

GOVERNMENT CIRCULAR

No. 55/55.

G.O. Reference No. I.1803/2/1.

Isle of Man to Wit.

By His Excellency Sir Ambrose Dundas Flux Dundas, K.C.I.E., C.S.I., Lieutenant
Governor of the said Isle, &c., &c., &c.

INCOME TAX
DOUBLE TAXATION RELIEF

THE DOUBLE TAXATION RELIEF (TAXES ON INCOME)
(UNITED KINGDOM) ORDER, 1955.

I, the said Lieutenant Governor, in exercise of the powers conferred upon me by subsection (1) of section one of the Income Tax Act, 1955, and of all other powers enabling me in that behalf, DO HEREBY make the following Order:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (United Kingdom) Order, 1955.
2. It is hereby declared—
 - (a) that the arrangements specified in the Arrangement set out in the Schedule to this Order have been made with the Government of the United Kingdom with a view to affording relief from double taxation in relation to income tax (including surtax) and taxes of a similar character imposed by the laws of the United Kingdom; and
 - (b) that it is expedient that those arrangements should have effect.
3. The Interpretation Act, 1949, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Tynwald.

SCHEDULE

**ARRANGEMENT BETWEEN HER MAJESTY'S GOVERNMENT
AND THE GOVERNMENT OF THE ISLE OF MAN FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

1.—(1) The taxes which are the subject of this Arrangement are:—

(a) In the United Kingdom:

The income tax (including surtax), the profits tax and the excess profits levy (hereinafter referred to as "United Kingdom tax");

(b) In the Isle of Man:

The income tax (including surtax) (hereinafter referred to as "Manx tax").

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or the Isle of Man after this Arrangement has come into force.

2.—(1) In this Arrangement, unless the context otherwise requires:

- (a) The term "United Kingdom" means Great Britain and Northern Ireland;
- (b) The term "the Island" means the Isle of Man;
- (c) The terms "one of the territories" and "the other territory" mean the United Kingdom or the Island, as the context requires;
- (d) The term "tax" means United Kingdom tax or Manx tax, as the context requires;
- (e) The term "person" includes any body of persons, corporate or not corporate;
- (f) The term "company" includes any body corporate;
- (g) The terms "resident of the United Kingdom" and "resident of the Island" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in the Island for the purposes of Manx tax and any person who is resident in the Island for the purposes of Manx tax and not resident in the United Kingdom for the purposes of United Kingdom tax; and a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident of the Island if its business is managed and controlled in the Island;
- (h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of the Island, as the context requires;
- (i) The terms "United Kingdom enterprise" and "Manx enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of the Island; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or Manx enterprise, as the context requires;
- (j) The term "industrial or commercial profits" includes rentals in respect of cinematograph films;
- (k) The term "permanent establishment" when used with respect to an enterprise of one of the territories, means a branch, management or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general

authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under this Arrangement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Arrangement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Arrangement by the United Kingdom or the Island, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of the United Kingdom, or, as the case may be, the Island, relating to the taxes which are the subject of this Arrangement.

3.—(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Manx tax unless the enterprise is engaged in trade or business in the Island through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the Island but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Manx enterprise shall not be subject to United Kingdom tax unless the enterprise is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the United Kingdom but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive from its activities in that other territory if it were an independent enter-

prise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

4. Where—

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and
- (c) in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises,

then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

6.—(1) Remuneration, including pensions, paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other territory if the individual is not ordinarily resident in that other territory or (where the remuneration is not a pension) is ordinarily resident in that other territory solely for purposes of rendering those services.

(2) The provisions of this paragraph shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for the purposes of profit.

7.—(1) An individual who is a resident of the United Kingdom shall be exempt from Manx tax on profits or remuneration in respect of personal (including professional) services performed within the Island in any year of assessment if—

- (a) he is present within the Island for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a person resident in the United Kingdom, and
- (c) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of the Island shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if—

- (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a person resident in the Island, and
- (c) the profits or remuneration are subject to Manx tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

8. A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first mentioned territory for the purposes of his maintenance, education or training.

9.—(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, Manx tax payable, whether directly or by deduction, in respect of income from sources within the Island other than dividends or debenture interest payable by a company resident in the Island shall be allowed as a credit against any United Kingdom tax payable in respect of that income.

(2) Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in the Island regarding the allowance as a credit against Manx tax of tax payable in a territory outside the Island, United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom other than dividends or debenture interest payable by a company resident in the United Kingdom shall be allowed as a credit against any Manx tax payable in respect of that income.

(3) Where no credit is allowable under sub-paragraph (1) or sub-paragraph (2) of this paragraph in respect of tax on income subject to both Manx tax and United Kingdom tax, such relief from United Kingdom tax and Manx tax shall be allowed in respect of the double taxation as would have been allowed under the law in force in the United Kingdom and the Island respectively if the present Arrangement had not been made:

Provided that in a case to which sub-section (2) of Section 227 of the United Kingdom Income Tax Act, 1952, applies, the relief allowable under this sub-paragraph shall be left out of account in the computations of tax to be made under the proviso to the said sub-section.

(4) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in

ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

(5) Where Manx income tax is payable for a year for which this Arrangement has effect in respect of any income in respect of which United Kingdom income tax is payable for a year prior to the year beginning on the 6th April, 1955, then in the case of a person resident in the Island, the Manx income tax shall for the purposes of sub-paragraph (2) of this paragraph be deemed to be reduced by the amount of any relief allowable in respect thereof under the provisions of Section 348 of the United Kingdom Income Tax Act, 1952.

10.—(1) The taxation authorities of the United Kingdom and the Island shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph, the term "taxation authorities" means the Commissioners of Inland Revenue or their authorised representative in the case of the United Kingdom and the Assessor of Income Tax or his authorised representative in the case of the Island.

11. This Arrangement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and the Island as are necessary to give the Arrangement the force of law in the United Kingdom and the Island respectively, and shall thereupon have effect—

(a) In the United Kingdom:

as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April, 1955;
as respects profits tax and excess profits levy in respect of the following profits

(i) profits by reference to which income tax is, or but for the present Arrangement would be, chargeable for any year of assessment beginning on or after the 6th April, 1955;

(ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after the 1st April, 1955, or are attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(b) In the Island:

as respects income tax and surtax, for any year of assessment beginning on the 6th April, 1955, and subsequent years.

12. This Arrangement shall continue in effect indefinitely but either of the Governments may, on or before the 30th day of June in any calendar

year after the year 1956 give notice of termination to the other Government and, in such event, this Arrangement shall cease to be effective—

(a) In the United Kingdom:

as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;

as respects profits tax in respect of the following profits—

(i) profits by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;

(ii) other profits, being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after the 1st April, in the next following calendar year or are attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(b) In the Island:

as respects income tax and surtax, for any year of assessment beginning on or after the 6th April in the calendar year next following that in which such notice is given.

GIVEN under my hand this 29th day of July, 1955.

A. D. FLUX DUNDAS,

Lieutenant Governor.