STATUTORY INSTRUMENTS

1980 No. 711

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Norway) (No. 1) Order 1980

Laid before the House of Commons in draft

Made - - - - - 21st May 1980

At the Court at Buckingham Palace, the 21st day of May 1980

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 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 draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the Income and Corporation Taxes Act 1970, 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) (Norway) (No. 1) Order 1980.

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) (Norway) Order 1970(b) have been made with the Government of the Kingdom of Norway 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 Norway; and

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

N. E. Leigh,
Clerk of the Privy Council.

(a) 1970 c. 10; Section 497 was amended and extended by section 98(2) and 100(1) of the Finance Act 1972 (c. 41) and section 10 of the Capital Gains Tax Act 1979 (c. 14).
(b) S.I. 1970/154.

SCHEDULE

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF NORWAY, FURTHER 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 22 JANUARY 1969, AS AMENDED BY THE PROTOCOL SIGNED AT LONDON ON 23 JUNE 1977 AND BY THE PROTOCAL SIGNED AT OSLO ON 29 MARCH 1978.

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

Desiring to conclude a Protocol further to amend the Convention between the Contracting States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital, signed at London on 22 January 1969, as amended by the Protocol signed at London on 23 June 1977 and by the Protocol signed at Oslo on 29 March 1978 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

The following new Article shall be inserted immediately after Article 31A:

"ARTICLE 31B

Trans-median line oil and gas fields

(1) Notwithstanding any other provision in this Convention the following provisions of this Article shall apply where a field extends across the dividing line between the two Contracting States and where the Governments of the two Contracting States have entered into an Agreement relating to the joint exploitation of the field and that Agreement expressly provides for the application of these provisions.

(2) Irrespective of where the production installations for a field are located, a Contracting State may tax, in accordance with the laws of that State, profits from the exploitation of the field which arise to a licensee of that State and shall not tax any such profits which arise to a licensee of the other Contracting State.

(3) The taxation of profits from the exploitation of the field shall be based on the principle that over the production life of the field a licensee shall be taxed by reference to the profits from so much of the total production of that field as is attributable to the licensee under the final apportionment of the field made in accordance with the Agreement between the two Governments relating to the joint exploitation of that field. However, in any accounting period or chargeable period a licensee may be charged to tax only on the profits from the oil (including gas and other hydrocarbons) lifted in that or earlier periods by the licensee and any compensation receivable by the licensee for underliftings.

(4) A Contracting State may tax gains realised on the disposal of, and charge capital taxes in respect of, installations and equipment used

for the joint exploitation of the field which are owned, wholly or partly, by a licensee of that State, regardless of the side of the dividing line between the two States on which the installations and equipment are situated. Where such assets are owned partly by a licensee of that State and partly by a licensee of the other Contracting State each State may tax its own licensees in respect of such part only of the gains, or charge capital taxes on such part only of the cost or value of the assets, as is proportionate to the interest of its licensees in those assets. However, a Contracting State shall not tax gains realised on the disposal of, or charge capital taxes in respect of, such assets as are wholly owned by a licensee of the other Contracting State.

(5) Any profits or gains derived, or any capital owned, by a person in his capacity as the Unit Operator for the field shall be taxable only in the Contracting State of which that Unit Operator is a licensee.

(6) In this Article:

(*a*) The term "licensee" means, in the case of the United Kingdom, any person who is a licensee as defined in Section 12, subsection (1) of the Oil Taxation Act 1975, or is a party to an agreement or arrangement referred to in paragraph 5 (1) of Schedule 3 to the Oil Taxation Act 1975, and, in the case of Norway, any person who holds a production licence granted by the Government of Norway for the field in question, or such other person who has with the approval of the Government of Norway all or any of the licensee's rights, interests and obligations in connection with that field.

(*b*) The term "field" means any reservoir or reservoirs which, as mentioned in paragraph (1) of this Article, the Contracting States have agreed shall be treated as a field."

ARTICLE II

Paragraph (1) of Article 31A shall be deleted and replaced by:

"(1) A person who is a resident of a Contracting State and carries on activities in the other Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that other Contracting State shall, subject to paragraphs (2), (3) and (4) of this Article, be deemed to be carrying on a trade in that other Contracting State through a permanent establishment situated therein. The provisions of this paragraph shall not apply to production activities to which the provisions of Article 31B apply."

ARTICLE III

Each of the Contracting States 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 on the date of the later of these notifications and shall therefrom have effect from such date or dates as may be specified in a further Protocol to this Convention which is stated therein to be expressly applicable to the field in question.

ARTICLE IV

This Protocol shall remain in force as long as the Convention remains in force and, notwithstanding the termination of the Convention in accordance with Article 33 thereof, the Convention as amended by this Protocol shall in any event continue to apply to the joint exploitation of a field as defined in paragraph (6) of Article 31B thereof.

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

Done in duplicate at Oslo this 16th day of October 1979, in the English and Norwegian languages, both texts being equally authoritative.

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

DAVID HOWELL

A. T. LAMB

For the Government of the Kingdom of Norway:

BJARTMAR GJERDE

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Protocol scheduled to this Order amends the Convention with Norway signed on 22 January 1969, and provides for the avoidance of double taxation of oil and gas production profits from certain oil and gas fields in the North Sea which straddle the dividing line between the United Kingdom and Norwegian sectors of the Continental Shelf.

In brief, the Protocol provides that a country may tax only the production profits which arise to a licensee of that country over the life of the field, and only assets (and gains arising from the disposal of assets) owned by a licensee of that country. Where assets are owned partly by a licensee of one country and partly by a licensee of the other country, each country may tax its licensee only in respect of his share in the assets.

The provisions will not take effect for a field until such date as is specified in a further Protocol relating to that field. Notwithstanding termination of the Convention, the Convention, as amended by this Protocol, would nevertheless continue to apply.