STATUTORY INSTRUMENTS

1968 No. 1106

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Zambia) Order 1968

Laid before the House of Commons in draft

Made - - - *12th July* 1968

At the Court at Buckingham Palace, the 12th day of July 1968

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the Commons House of Parliament in accordance with the provisions of section 347(6) of the Income Tax Act 1952(a), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of this Order:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 347(1) of the said Income Tax Act 1952, as amended by section 64 of the Finance Act 1965(b), 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) (Zambia) Order 1968.

2. It is hereby declared—

(*a*) that the arrangements specified in the Agreement set out in the Schedule to this Order have been made with the Government of the Republic of Zambia 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 Zambia varying the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Federation of Rhodesia and Nyasaland) Order, 1956(c), as adapted and continued in force in relation to Zambia by the Double Taxation Relief (Taxes on Income) (Northern Rhodesia) Order 1964(d); and

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

W. G. Agnew.

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.
(b) 1965 c. 25.
(c) S.I. 1956/619 (1956 I, p. 1072).
(d) S.I. 1964/1402 (1964 III, p. 3277).

SCHEDULE

AGREEMENT SUPPLEMENTARY TO AND AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Zambia,

Desiring to amend the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the former Federation of Rhodesia and Nyasaland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at London on 25 November, 1955 (hereinafter referred to as "the 1955 Agreement") which continued with effect from the dissolution of the Federation of Rhodesia and Nyasaland on 1 January, 1964, in force, subject to certain modifications, between the Government of the United Kingdom and the Government of Northern Rhodesia and from 24 October, 1964, when Northern Rhodesia became an independent Republic under the name of Zambia, between the Government of the United Kingdom and the Government of Zambia,

Have agreed as follows:

ARTICLE 1

The 1955 Agreement shall be amended—

(*a*) by the addition at the end of Article VI of the following new paragraph—

"(3) If the recipient of a dividend is a company which owns 10 per cent. or more of the class of shares in respect of which the dividend is paid then paragraph (1) shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend 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 dividend became the owner of 10 per cent. or more of the class of shares in question. Provided that this paragraph shall not apply if the beneficial owner of the dividend shows that the shares were acquired for *bona fide* commercial reasons and not primarily for the purpose of securing the benefit of this paragraph."; and

(*b*) by the substitution for paragraph (1) of Article XIII of the following new paragraph—

"(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*) Zambia tax payable under the laws of Zambia and in accordance with this Agreement, whether directly or by deduction, on profits or income from sources within Zambia shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits or income by reference to which the Zambia tax is computed. Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(*b*) Where a company which is a resident of Zambia pays a dividend to a company resident in the United Kingdom which controls directly or indirectly at least 10 per cent. of the voting power in the first-mentioned

company, the credit shall take into account (in addition to any Zambia tax for which credit may be allowed under sub-paragraph (*a*)) the Zambia tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid."

ARTICLE 2

(1) This Agreement shall enter into force when the last of all such things shall have been done in the United Kingdom and Zambia as are necessary to give the Agreement the force of law in the United Kingdom and Zambia respectively.

(2) Upon the entry into force of this Agreement in accordance with paragraph (1) the new paragraph (3) of Article VI of the 1955 Agreement shall have effect immediately and the new paragraph (1) of Article XIII thereof shall have effect—

(*a*) in the United Kingdom:

(i) as respects income tax (and surtax), for any year of assessment beginning on or after 6 April, 1968; and

(ii) as respects corporation tax, for any financial year beginning on or after 1 April, 1968;

(*b*) in Zambia:

as respects income tax, for any charge year beginning on or after 1 April, 1968.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Lusaka this sixth day of April 1968.

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

J. L. PUMPHREY

For the Government of the Republic of Zambia:

R. KAMANGA

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Agreement makes two amendments to the Agreement between the United Kingdom and the Federation of Rhodesia and Nyasaland, subsequently continued in force with Zambia, which is scheduled to the Double Taxation Relief (Taxes on Income) (Federation of Rhodesia and Nyasaland) Order 1956.

First it provides that the exemption of dividends from any tax chargeable in addition to the tax on the paying company's profits is not to be allowed in certain cases where the shareholder is a company having a substantial holding in the paying company. The restriction does not apply to dividends on shares acquired for *bona fide* commercial reasons.

Secondly, it amends Article XIII(1) of the 1956 Agreement in its application to dividends by providing that credit for Zambia tax on the profits out of which dividends are paid, whether that tax is deducted from the dividends or not, is to be given only where the recipient is a company resident in the United Kingdom which holds not less than 10 per cent of the voting power in the paying company. This provision takes effect from the year of assessment 1968/69.