

*Draft Order in Council laid before the House of Commons under section 5(2) of the Taxation
(International and Other Provisions) Act 2010, for approval by resolution of that House.*

DRAFT STATUTORY INSTRUMENTS

2016 No. 0000

**CORPORATION TAX
INCOME TAX**

The Double Taxation Relief (Jersey) Order 2016

Made - - - - *******

At the Court at Buckingham Palace, the ******* day of *******

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 5(2) of the Taxation (International and Other Provisions) Act 2010(1) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercising the powers conferred upon Her by section 2 of the Taxation (International and Other Provisions) Act 2010, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief (Jersey) Order 2016.

Double taxation arrangements to have effect

- 2.—(1) It is declared that there has been made with the Government of Jersey—
 - (a) the Exchange of Letters set out in Part 1 of the Schedule to this Order, and
 - (b) the Arrangement referred to in the Exchange of Letters, as set out in Part 2 of that Schedule, which varies the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Jersey) Order 1952(2), as amended by the arrangements set out in—

(1) 2010 c. 8.
(2) S.I. 1952/1216.

- (i) the Schedule to the Double Taxation Relief (Taxes on Income) (Jersey) Order 1994⁽³⁾,
- (ii) the Schedule to the Double Taxation Relief and International Tax Enforcement (Jersey) Order 2009⁽⁴⁾, and
- (iii) the Schedule to the Double Taxation Relief and International Tax Enforcement (Jersey) Order 2015⁽⁵⁾,

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 either party.

- (2) It is further declared that it is expedient that the Arrangement should have effect.

Name
Clerk of the Privy Council

⁽³⁾ S.I. 1994/3210.
⁽⁴⁾ S.I. 2009/3012.
⁽⁵⁾ S.I. 2015/2009.

SCHEDULE

Article 2

PART 1

EXCHANGE OF LETTERS

**BETWEEN HER MAJESTY'S GOVERNMENT AND THE GOVERNMENT OF
JERSEY CONCERNING AN ARRANGEMENT AMENDING THE 1952
ARRANGEMENT BETWEEN THE TWO GOVERNMENTS FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME**

London, 29 02 2016

Dear Senator,

I have the honour to propose to you the Arrangement, further amending the 1952 Arrangement between Her Majesty's Government and the Government of Jersey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income at Appendix 1 to this letter and that this Arrangement shall have effect in accordance with paragraph 4 thereof.

I have the further honour to propose that, if the above is acceptable to the Government of Jersey, this letter and Appendix 1 together with your reply will constitute our mutual acceptance of the provisions of the Arrangement.

David Gauke

St Helier, 08 03 2016

Dear Financial Secretary,

I have the honour to acknowledge receipt of your letter of the 29 February 2016 addressed to the Chief Minister proposing the Arrangement, further amending the 1952 Arrangement between Her Majesty's Government and the Government of Jersey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, at Appendix 1 to your letter and that this Arrangement shall have effect in accordance with paragraph 4 thereof.

I have the further honour to confirm that the above is acceptable to the Government of Jersey and that this letter together with your letter and Appendix 1 constitute our mutual acceptance of the provisions of the Arrangement.

Senator Sir Philip Bailhache

Minister for External Relations

PART 2

APPENDIX 1 TO THE EXCHANGE OF LETTERS

ARRANGEMENT BETWEEN HER MAJESTY’S GOVERNMENT AND THE GOVERNMENT OF JERSEY AMENDING THE 1952 ARRANGEMENT BETWEEN THE TWO GOVERNMENTS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AS AMENDED BY THE 1994, 2009 AND 2015 ARRANGEMENTS BETWEEN THE TWO GOVERNMENTS

Her Majesty’s Government and the Government of Jersey,

Desiring to strengthen their economic relationship and to improve the operation of the existing arrangement between the two governments for the avoidance of double taxation and the prevention of fiscal evasion, have agreed as follows:

1. In this Arrangement the term “1952 Arrangement” means that Arrangement as amended by the 1994, 2009 and 2015 Arrangements.
2. To insert after subparagraph (4) of paragraph 3 of the 1952 Arrangement the following new subparagraph:

“(5) Where profits include items of income or capital gains which are dealt with separately in other paragraphs of this Arrangement, then the provisions of those paragraphs shall not be affected by the provisions of this paragraph.”
3. To insert after paragraph 3 of the 1952 Arrangement the following new paragraphs:

“3A. (1) Income derived by a resident of one of the territories from immovable property (including income from agriculture or forestry) situated in the other territory may be taxed in that other territory.

(2) The term “immovable property” shall have the meaning which it has under the law of the territory in which the property in question is situated. The term 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 subparagraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of subparagraphs (1) and (3) shall also apply to the income from immovable property of a United Kingdom enterprise and a Jersey enterprise.”

“3B (1) Gains derived by a resident of one of the territories from the alienation of immovable property referred to in paragraph 3A and situated in the other territory may be taxed in that other territory.

(2) Gains derived by a resident of one of the territories from the alienation of shares, other than shares in which there is substantial and regular trading on a Stock Exchange, or comparable interests, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other territory may be taxed in that other territory.”

4. Each of the territories shall notify to the other the completion of the procedures required by its law for the bringing into force of this Arrangement. This Arrangement shall enter into force on the date of the later of these notifications and shall thereupon have effect from 16 March 2016.

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to the Order contains an Exchange of Letters between the United Kingdom and Jersey concerning an Arrangement amending the 1952 Arrangement between the two parties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, which was scheduled to the Double Taxation Relief (Taxes on Income) (Jersey) Order 1952 ([S.I. 1952/1216](#)) and subsequently amended in 1994, 2009 and 2015. The Schedule also contains the text of the Arrangement referred to in the Exchange of Letters.

Article 2 provides that it is expedient that the Arrangement should have effect. The Arrangement relates to the avoidance of double taxation and varies the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Jersey) Order 1952, as amended.

The Arrangement will enter into force on the date of the later of the notifications of each territory of the completion of its legislative procedures. It will take effect in the United Kingdom and Jersey from 16 March 2016.

The date of entry into force will, in due course, be published in the London, Edinburgh and Belfast Gazettes.

A Tax Information and Impact Note has not been produced for the Order as it gives effect to a previously announced policy to enact a double taxation agreement.