



Government Circular No. 248/91

INCOME TAX ACT 1970

DOUBLE TAXATION RELIEF (TERRITORIAL SEA)
(CONSEQUENTIAL PROVISIONS) ORDER 1991

In exercise of the powers conferred on the Governor in Council by section 54 of the Income Tax Act 1970(a), and of all other powers enabling him in that behalf, the following Order is hereby made :-

Citation and commencement

1. This Order may be cited as the Double Taxation Relief (Territorial Sea)(Consequential Provisions) Order 1991.

Arrangements

2. It is declared -
 - (a) that the arrangements specified in the Protocol set out in the Schedule have been made with the Government of the United Kingdom with a view to affording relief from double taxation in relation to income tax and taxes of a similar character imposed under the laws of the United Kingdom; and
 - (b) that it is expedient that those arrangements should have effect.

PROTOCOL TO THE 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 ("the Arrangement")

1. In paragraph 2(1) of the Arrangement, for paragraph (a) there shall be substituted -

"(a) The term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea-bed and the sub-soil and their natural resources may be exercised;".

2. After paragraph 9 of the Arrangement there shall be inserted the following new paragraph -

"9A. (1) The provisions of this paragraph shall apply notwithstanding any other provisions of this Arrangement.

(2) In this paragraph, "relevant activities" means activities which are carried on offshore in connection with the exploration or exploitation of the sea-bed and sub-soil and their natural resources situated in one of the territories.

(3) An enterprise of one of the territories which carries on relevant activities in the other territory shall

in respect of those activities, subject to sub-paragraphs (4) to (7) of this paragraph, be deemed to be carrying on business in that other territory through a permanent establishment situated therein.

(4) Relevant activities which are carried on by an enterprise of one of the territories in the other territory for a period or periods not exceeding in the aggregate 30 days in any period of 12 months shall not constitute the carrying on of business through a permanent establishment situated therein.

(5) For the purposes of sub-paragraph (4) of this paragraph, where an enterprise of one of the territories carrying on relevant activities in the other territory is associated with another enterprise carrying on substantially similar relevant activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, except to the extent that those activities are carried on at the same time as its own activities.

(6) For the purposes of sub-paragraph (5) of this paragraph, an enterprise shall be regarded as associated with another enterprise if -

- (a) one participates directly or indirectly in the management, control or capital of the other; or
- (b) the same persons participate directly or indirectly in the management, control or capital of both enterprises.

(7) Profits derived by an enterprise of one of the

territories from -

- (a) the transportation of supplies from a port in that territory by a ship or aircraft to a location or locations in the other territory where relevant activities are being carried on; or
 - (b) the operation of tug boats registered in and normally operating from a port in that territory in connection with such activities,
- shall be taxable only in that territory.

(8) A resident of one of the territories who carries on relevant activities in the other territory, which consist of professional services or other activities of an independent character, shall be deemed to be performing those activities from a fixed base in that other territory, but income derived by a resident of one of the territories in respect of such activities performed in the other territory shall not be taxable in that other territory if the activities are performed in the other territory for a period or periods not exceeding in the aggregate 30 days in any period of 12 months.

(9) Subject to sub-paragraph (10) of this paragraph, salaries, wages and similar remuneration derived by a resident of one of the territories in respect of an employment connected with relevant activities in the other territory may, to the extent that the duties are performed offshore in that other territory, be taxed in that other

territory.

(10) Salaries, wages and similar remuneration derived by a resident of one of the territories in respect of an employment exercised aboard a ship, aircraft or tug boat undertaking operations referred to in sub-paragraph (7) of this paragraph shall be taxable only in the territory of which the employee is a resident."

3. (1) Each of the parties to this Protocol shall notify to the other the completion of the procedures required by its law for the bringing into force of this Protocol.

(2) The Protocol shall enter into force on the date of the receipt of the later of these notifications and, subject to sub-paragraph (3) of this paragraph, shall thereupon have effect -

(a) in the United Kingdom -

(i) in respect of income tax, for any year of assessment beginning on or after 6 April 1992;

(ii) in respect of corporation tax on income, for any financial year beginning on or after 1 April 1992;

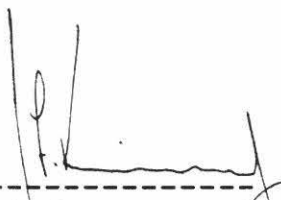
(b) in the Isle of Man, in respect of income tax, for any year of assessment beginning on or after 6 April 1992.

(3) In relation to an enterprise of one of the territories which, at the date of signature of this Protocol, carried on activities offshore in connection with the exploration or exploitation of the sea-bed and sub-soil and their natural resources situated in the other territory, this Protocol shall

have effect -

- (a) in the United Kingdom -
 - (i) in respect of income tax, for any year of assessment beginning on or after 6 April 1994;
 - (ii) in respect of corporation tax on income, for any financial year beginning on or after 1 April 1994;
- (b) in the Isle of Man, in respect of income tax, for any year of assessment beginning on or after 6 April 1994.

Made this 31st day of July 1991



Chief Secretary

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

Section 54 of the Income Tax Act 1970 enables the Governor in Council to declare that arrangements to afford relief from double taxation made with the Government of any other territory are to have effect in Manx law.

This Order gives effect to a Protocol amending existing arrangements. The Protocol amends the definition of "United Kingdom" set out in the existing arrangements so as to include references to the Continental Shelf. In addition the Protocol establishes new arrangements in relation to income derived from certain services provided in respect of offshore installations.