
STATUTORY INSTRUMENTS

1991 No. 2880

INCOME TAX

**The Double Taxation Relief (Taxes
on Income) (Isle of Man) Order 1991**

Made - - - - 19th December 1991

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) (Isle of Man) Order 1991.
2. It is hereby declared—
 - (a) that the arrangements specified in the Arrangement 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) (Isle of Man) Order 1955⁽²⁾, have been made with the Government of the Isle of Man with a view to affording relief from double taxation in relation to income tax or corporation tax and taxes of a similar character imposed by the laws of the Isle of Man; and
 - (b) that it is expedient that those arrangements have effect.

G. I. de Deney
Clerk of the Privy Council

(1) 1988 c. 1: section 788 is extended by section 10 of the Capital Gains Tax Act 1979 (c. 14).
(2) S.I.1955/1205.

SCHEDULE

ARRANGEMENT BETWEEN HER MAJESTY'S GOVERNMENT AND THE GOVERNMENT OF THE ISLE OF MAN AMENDING THE ARRANGEMENT OF 29TH JULY 1955 BETWEEN HER MAJESTY'S GOVERNMENT AND THE GOVERNMENT OF THE ISLE OF MAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OFFISCAL EVASION WITH RESPECT TO TAXES ON INCOME("the 1955 Arrangement")

1. In paragraph 2(1) of the 1955 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 1955 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,

(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 Arrangement shall notify to the other the completion of the procedures required by its law for the bringing into force of this Arrangement.

(2) The Arrangement 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 6th April 1992;
 - (ii) in respect of corporation tax on income, for any financial year beginning on or after 1st April 1992;
- (b) in the Isle of Man, in respect of income tax, for any year of assessment beginning on or after 6th April 1992.

(3) In relation to an enterprise of one of the territories which, at 10th July 1991, 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 Arrangement shall have effect—

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

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EXPLANATORY NOTE

(This note is not part of the Order)

The Arrangement scheduled to this Order makes two amendments to the Arrangement between the United Kingdom and the Isle of Man which is scheduled to the Double Taxation Relief (Taxes on Income) (Isle of Man) Order 1955.

First, the definition of the United Kingdom is extended to include the United Kingdom Continental Shelf (paragraph 1).

Secondly, it gives each territory the right to tax income derived by residents of the other territory from certain activities carried on offshore in the first-mentioned territory in connection with exploration and exploitation of the sea-bed and sub-soil and their natural resources (paragraph 2).

The Arrangement will generally have effect in the United Kingdom from April 1992 but enterprises of one of the territories carrying on activities offshore in connection with the sea-bed and sub-soil and their natural resources in the other territory at 10th July 1991 will be outside the scope of the Arrangement until April 1994 (paragraph 3).