
STATUTORY INSTRUMENTS

1991 No. 2876

INCOME TAX

**The Double Taxation Relief (Taxes on
Income) (Czechoslovakia) Order 1991**

Made - - - - 19th December 1991

At the Court at Buckingham Palace, the 19th day of December 1991

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) (Czechoslovakia) Order 1991.

2. It is hereby declared—

- (a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Czech and Slovak Federal Republic 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 Czechoslovakia;
- (b) that those arrangements include provisions with respect to the exchange of information necessary for carrying out the domestic laws of the United Kingdom and the laws of Czechoslovakia concerning taxes covered by the arrangements; and
- (c) that it is expedient that those arrangements should have effect.

(1) 1988 c. 1; section 788 is extended by section 10 of the Capital Gains Tax Act 1979 (c. 14).

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G.I. de Deney
Clerk of the Privy Council

SCHEDULE

CONVENTION

BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czech and Slovak Federal Republic;

Confirming their desire to develop and strengthen their economic co-operation;

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital gains;

Have agreed as follows:

ARTICLE I

Personal scope

This Convention shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

Taxes covered

(1) The taxes which are the subject of this Convention are:

(a) in the United Kingdom of Great Britain and Northern Ireland:

- (i) the income tax; and
 - (ii) the corporation tax,
 - (iii) the capital gains tax;
- (hereinafter referred to as “United Kingdom Tax”);

(b) in the Czech and Slovak Federal Republic:

- (i) the tax on profits;
- (ii) the wages tax;
- (iii) the tax on income from literary and artistic activities;
- (iv) the agricultural tax;
- (v) the tax on population income; and
- (vi) the house tax;

(hereinafter referred to as “Czechoslovak tax”).

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes of that Contracting State referred to in paragraph (1) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

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ARTICLE 3

General definitions

(1) In this Convention, unless the context otherwise requires:

- (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 sub-soil and their natural resources may be exercised;
- (b) the term “Czechoslovakia” means the Czech and Slovak Federal Republic;
- (c) the term “national” means:
 - (i) in relation to the United Kingdom, any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
 - (ii) in relation to Czechoslovakia, any individual possessing the nationality of the Czech and Slovak Federal Republic and any legal person, partnership and association deriving its status as such from the law in force in Czechoslovakia;
- (d) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Czechoslovakia as the context requires;
- (e) the term “person” comprises an individual, a company and any other body of persons, but does not include a partnership which is not a legal person;
- (f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (i) the term “competent authority” means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and in the case of Czechoslovakia the Minister of Finance of the Czech and Slovak Federal Republic or his authorised representative.

(2) As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 4

Residence

(1) For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature; the term does not include any individual who is liable to tax in that Contracting State only if he derives income from sources therein.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

ARTICLE 5

Permanent establishment

(1) For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the business of an enterprise is wholly or partly carried on.

(2) The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or other place of extraction of natural resources;
- (g) an installation or structure used for the exploration or exploitation of natural resources;
- (h) a building site or construction or assembly project which exists for more than twelve months.

(3) The term “permanent establishment” shall be deemed not to include;

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;

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- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
- (4) Notwithstanding the provisions of paragraphs (1) and (2) of the Article, where a person—other than an agent of an independent status to whom paragraph (5) of the Article applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State as authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (3) of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
- (5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
- (6) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

Income from immovable property

- (1) Income from immovable property may be taxed in the Contracting State in which such property is situated.
 - (a) (2) (a) The term “immovable property” shall, subject to the provisions of sub-paragraph (b) of this paragraph, be defined in accordance with the law of the Contracting State in which the property in question is situated.
 - (b) The term “immovable property” shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
- (3) The provisions of paragraph (1) of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
- (4) The provisions of paragraphs (1) and (3) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

ARTICLE 7

Business profits

- (1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph (3) of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise 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.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(7) Where profits include items which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

Shipping and air transport

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

(3) The provisions of paragraph (1) of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9

Associated enterprises

Where:

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State;

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,

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by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE 10

Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the law of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 5 per cent. of the gross amount of the dividends if the recipient is a company which controls at least 25 per cent of the voting power in the company paying the dividends;
- (b) in all other cases 15 per cent. of the gross amount of the dividends.

(3) The term “dividends” as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident and also includes any other item which, under the law of the Contracting State of which the company making the payment is a resident, is treated as a dividend or distribution of a company.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company’s undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11

Interest

(1) Interest arising in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

(2) The term “interest” as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as other income assimilated to income from money lent by the taxation law of the State in which the income arises.

(3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the interest, being a resident of the Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in

respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

(4) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12

Royalties

(1) Royalties arising in a Contracting State which are derived and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, royalties of the kind referred to in sub-paragraph (3)(a) below may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the amount so charged shall not exceed 10 per cent of the gross amount of the royalties.

(3) The term “royalties” as used in this Article means payments of any kind received as a consideration for:

- (a) the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, any industrial, commercial or scientific equipment, or for information concerning industrial, commercial, technical, technological or scientific experience;
- (b) the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films or tapes for radio and television broadcasting).

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

Capital gains

(1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article 6 of this Convention, may be taxed in the Contracting State in which such property is situated.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base), may be taxed in the other State.

(3) Gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) Gains from the alienation of any property other than those mentioned in paragraphs (1), (2) and (3) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

Independent personal services

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it is attributable to that fixed base.

(2) The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

Dependent personal services

(1) Subject to the provisions of Articles 16, 18, and 19 of this Convention, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

ARTICLE 16

Directors' fees

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17

Artistes and athletes

(1) Notwithstanding the provisions of Article 14 and Article 15 of this Convention, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised. However, income derived from such activities shall be exempt from tax in that State if the activities are performed under a cultural agreement or arrangement between the Contracting States.

(2) Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

ARTICLE 18

Pensions

(1) Subject to the provisions of paragraph (2) of Article 19 of this Convention, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that State.

(2) The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 19

Government service

- (a) (1) (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or

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- (ii) did not become a resident of that State solely for the purpose of rendering the services.
- (a) (2) (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
- (3) The provisions of Articles 15, 16 and 18 of this Convention shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20

Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in the first-mentioned State, provided that such payments are made to him from sources outside that State.

ARTICLE 21

Other income

Items of income of a resident of a Contracting State, wherever arising, being income of a class or from sources not expressly mentioned in the foregoing Articles of this Convention, other than income paid out of trusts or the estates of deceased persons in the course of administration, shall be taxable only in that State.

ARTICLE 22

Avoidance of double taxation

- (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 (which shall not affect the general principle hereof):
 - (a) Czechoslovak tax payable under the laws of Czechoslovakia and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Czechoslovakia (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Czechoslovak tax is computed;
 - (b) in the case of a dividend paid by a company which is a resident of Czechoslovakia to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Czechoslovak tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Czechoslovak tax payable by the company in respect of the profits out of which such dividend is paid.

(2) In Czechoslovakia double taxation shall be avoided as follows:

- (a) where a resident of Czechoslovakia derives income or capital gains which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Czechoslovakia shall, subject to the provisions of sub-paragraph (b) of this paragraph, exempt such income or such capital gains from Czechoslovak tax, but may, in calculating tax on the remaining income or capital gains of that person, apply the rate of tax which would have been applicable if the exempted income or capital gains had not been so exempted;
- (b) where a resident of Czechoslovakia derives income which, in accordance with the provisions of Articles, 10, 12, 16 and 17 of this Convention, may be taxed in the United Kingdom, Czechoslovakia shall allow as a deduction from Czechoslovak tax on the income of that person an amount equal to the tax paid in the United Kingdom on that income. Such deduction shall not, however, exceed that part of the Czechoslovak tax, computed before the deduction is given, which is appropriate to the income which may be taxed in the United Kingdom.

(3) For the purposes of paragraphs (1) and (2) of this Article profits or income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

(4) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (2) of this Article.

ARTICLE 23

Non-discrimination

(1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

(3) Except where the provisions of Article 9, paragraph (4) of Article 11, paragraph (6) of Article 12 of this Convention apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

(4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

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(5) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes, which are granted to individuals so resident.

ARTICLE 24

Mutual agreement procedure

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

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

ARTICLE 25

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court or administrative body) concerned with the assessment or collection of, or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(2) In no case shall the provisions of paragraph (1) of this Article be construed so as to impose on the competent authority of either Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice prevailing in either Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

ARTICLE 26

Members of diplomatic or permanent missions and consular posts

Nothing in this Convention shall affect any fiscal privileges accorded to members of diplomatic or permanent missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 27

Entry into force

(1) Each of the Contracting States shall notify to the other, through diplomatic channels, the completion of procedures required by its law for the bringing into force of this Convention. This Convention 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 in the calendar year next following that in which the Convention enters into force;
- (ii) in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the Convention enters into force;

(b) in Czechoslovakia:

- (i) in respect of taxes withheld at source, to amounts declared or paid on or after 1st January in the calendar year next following that in which the Convention enters into force;
- (ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following that in which the Convention enters into force.

(2) Paragraph (3) of Article 8 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czechoslovak Republic for Air Services between and beyond their respective Territories signed at Prague on 15th January 1960 shall terminate upon the entry into force of this Convention in so far as it refers to the taxation of surplus earnings.

ARTICLE 28

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Convention. In such event, the Convention shall cease to 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 in the calendar year next following that in which the notice is given;

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- (ii) in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given;
- (b) in Czechoslovakia:
 - (i) in respect of taxes withheld at source, to amounts declared or paid on or after 1st January in the calendar year next following that in which the notice is given;
 - (ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at LONDON this 5th day of November 1990.

in the English and Czech languages, both texts being equally authoritative.

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

Norman Lamont

For the Government of the Czech and Slovak
Federal Republic:

Václav Klaus

EXPLANATORY NOTE

(This note is not part of the Order)

The Convention with the Czech and Slovak Federal Republic is set out in the Schedule to this Order.

The Convention provides for business profits not arising through a permanent establishment to be taxed only in the country of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the country in which the permanent establishment is situated (Articles 5 and 7). Profits arising from the operation of ships or aircraft in international traffic are to be taxed only in the country in which the place of effective management of the enterprise is situated (Article 8).

This Convention includes rules for determining taxable profits when a company in one country is related to a company in the other (Article 9).

The rate of tax imposed in the country of source on dividends derived by a resident of the other country is normally not to exceed 5 per cent of the gross amount of the dividends where the dividend is paid to a company which controls at least 25 per cent of the voting power in the paying company, and 15 per cent of the gross amount of the dividends in all other cases (Article 10).

The country of source will exempt from tax interest and royalties paid to a resident of the other country (Articles 11 and 12).

Provision is made for income arising from immovable property and gains from the alienation of that property to be taxed in the country in which the property is situated (Articles 6 and 13).

The earnings of temporary business visitors and some other individuals are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence (Articles 14 and 15).

Income derived in respect of the personal activities of entertainers and athletes may normally be taxed in the country in which those activities are exercised (Article 17). Certain payments made to

visiting students or business apprentices are, subject to certain conditions, to be exempt from tax in the country visited (Article 20).

Government service salaries and pensions are normally to be taxed by the paying Government only (Article 19) while other pensions are to be taxed only in the country of the taxpayer's residence (Article 18).

Where income continues to be taxable in both countries, relief from double taxation will be given, in effect, in accordance with the laws of each country. In the case of dividends, the United Kingdom will give credit for underlying tax paid in Czechoslovakia where the recipient of the dividend is a United Kingdom company which controls at least ten per cent of the voting power in the paying company (Article 22).

There are provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country (Article 23) and for consultation (Article 24) and exchange of information (Article 25) between the taxation authorities of the two countries.

The Convention will enter into force when the legislative procedures in both countries have been completed, and will have effect in the United Kingdom from April 1st (in respect of corporation tax) and April 6th (in respect of income tax and capital gains tax) in the following calendar year (Article 27). The date of entry into force will in due course be published in the London, Edinburgh and Belfast Gazettes.