



INCOME TAX ACT 1970

INCOME TAX (FRANCE) (DOUBLE TAXATION) ORDER 2009

*Approved by Tynwald
Coming into operation*

*22nd April 2009
24 April 2009*

The Council of Ministers makes this Order under section 54 of the Income Tax Act 1970¹.

1 Title

The title of this Order is the Income Tax (France) (Double Taxation) Order 2009.

2 Commencement

This Order comes into operation on 24 April 2009.

3 Interpretation

In this Order “applicable arrangements” means the arrangements for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic contained in an agreement between the Government and the Government of the French Republic signed in Douglas on 26 March 2009 and set out in the Schedule.

4 Information exchange arrangements

The applicable arrangements have been made with France with a view to affording relief from double taxation in relation to income tax and the tax of a similar character imposed by the laws of France and it is expedient that those arrangements have effect under section 54 of the Income Tax Act 1970.

¹ XXI p. 260

MADE 31st March 2009

Mary Williams
Chief Secretary

AGREEMENT BETWEEN
THE ISLE OF MAN AND FRANCE
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH
RESPECT TO ENTERPRISES OPERATING SHIPS OR
AIRCRAFT IN INTERNATIONAL TRAFFIC

THE GOVERNMENT OF THE ISLE OF MAN

and

THE GOVERNMENT OF THE FRENCH REPUBLIC

Desiring to conclude an agreement for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic,

Have agreed as follows:

Article 1
Scope of the Agreement

This Agreement shall apply to enterprises operating ships or aircraft in International traffic which are residents of one or both of the Parties.

Article 2

Taxes covered

1. This Agreement shall apply to the following taxes imposed by the Parties:

(a) In the case of the Isle of Man:

taxes on income or profits;

(b) in the case of France:

income tax;

corporation tax;

contributions on corporation tax;

taxes on salaries;

as well as any withholding tax, prepayments or advance payments connected with the above mentioned taxes.

2. This Agreement shall apply also to any identical or substantially similar taxes imposed after the date of signature of the Agreement in addition to or in place of the existing taxes. The competent authority of each Party shall notify the other of substantial changes in laws which may affect the obligations of that Party pursuant to this Agreement.

Article 3

Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term "a Party" means the Isle of Man or the French Republic, as the context requires; the term "Parties" means the Isle of Man and the French Republic;
 - (b) the term "Isle of Man" means the island of the Isle of Man;
 - (c) the term "France" means the European and Overseas Departments of the French Republic including the territorial sea, and any area outside the territorial sea within which, in accordance with international law, the French Republic has sovereign rights for the purpose of exploring and exploiting the natural resources of the seabed and its subsoil and the superjacent waters;
 - (d) the term "person" includes an individual, a company and any other body of persons;
 - (e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (f) the term "competent authority" means:
 - (i) in the case of the Isle of Man, the Assessor of Income Tax or his delegate;
 - (ii) In the case of France, the Minister of Finance or his authorised representative;

- (g) the term "resident of a Party" means any person, who under the law of that Party is liable to taxation therein by reason of his domicile, residence, place of effective management or any other criterion of a similar nature;
- (h) the term "enterprise of a Party" means an enterprise, carried on by a resident of a Party;
- (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Party, except when the ship or aircraft is operated solely between places in the other Party.

2. As regards the application of the Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

Shipping and air transport profits and gains

1. Profits derived by an enterprise of a Party from the operation of ships or aircraft in international traffic shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

2. Gains derived by an enterprise of a Party from the alienation of ships or aircraft operated in international traffic or from movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

3. The provisions of paragraphs 1 and 2 shall also apply to profits and gains derived by an enterprise of a Party from the participation in a pool, a joint business or an international operating agency.

4. Should consideration need to be given to the meaning of the term "profits derived by an enterprise of a Party from the operation of ships or aircraft in international traffic" the Parties agree to refer for guidance to Article 8 (shipping, inland waterways transport and air transport) and the commentary on Article 8 of the Organisation for Economic Cooperation and Development's Model Tax Convention on Income and on Capital.

Article 5

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 6

Entry into force

1. This Agreement is subject to ratification, acceptance or approval by the Parties, in accordance with their respective laws. Instruments of ratification, acceptance or approval shall be exchanged as soon as possible.

2. This Agreement shall enter into force on the thirtieth day after the later of the dates on which each of the Parties has notified the other in writing that the procedures required by its law have been complied with. The Agreement shall have effect in respect of taxes chargeable for any tax year beginning on or after the first day of January of the year next following that in which this Agreement enters into force.

3. Notwithstanding paragraph 1 and 2 of this Article, the Agreement shall only enter into force when the Agreement between the government of the Isle of Man and the government of the French Republic for the exchange of information relating to tax matters shall have effect.

Article 7

Termination

1. Either Party may terminate the Agreement by serving a notice of termination by letter to the competent authority of the other Party.

2. The Agreement shall cease to have effect on the first day of January of any calendar year beginning after the calendar year in which the notice of termination is given.

3. Notwithstanding paragraph 1 and 2 of this Article, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement between the government of the Isle of Man and the government of the French Republic for the exchange of information relating to tax matters.

In witness whereof the undersigned being duly authorised in that behalf by the respective Parties, have signed the Agreement.

Done in duplicate, in the English and French languages, both texts being equally authentic, at Douglas, Isle of Man this 26th day of March, 2009.

**FOR THE GOVERNMENT OF
THE ISLE OF MAN**



**FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC**



EXPLANATORY NOTE
(This note is not part of the Order)

This Order is made under section 54 of the Income Tax Act 1970. It implements arrangements negotiated between the Government of the Isle of Man and the Government of the French Republic for the avoidance of double taxation with respect to enterprises operating ships or aircraft in international traffic.