



INCOME TAX ACT 1970
DOUBLE TAXATION RELIEF (UNITED KINGDOM) (AMENDMENT)
ORDER 2008

Approved by Tynwald 18th November 2008

Coming into operation in accordance with article 1(2)

In exercise of the powers conferred on the Council of Ministers by section 54 of the Income Tax Act 1970¹, and of all other enabling powers, the following Order is hereby made:-

Citation and commencement

- (1) This Order may be cited as the Double Taxation Relief (United Kingdom) (Amendment) Order 2008.
- (2) This Order shall come into operation on the day on which it is approved by Tynwald.

Arrangements

- (1) It is declared that the arrangements specified in the Arrangement 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 by the laws of the United Kingdom and it is expedient that those arrangements have effect under section 54 of the Income Tax Act 1970.

¹ XXI p.260

Schedule

ARRANGEMENT BETWEEN HER MAJESTY'S GOVERNMENT AND THE
GOVERNMENT OF THE ISLE OF MAN AMENDING THE 1955
ARRANGEMENT BETWEEN THE TWO GOVERNMENTS FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AS
AMENDED BY THE 1991 ARRANGEMENT AND THE 1994
ARRANGEMENT BETWEEN THE TWO GOVERNMENTS

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

Desiring to strengthen their economic relationship and to improve the operation
of the existing arrangement between the two governments for the avoidance of double
taxation ("the 1955 Arrangement");

Have agreed as follows:

1. In this Arrangement the term "1955 Arrangement" means that Arrangement as
amended by the 1991 Arrangement and the 1994 Arrangement.

2. After paragraph 2(1)(k) of the 1955 Arrangement there shall be inserted the
following:

"(l) the term "taxation authority" means:

(i) in the United Kingdom, the Commissioners for Her Majesty's
Revenue and Customs or their authorised representative;

(ii) in the Isle of Man, the Assessor of Income Tax or his
delegate."

3. Paragraph 4 of the 1955 Arrangement shall be deleted and replaced with the
following:

"4. -(1) 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 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.

(2) Where one of the territories includes in the profits of an enterprise of that territory - and taxes accordingly - profits on which an enterprise of the other territory has been charged to tax in that other territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other territory shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Arrangement and the taxation authorities of the territories shall if necessary consult each other.”

4. After paragraph 5 of the 1955 Arrangement there shall be inserted the following new paragraph:

“5A. Subject to the provisions of paragraph 6, pensions and other similar remuneration paid to an individual who is a resident of one of the territories shall be taxable only in that territory.”

5. After paragraph 9B of the 1955 Arrangement there shall be inserted the following new paragraph:

“9C. -(1) Where a resident of one of the territories considers that the actions of one or both of the territories result or will result for that person in taxation not in

accordance with the provisions of this Arrangement, that person may, irrespective of the remedies provided by the domestic law of those territories, present a case to the taxation authority of the territory of which that person 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 this Arrangement or, if later, within six years from the end of the taxable year or chargeable period in respect of which that taxation is imposed or proposed.

(2) The taxation 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 taxation authority of the other territory, with a view to the avoidance of taxation which is not in accordance with this Arrangement. Any agreement reached shall be implemented notwithstanding any time limits or other procedural limitations in the domestic law of the territories, except such limitations as apply for the purposes of giving effect to such an agreement.

(3) The taxation authorities of the territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Arrangement. They may also consult together for the elimination of double taxation in cases not provided for in the Arrangement.

(4) The taxation authorities of the territories may communicate with each other directly for the purpose of reaching an agreement in the sense of this paragraph.”

6. Paragraph 10(2) of the 1955 Arrangement shall be deleted.

7. Each of the territories shall notify to the other the completion of the procedures required by its law for the bringing into force of this Arrangement. This Arrangement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) in the United Kingdom:

(i) in respect of income tax, for any year of assessment beginning on or after 6th April next following the date on which this Arrangement enters into force;

- (ii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which this Arrangement enters into force;
- (b) in the Isle of Man, in respect of income tax, for any year of assessment beginning on or after 6th April next following the date on which this Arrangement enters into force.

Made this 17th October 2008

Chief Secretary *Mary Williams*

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order is made under section 54 of the Income Tax Act 1970. It amends the Double Taxation Arrangement between the Isle of Man and the United Kingdom giving exclusive taxation rights over pension income, where the pension is not paid by the Government of one of the countries, to the country of residence of the pensioner. It also updates the mutual agreement procedure in relation to transfer pricing issues for enterprises having operations in both countries.