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## EXPLANATORY NOTE

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

The Convention with Malta 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).

Income from immovable property and gains derived from the alienation of such property may be taxed in the country in which the property is situated (Articles 6 and 13).

Air transport and shipping profits are to be taxed only in the residence state of the operator (Article 8).

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

The Convention provides that where a United Kingdom company pays a dividend to an individual resident in Malta, the recipient will, subject to certain conditions, receive the tax credit to which an individual resident in the United Kingdom and in receipt of such a dividend would be entitled, less tax at a rate not exceeding 15 per cent on the aggregate of the dividend and the tax credit. In the case of a dividend paid by a Maltese company to a resident of the United Kingdom, the tax charged in Malta is not to exceed that chargeable on the profits out of which the dividends are paid (Article 10).

The rate of tax imposed in the country of source on interest derived by a resident of the other country is, in general, not to exceed 10 per cent of the gross amount flowing to the other country. Certain categories of interest (eg interest payable to the Government of the other country) will be exempt from tax in the source state (Article 11).

The rate of tax imposed in the source country on royalties is limited to 10 per cent where the beneficial owner is a resident of the other country and is subject to tax in the country of residence in respect of those royalties (Article 12).

Gains arising from the alienation of movable property are normally to be taxed only in the country of the taxpayer's residence. Gains arising from the alienation of assets of a permanent establishment or fixed base which the taxpayer has in the other country may be taxed in that other country (Article 13).

The earnings of temporary business visitors and some other individuals are, subject to certain conditions, only to be taxed in the country of the taxpayer's residence (Articles 14 and 15). Fees received by a resident of one country in his capacity as a director of a company resident in the other country may be taxed in the latter country (Article 16). Income derived from the activities of artistes and sportsmen may be taxed in the country in which those activities are performed (Article 17). Occupational pensions (other than those paid in respect of Government service) and annuities are to be taxed only in the recipient's country of residence (Article 18). Government service remuneration and pensions are normally to be taxed only by the paying Government (Article 19). Certain payments made to visiting students and business or technical apprentices are exempt from tax in the country visited (Article 20). Other income (with the exception of income from trusts and estates of deceased persons under administration) not specified in the Convention remain taxable only in the recipient's country of residence (Article 21).

Where income continues to be taxable in both countries credit will be given in the taxpayer's country of residence for tax imposed by the other country. The credit to be given in the United Kingdom for tax imposed in Malta includes credit for tax spared under certain provisions of Maltese law. In the

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case of dividends, the United Kingdom will give credit for underlying tax paid in Malta where the shareholder is a United Kingdom company which controls at least 10 per cent of the voting power in the company paying the dividends (Article 22).

The Convention is not to apply to persons entitled to certain special tax benefits under Maltese law (Article 23 and Exchange of Notes).

There are provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country (Article 25), and for consultation (Article 26) and exchanges of information (Article 27) between the taxation authorities of the two countries.

The Convention will enter into force on the date of the later of the notifications by each country of the completion of its legislative procedures. The Convention is to take effect in the United Kingdom on or after 1st April in respect of corporation tax and on or after 6th April for income tax and capital gains tax in the calendar year next following that in which it enters into force. The date of entry into force will in due course be published in the *London, Edinburgh and Belfast Gazettes*.