

*Draft Order in Council laid before the House of Commons under the Income and Corporation Taxes Act 1988, s788 (10), for an Address to Her Majesty from that House praying that the Order be made.*

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DRAFT STATUTORY INSTRUMENTS

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**2003 No.**

**INCOME TAX**

**The Double Taxation Relief (Taxes  
on Income) (Mauritius) Order 2003**

Made - - - - 2003

At the Court at Buckingham Palace, the day of 2003

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 788(10) of the Income and Corporation Taxes Act 1988(1), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 788 of the said Act, 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) (Mauritius) Order 2003.
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) (Mauritius) Order 1981(2), as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1987(3), have been made with the Government of the Republic of Mauritius 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 Mauritius;
  - (b) that it is expedient that those arrangements should have effect.

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(1) 1988 c. 1; section 788 is extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12).

(2) S.I.1981/1121

(3) S.I. 1987/467

Clerk of the Privy Council

## SCHEDULE

### **PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF MAURITIUS TO AMEND THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS, SIGNED AT LONDON ON 11 FEBRUARY 1981, AS AMENDED BY THE PROTOCOL SIGNED AT PORT LOUIS ON 23 OCTOBER 1986**

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

Desiring to conclude a further Protocol to amend the Convention between the Contracting Governments for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains, signed at London on 11 February 1981, as amended by the Protocol signed at Port Louis on 23 October 1986 (hereinafter referred to as “the Convention”);

Have agreed as follows:

#### *ARTICLE 1*

Paragraph (5) of Article 13 of the Convention shall be deleted and replaced by the following:

“(5) The provisions of this Article shall not affect the right of a Contracting State to levy according to its law a tax chargeable in respect of gains from the alienation of any property on a person who is a resident of that State at any time during the fiscal year in which the property is alienated, or has been so resident at any time during the six fiscal years immediately preceding that year.”

#### *ARTICLE 2*

The Governments of the Contracting States shall notify one another, through diplomatic channels, of the completion of the procedures required by their laws 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 thereupon have effect:

- (a) in the United Kingdom:
  - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April 2003;
  - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April 2003;
- (b) in Mauritius:
  - (i) in respect of income tax, for any year of assessment beginning on or after 1st July 2003;
  - (ii) in respect of capital gains tax (morcellement) for any financial year beginning on or after 1st July 2003.

#### *ARTICLE 3*

This Protocol shall remain in force as long as the Convention remains in force.

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

Done in duplicate at Port Louis this 27th day of March 2003.

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

*D R Snoxell*

For the Government of the Republic of Mauritius:

*A H Nakhuda*

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#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Protocol scheduled to this Order makes an alteration to the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1981 as amended by the Schedule to the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1987.

Article 1 of this Protocol amends Paragraph 5 of Article 13 (Capital Gains) of the Convention to clarify the treatment of gains from the alienation of property.

The Protocol will enter into force when both countries have notified each other of the completion of their respective legislative procedures. The date of entry into force will in due course be published in the *London, Edinburgh and Belfast Gazettes*.

Upon entry into force, the Protocol will take effect in the United Kingdom for any financial year beginning on or after 1st April 2003 in respect of corporation tax, and for any year of assessment beginning on or after 6th April 2003 in respect of income tax and capital gains tax; and will take effect in Mauritius from 1st July 2003.