STATUTORY INSTRUMENTS

1973 No. 1327

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Finland) Order 1973

Laid before the House of Commons in draft
Made - - - 27th July 1973

At the Court at Buckingham Palace, the 27th day of July 1973

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 497(8) of the Income and Corporation Taxes Act 1970(**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 497 of the said Income and Corporation Taxes Act 1970, as amended by section 98 of the Finance Act 1972(**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) (Finland) Order 1973.

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 the Republic of Finland 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 Finland varying the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Finland) Order 1970(**c**);

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

W. G. Agnew.

(**a**) 1970 c. 10.
(**b**) 1972 c. 41.
(**c**) S.I. 1970/153 (1970 I, p. 676).

SCHEDULE

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF FINLAND AMENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL, SIGNED AT LONDON ON 17 JULY 1969.

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

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 and Capital, signed at London on 17 July 1969, (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

Article 11 of the Convention shall be deleted and replaced by the following:

"ARTICLE 11

Dividends

(1) (*a*) Dividends derived from a company which is a resident of the United Kingdom by a resident of Finland may be taxed in Finland.

(*b*) Where a resident of Finland is entitled to a tax credit in respect of such a dividend under paragraph (2) of this Article tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.

(*c*) Except as aforesaid, dividends derived from a company which is a resident of the United Kingdom and which are beneficially owned by a resident of Finland shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(2) A resident of Finland who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of paragraph (3) of this Article and provided he is the beneficial owner of the dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends, and to the payment of any excess of such credit over his liability to United Kingdom tax.

(3) Paragraph (2) of this Article shall not apply where the beneficial owner of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. For the purpose of this paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

(4) Dividends derived from a company which is a resident of Finland and which are beneficially owned by a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in Finland but the tax so charged shall not exceed 5 per cent of the gross amount of the dividends.

(5) The preceding paragraphs of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(6) The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident and also includes any other item (other than interest or royalties relieved from tax under the provisions of Article 12 or Article 13 of this Convention) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

(7) The provisions of paragraphs (1) and (2), or as the case may be, paragraph (4) of this Article shall not apply where a resident of one of the Contracting States has in the other Contracting State a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with a business carried on through that permanent establishment. In such a case the provisions of Article 8 shall apply.

(8) If the beneficial owner of a dividend being a resident of a Contracting State owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the relief from tax provided for in paragraphs (1) and (2) or, as the case may be, paragraph (4) of this Article 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 12 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 Article.

(9) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company and beneficially owned by persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State."

ARTICLE II

Sub-paragraphs (*b*) and (*c*) of paragraph (2) of Article 25 of the Convention shall be deleted and replaced by the following:

"ARTICLE 25

Elimination of Double Taxation

(2) (*b*) Where a resident of Finland derives income or chargeable gains which, in accordance with the provisions of sub-paragraph (*b*) of paragraph (1) of Article 11 and paragraph (5) of Article 14 may be taxed in the United Kingdom, Finland shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in the United Kingdom. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income or chargeable gains derived from the United Kingdom.

(*c*) Notwithstanding the provisons of sub-paragraph (*b*) of this paragraph, dividends paid by a company which is a resident of the United Kingdom to a company which is a resident of Finland and which is not entitled under paragraph (2) of Article 11 to a tax credit in the United Kingdom in respect of those dividends shall be exempt from Finnish tax. This exemption shall not

apply unless in accordance with the laws of Finland the dividends would have been exempt from Finnish tax if the first-mentioned company had been a resident of Finland and not a resident of the United Kingdom."

ARTICLE III

Each of the Contracting Parties shall notify to the other the completion of the procedure required by its law for the bringing into force of this Protocol. This Protocol shall enter into force thirty days after the date of the later of these notifications and shall thereupon have effect in relation to dividends paid on or after 6 April 1973.

ARTICLE IV

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

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

Done in duplicate at London this 17th day of May 1973 in the English and Finnish languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:	For the Government of the Republic of Finland:
ANTHONY ROYLE.	OTSO WARTIOVAARA.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Protocol scheduled to this Order makes certain alterations to the Convention with Finland signed on 17th July 1969. These alterations mostly follow from the introduction of the new United Kingdom corporation tax system which, so far as it relates to the tax treatment of dividends paid by a United Kingdom company to an overseas shareholder, came into operation on 6th April 1973. The Protocol provides that where a United Kingdom company pays a dividend to a resident of Finland other than a company which controls 10 per cent or more of the voting power in the paying company, the recipient is, subject to certain conditions, to receive the tax credit to which an individual resident in the United Kingdom and in receipt of such a dividend would be entitled less income tax at a rate not exceeding 15 per cent on the aggregate of the dividend and the tax credit. Certain consequential changes have been made to the provisions under which residents of Finland receiving dividends from United Kingdom companies are given double taxation relief in Finland. The Protocol also provides that the rate of Finnish tax on dividends paid by a Finnish company to a resident of the United Kingdom is not to exceed 5 per cent.

The Protocol is expressed to take effect in relation to dividends paid on or after 6th April 1973.

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