporation tax and taxes of a similar character imposed by the laws of either party.

(2) It is further declared that it is expedient that the Arrangement should have effect.

Ceri King
Deputy Clerk of the Privy Council

(a) S.I. 2009/228.
(b) S.I. 2013/3148.

SCHEDULE

Article 2

PART 1

EXCHANGE OF LETTERS

**BETWEEN HER MAJESTY'S GOVERNMENT AND THE GOVERNMENT OF THE
ISLE OF MAN CONCERNING AN ARRANGEMENT AMENDING THE 1955
ARRANGEMENT BETWEEN THE TWO GOVERNMENTS FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME**

London, 29 02 2016

Dear Chief Minister,

I have the honour to propose to you the Arrangement, further amending the 1955 Arrangement between Her Majesty's Government and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income at Appendix 1 to this letter and that this Arrangement shall have effect in accordance with paragraph 4 thereof.

I have the further honour to propose that, if the above is acceptable to the Government of the Isle of Man, this letter and Appendix 1 together with your reply will constitute our mutual acceptance of the provisions of the Arrangement.

David Gauke

Douglas, 08 03 2016

Dear Sir,

I have the honour to acknowledge receipt of your letter of 29 February 2016, which reads as follows:

“Dear Chief Minister,

I have the honour to propose to you the Arrangement, further amending the 1955 Arrangement between Her Majesty's Government and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income at Appendix 1 to this letter and that this Arrangement shall have effect in accordance with paragraph 4 thereof.

I have the further honour to propose that, if the above is acceptable to the Government of the Isle of Man, this letter and Appendix 1 together with your reply will constitute our mutual acceptance of the provisions of the Arrangement.”

I am able to confirm that the contents of your letter dated 29 February 2016 and Appendix 1 thereof are acceptable to the Government of the Isle of Man, and therefore that this letter together with your letter and its Appendix constitute our mutual acceptance of the provisions of the Agreement and the Arrangement between the Isle of Man and the United Kingdom of Great Britain and Northern Ireland.

Please accept Sir, the assurance of my highest consideration.
For the Government of the Isle of Man
Hon Allan Bell, MHK

Chief Minister of the Isle of Man

PART 2

APPENDIX 1 TO THE EXCHANGE OF LETTERS

ARRANGEMENT BETWEEN HER MAJESTY'S GOVERNMENT AND THE GOVERNMENT OF THE ISLE OF MAN AMENDING THE 1955 ARRANGEMENT BETWEEN THE TWO GOVERNMENTS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AS AMENDED BY THE 1991, 1994, 2008 AND 2013 ARRANGEMENTS BETWEEN THE TWO GOVERNMENTS

Her Majesty's Government and the Government of the Isle of Man,

Desiring to strengthen their economic relationship and to improve the operation of the existing arrangement between the two governments for the avoidance of double taxation and the prevention of fiscal evasion, have agreed as follows:

1. In this Arrangement the term "1955 Arrangement" means that Arrangement as amended by the 1991, 1994, 2008 and 2013 Arrangements.
2. To insert after subparagraph (4) of paragraph 3 of the 1955 Arrangement the following new subparagraph:

“(5) Where profits include items of income or capital gains which are dealt with separately in other paragraphs of this Arrangement, then the provisions of those paragraphs shall not be affected by the provisions of this paragraph.”
3. To insert after paragraph 3 of the 1955 Arrangement the following new paragraphs:

“3A. (1) Income derived by a resident of one of the territories from immovable property (including income from agriculture or forestry) situated in the other territory may be taxed in that other territory.

(2) The term “immovable property” shall have the meaning which it has under the law of the territory 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 subparagraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of subparagraphs (1) and (3) shall also apply to the income from immovable property of a United Kingdom enterprise and a Manx enterprise.”

“3B.(1) Gains derived by a resident of one of the territories from the alienation of immovable property referred to in paragraph 3A and situated in the other territory may be taxed in that other territory.

(2) Gains derived by a resident of one of the territories from the alienation of shares, other than shares in which there is substantial and regular trading on a Stock Exchange, or comparable interests, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other territory may be taxed in that other territory.”

4. Each of the territories shall notify to the other the completion of the procedures required by its law for the bringing into force of this Arrangement. This Arrangement shall enter into force on the date of the later of these notifications and shall thereupon have effect from 16 March 2016.

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to the Order contains an Exchange of Letters between the United Kingdom and the Isle of Man concerning an Arrangement amending the 1955 Arrangement between the two parties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, which was scheduled to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1955 (S.I. 1955/1205) and subsequently amended in 1991, 1994, 2009 and 2013. The Schedule also contains the text of the Arrangement referred to in the Exchange of Letters.

Article 2 provides that it is expedient that the Arrangement should have effect. The Arrangement relates to the avoidance of double taxation and varies the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1955, as amended.

The Arrangement will enter into force on the date of the later of the notifications of each territory of the completion of its legislative procedures. It will take effect in the United Kingdom and the Isle of Man from 16 March 2016.

The date of entry into force will, in due course, be published in the London, Edinburgh and Belfast Gazettes.

A Tax Information and Impact Note has not been produced for the Order as it gives effect to a previously announced policy to enact a double taxation agreement.

£4.25

UK2016070413 07/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/749>

ISBN 978-0-11-114843-3



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