
STATUTORY INSTRUMENTS

1992 No. 3206

INCOME TAX

**The Double Taxation Relief (Taxes on
Income) (Falkland Islands) Order 1992**

Made - - - - 17th December 1992

At the Court at Buckingham Palace, the 17th day of December 1992
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) (Falkland Islands) Order 1992.

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) (Falkland Islands) Order 1984⁽²⁾, have been made with the Government of the Falkland Islands 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 the Falkland Islands; and
- (b) that it is expedient that those arrangements should have effect.

(1) 1988 c. 1: section 788 is extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12).
(2) S.I.1984/363.

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N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

SUPPLEMENTARY ARRANGEMENT AMENDING THE ARRANGEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FALKLAND ISLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION 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 Falkland Islands;

Desiring to amend the Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains (hereinafter referred to as “the Arrangement”);

Have agreed as follows:

1. The Arrangement shall be amended by the substitution for sub-paragraph (2) of Paragraph 26 of the following new sub-paragraph—

“(2) For the purposes of sub-paragraph (1) of this Paragraph, the term “Falkland Islands tax payable” shall be deemed to include any amount which would have been payable as Falkland Islands tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under—

- (a) Section 3 of the Taxes and Duties (Special Exemptions) Ordinance 1987 so far as this provision was in force on, and has not been modified since, the date of entry into force of the Supplementary Arrangement to this Arrangement, or has been modified only in minor respects so as not to affect its general character; or
- (b) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the territories to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Falkland Islands tax was first granted in respect of that source.”

2. Each of the territories shall notify to the other through diplomatic channels the completion of the procedures required by its law for the bringing into force of this Supplementary Arrangement. This Supplementary 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 and capital gains tax, for any year of assessment beginning on or after 6th April 1987;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April 1987; and
- (b) in the Falkland Islands:

in respect of income tax for any year of assessment beginning on or after 1st January 1987.

3. Notwithstanding paragraph 2 of this Supplementary Arrangement, where any greater relief from tax would have been afforded by any provision of the Arrangement than is due under the Arrangement as amended by this Supplementary Arrangement, any such provision as aforesaid shall continue to have effect in the United Kingdom for any year of assessment or financial year beginning

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before the entry into force of this Supplementary Arrangement, and in the Falkland Islands for any year of assessment beginning before the entry into force of this Supplementary Arrangement.

EXPLANATORY NOTE

(This note is not part of the Order)

The Supplementary Arrangement scheduled to this Order amends the Arrangement between the United Kingdom and the Falkland Islands which is scheduled to the Double Taxation Relief (Taxes on Income) (Falkland Islands) Order 1984.

The 1984 Arrangement granted relief for underlying tax to United Kingdom resident parent companies which receive dividends from Falkland Islands subsidiary companies paid out of profits which have been spared Falkland Islands tax under legislation aimed at encouraging “pioneer enterprises”.

The wording of the 1984 Arrangement referred specifically to a Falkland Islands Income Tax Ordinance which was repealed and replaced in 1987. The Supplementary Arrangement updates the statutory reference in Paragraph 26(2) of the earlier Arrangement and provides for relief to be given in connection with future Falkland Islands tax sparing measures of a substantially similar character to those mentioned in Paragraph 26(2).

The Supplementary Arrangement will have effect in the United Kingdom from April 1987 and in the Falkland Islands from January 1987.