1970 No. 483

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Trinidad and Tobago) Order 1970

Laid before the House of Commons in draft

Made - - - 24*th March* 1970

At the Court of Saint James, the 24th day of March 1970

Present,

Her Majesty Queen Elizabeth The Queen Mother

Her Royal Highness The Princess Margaret, Countess of Snowdon

Lord President

Lord Chalfont

Chancellor of the Duchy of Lancaster

Mrs. Hart

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 27th day of February 1970, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness The Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, His Royal Highness The Prince Charles, Prince of Wales, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester and His Royal Highness Prince William of Gloucester, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness The Prince Philip, Duke of Edinburgh, His Royal Highness The Prince Charles, Prince of Wales, Her Royal Highness The Princess Margaret, Countess of Snowdon, and His Royal Highness Prince William of Gloucester while absent from the United Kingdom:

And 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 Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred on Her Majesty by section 347(1) of the said Income Tax Act 1952, as amended by section 17 of the Finance Act 1961(**b**) and by section 64 of the Finance Act 1965(**c**), and all other powers enabling Her Majesty, do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Trinidad and Tobago) Order 1970.

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 Trinidad and Tobago 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 Trinidad and Tobago varying the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Trinidad and Tobago) Order 1967(**d**) ; and

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

N. E. Leigh.

SCHEDULE

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF TRINIDAD AND TOBAGO FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT PORT OF SPAIN ON 29 DECEMBER, 1966

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Trinidad and Tobago;

Desiring to conclude a Protocol to amend the Agreement between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Port of Spain on 29 December, 1966, (hereinafter referred to as "the Agreement");

Have agreed as follows:

ARTICLE 1

Sub-paragraph (*b*) of paragraph (1) of Article 2 of the Agreement shall be deleted and replaced by the following:

"(*b*) the term "Trinidad and Tobago" means the islands of Trinidad and Tobago including any area adjacent to the territorial waters of Trinidad and Tobago which by Trinidad and Tobago legislation and in accordance with international law concerning the Continential Shelf has been or may hereafter be designated as an area within which the rights of Trinidad and Tobago with respect to the sea bed and the sub-soil and their natural resources may be exercised."

(**a**) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.
(**b**) 9 & 10 Eliz. 2. c. 36.
(**c**) 1965 c. 25.
(**d**) S.I. 1967/484 (1967 I, p. 1529).

ARTICLE 2

Sub-paragraph (*h*) of paragraph (1) of Article 2 of the Agreement shall be deleted and replaced by the following:

"(*h*) the term "company" means any body corporate or any entity which is treated as a company for tax purposes;"

ARTICLE 3

Paragraph (6) of Article 8 of the Agreement shall be deleted and replaced by the following:

"(6) The term "specified amount" in paragraphs (4) and (5) of this Article means—

(*a*) 10 per cent. of the gross amount of the dividends if the recipient is a company which controls directly or indirectly at least 25 per cent. of the voting power of the company paying the dividends and, where the chief business of the company paying the dividends is not the making of loans, not more than 25 per cent. of the gross income of the company paying the dividends is derived from interest and dividends other than interest and dividends from companies in which it controls directly or indirectly at least 25 per cent. of the voting power;

(*b*) in all other cases, 20 per cent. of the gross amount of the dividends."

ARTICLE 4

Paragraph (11) of Article 8 of the Agreement shall be deleted and replaced by the following:

"(11) Notwithstanding paragraph (10) of this Article where a company which is a resident of one of the territories, having a permanent establishment in the other territory, derives profits or income from that permanent establishment, any remittance of such profits by the permanent establishment to a resident of the first-mentioned territory may be taxed (in addition to the tax which would be chargeable on those profits if they were the profits of a company which was a resident of that other territory) in accordance with the law of the other territory, but the rate of tax so imposed shall not exceed 10 per cent. of the amount of those profits remitted or deemed to be remitted."

ARTICLE 5

Paragraph (1) of Article 9 of the Agreement shall be deleted and replaced by the following:

"(1) The tax imposed in one of the territories on interest which arises there and which is derived and beneficially owned by a resident of the other territory shall not exceed 10 per cent. of the gross amount of the interest."

ARTICLE 6

Paragraph (1) of Article 10 of the Agreement shall be deleted and replaced by the following:

"(1) The tax imposed in one of the territories on royalties which arise there and which are derived and beneficially owned by a resident of the other territory shall not exceed 5 per cent. of the gross amount of the royalties; provided that where any such royalties are in respect of motion picture films and films or video tapes for use in connection with television and tapes for use in connection with radio, the tax imposed in the territory in which the royalties arise may exceed 5 per cent. but shall not exceed 10 per cent. of the gross amount of the royalties."

ARTICLE 7

The following new paragraph (1A) shall be added immediately after paragraph (1) of Article 20 of the Agreement:

"(1A) For the purposes of paragraph (1) of this Article, the term "Trinidad and Tobago tax payable" shall be deemed to include any amount which would have been payable as Trinidad and Tobago tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under:

(*a*) any of the following provisions, that is to say—

(i) Aid to Pioneer Industries Ordinance, Chapter 33 No. 3;

(ii) Cement Industry (Development) Ordinance, Chapter 33 No. 17;

(iii) Nitrogeneous Fertiliser Industry (Development) Ordinance, 1958;

(iv) Lubricating Oils and Greases Industry (Development) Ordinance, 1961;

(v) Housing Act, 1962;

(vi) Petrochemicals Industry Development Act, 1962;

(vii) Hotel Development Act, 1962;

(viii) Tyre Manufacturing Industry Development Act, No. 39 of 1967;

(ix) any Ordinances, Acts and Government Orders granting exemption in respect of interest on monies borrowed by a statutory body established in order to carry on in Trinadad and Tobago a public utility undertaking under national control;

so far as they were in force on, and have not been modified since 10 December, 1969 (being the date of signature of the Protocol amending this Agreement), or have been modified only in minor respects so as not to affect their general character;

(*b*) any other provision which may subsequently be made granting an exemption or reduction which is agreed by the competent authorities of the Contracting Governments to be of substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character;

Provided that an amount of tax shall be treated as having been so payable in respect of interest on monies borrowed by such a statutory body as is referred to in sub-paragraph (*a*) (ix) of this paragraph only if—

(*aa*) the monies were borrowed after 10 December, 1969 (being the date of signature of the Protocol amending this Agreement), and

(*bb*) the interest falls due not later than 10 years after the date when the monies were borrowed."

ARTICLE 8

(1) This Protocol, which shall form an integral part of the Agreement, shall come into force[a] when the last of all such things shall have been done in the United Kingdom and Trinidad and Tobago as are necessary to give the Protocol the force of law in the United Kingdom and Trinidad and Tobago respectively, and shall thereupon have effect:

(*a*) in the United Kingdom:

(i) as respects income tax (including surtax), for any year of assessment beginning on or after 6 April, 1970; and

(ii) as respects corporation tax, for any financial year beginning on or after 1 April, 1970;

(*b*) in Trinidad and Tobago:

(i) as respects tax withheld at the source on amounts paid, credited or remitted to non-residents on or after 1 January, 1970;

(a) The protocol came into force on 24 March 1970.

(ii) as respects other Trinidad and Tobago tax for the year of income commencing 1 January, 1970, and for subsequent years of income.

(2) Notwithstanding paragraph (1) of this Article, where any greater relief from tax would have been afforded by any provision of the Agreement than in due under the Agreement as amended by this Protocol, any such provision as aforesaid shall continue to have effect in the United Kingdom for any year of assessment or financial year beginning before the entry into force of this Protocol, and in Trinidad and Tobago for any year of income beginning before the entry into force of this Protocol.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Port of Spain this tenth day of December, 1969.

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

G. P. HAMPSHIRE

For the Government of Trinidad and Tobago:

ERIC WILLIAMS

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Protocol scheduled to this Order makes certain alterations to the Double Taxation Agreement with Trinidad and Tobago signed on 29th December 1966, the more important of which are as follows.

The rate of tax in the source country on income flowing from one country to the other is, in general, not to exceed 20 per cent in the case of dividends from portfolio investment, 10 per cent in the case of interest, film royalties and dividends from direct investment, and 5 per cent in the case of other royalties. The additional tax which may be imposed on profits remitted from a permanent establishment is limited to 10 per cent.

The credit to relieve double taxation given by the United Kingdom for Trinidad and Tobago tax includes credit for tax which would have been payable there but for relief granted under certain provisions of Trinidad and Tobago law in order to encourage development.

The Protocol is, in general, to take effect in the United Kingdom for 1970/71 and subsequent years.

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