Draft Order in Council laid before the House of Commons under section 5(2) of the Taxation (International and Other Provisions) Act 2010 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2014 No. 0000

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

PETROLEUM REVENUE TAX

The Double Taxation Relief and International Tax Enforcement (Canada) Order 2014

Made - - - - ***

At the Court at Buckingham Palace, the *** day of *** 2014

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(**a**) and section 173(7) of the Finance Act 2006(**b**) 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 and section 173(1) to (3) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief and International Tax Enforcement (Canada) Order 2014.

(**a**) 2010 c. 8.
(**b**) 2006 c. 25.

Double taxation and international tax enforcement arrangements to have effect

2. It is declared that—

(a) the arrangements specified in the Protocol set out in Part 1 of the Schedule to this Order and in the Interpretative Protocol set out in Part 2 of that Schedule, which further vary the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) Order 1980(**a**), have been made with the Government of Canada.

(b) the arrangements have been made with a view to affording relief from double taxation in relation to capital gains tax, corporation tax, income tax and petroleum revenue tax and taxes of a similar character imposed by the laws of Canada and for the purposes of assisting international tax enforcement; and

(c) it is expedient that those arrangements should have effect.

Name
Clerk of the Privy Council

(**a**) S.I. 1980/709; the arrangements scheduled to that Order were amended by the arrangements set out in the Schedules to S.I. 1980/1528, S.I. 1985/1996, and S.I. 2003/2619.

SCHEDULE

Article 2

PART 1

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS, SIGNED AT LONDON ON 8 SEPTEMBER 1978, AS AMENDED BY THE PROTOCOL SIGNED AT OTTAWA ON 15 APRIL 1980, BY THE PROTOCOL SIGNED AT LONDON ON 16 OCTOBER 1985 AND BY THE PROTOCOL SIGNED AT LONDON ON 7 MAY 2003

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CANADA;

DESIRING to conclude a protocol to amend further the Convention between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains, signed at London on 8th September 1978, as amended by the Protocol signed at Ottawa on 15th April 1980, by the Protocol signed at London on 16th October 1985 and by the Protocol signed at London on 7th May 2003 (hereinafter referred to as the "Convention");

HAVE AGREED as follows:

ARTICLE I

1. Paragraph 1(c) of Article 3 of the Convention shall be deleted and replaced by the following:

"(c) the term "person" includes an individual, a trust, a company, a partnership and any other body of persons;"

2. Paragraph 1(f) of Article 3 of the Convention shall be deleted and replaced by the following:

"(f) the term "competent authority" means:

(i) in the case of Canada, the Minister of National Revenue or the Minister's authorised representative;

(ii) in the case of the United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorised representative;"

3. The following new subparagraph shall be added to paragraph 1 of Article 3:

"(i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State."

ARTICLE II

Paragraph 1 of Article 4 of the Convention shall be deleted and replaced by the following:

"1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to taxation therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. This term also includes that State and any political subdivision or local authority thereof, or any agency or instrumentality of that State, subdivision or local authority. But this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein."

ARTICLE III

Article 7 of the Convention shall be deleted and replaced by the following:

"ARTICLE 7

Business Profits

1. 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 that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other State.

2. For the purposes of this Article and Article 21, the profits that are attributable in each Contracting State to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting State adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting States and taxes accordingly profits of the enterprise that have been charged to tax in the other State, the other State shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting States shall if necessary consult each other.

4. Where profits include items of income or gains 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 IV

Paragraph 2 of Article 8 of the Convention shall be deleted and replaced by the following:

"2. Notwithstanding the provisions of paragraph 1 and Article 7, profits derived by an enterprise of a Contracting State from the carriage by a ship or aircraft of passengers or goods taken on board at a place in the other Contracting State for discharge at another place in that other Contracting State may be taxed in that other Contracting State, unless all or substantially all of the passengers or goods carried to that other place were taken on board at a place outside that other Contracting State."

ARTICLE V

Paragraphs 3 and 4 of Article 9 of the Convention shall be deleted and replaced by the following:

"3. A Contracting State shall not make a primary adjustment to the profits of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its domestic laws and, in any case, after eight years from the end of the taxable year in which the profits which would be subject to such an adjustment would, but for the conditions referred to in paragraph 1, have been attributed to that enterprise.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or where a person's obligations have not been fulfilled owing to careless or deliberate behaviour."

ARTICLE VI

1. The following paragraphs shall be inserted after paragraph 2 of Article 10 of the Convention:

"3. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting State and beneficially owned by an organisation that was constituted and is operated in the other Contracting State exclusively to administer or provide benefits under one or more recognized pension plans shall be exempt from tax in the first-mentioned State if:

(a) the organisation is the beneficial owner of the shares on which the dividends are paid, holds those shares as an investment and is generally exempt from tax in the other State;

(b) the organisation does not own directly or indirectly more than 10 per cent of the capital or 10 per cent of the voting power of the company paying the dividends; and

(c) each recognized pension plan provides benefits primarily to individuals who are resident of the other Contracting State.

4. For the purposes of paragraph 3, the term "recognized pension plan" means:

(a) in the case of Canada, a retirement or employee benefits plan described in paragraph (a) of the definition of "pension" under Article 5 of the Income Tax Conventions Interpretation Act;

(b) in the case of the United Kingdom, a pension scheme (other than a social security scheme) registered under Part 4 of the Finance Act 2004, including pension funds or pension schemes arranged through insurance companies and unit trusts where the unit holders are exclusively pension schemes; and

(c) any other pension plan agreed by the competent authorities of both Contracting States."

2. Paragraphs 4 to 7 of Article 10 of the Convention shall be renumbered as paragraphs 5 to 8.

ARTICLE VII

Article 11 of the Convention shall be deleted and replaced by the following:

"ARTICLE 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2

   (a) interest arising in the United Kingdom and paid to a resident of Canada shall be taxable only in Canada if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by Export Development Canada;

   (b) interest arising in Canada and paid to a resident of the United Kingdom shall be taxable only in the United Kingdom if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the United Kingdom Export Credits Guarantee Department; and

   (c) interest arising in a Contracting State and paid to a resident of the other Contracting State shall not be taxable in the first-mentioned State if the beneficial owner of the interest is a resident of the other Contracting State and is dealing at arm's length with the payer.

4. Paragraph 3(c) shall not apply to interest, all or any portion of which is contingent or dependent on the use of or production from property or is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a company.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income which is subjected to the same taxation treatment as income from money lent by the laws of the State in which the income arises. However, the term "interest" does not include income dealt with in Article 8 or Article 10.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a 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 professional 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, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether the payer is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent

establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest 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.

9. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment."

ARTICLE VIII

1. Paragraph 2 of Article 12 of the Convention shall be deleted and replaced by the following:

"2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties."

2. In subparagraph (a) of paragraph 3 of Article 12 of the Convention the words "(other than payments in respect of motion pictures and works on film, videotape or other means of reproduction for use in connection with television broadcasting)" shall be deleted and replaced by "(other than payments in respect of motion pictures, and payments in respect of works on film, videotape or other means of reproduction for use in connection with television broadcasting)".

The amended subparagraph shall therefore read as follows:

"(a) copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (other than payments in respect of motion pictures, and payments in respect of works on film, videotape or other means of reproduction for use in connection with television broadcasting);"

3. Paragraph 6 of Article 12 of the Convention shall be deleted and replaced by the following:

"6. Royalties shall be deemed to arise in a Contracting State when the payer is 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 or a fixed base in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated."

ARTICLE IX

1. The reference in subparagraph (a) of paragraph 2 of Article 15 of the Convention to "183 days in the calendar year concerned" shall be deleted and replaced by "183 days in any 12 month period commencing or ending in the fiscal year concerned".

The amended paragraph shall therefore read as follows:

"2. Notwithstanding the provisions of paragraph 1, 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 any 12 month period commencing or ending 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."

2. Paragraph 3 of Article 15 of the Convention shall be deleted and replaced by the following:

"3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State."

3. Paragraph 5 of Article 15 of the Convention shall be deleted.

ARTICLE X

Paragraph 3 of Article 18 of the Convention shall be deleted.

ARTICLE XI

Paragraph 2 of Article 21 of the Convention shall be deleted and replaced by the following:

"2. 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 or, as the case may be, regarding the exemption from United Kingdom tax of a dividend arising in a territory outside the United Kingdom or of the profits of a permanent establishment situated in a territory outside the United Kingdom (which shall not affect the general principle of this Article):

(a) Canadian tax payable under the laws of Canada and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Canada (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 Canadian tax is computed;

(b) a dividend which is paid by a company which is a resident of Canada to a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax, when the exemption is applicable and the conditions for exemption under the law of the United Kingdom are met;

(c) the profits of a permanent establishment in Canada of a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax when the exemption is applicable and the conditions for exemption under the law of the United Kingdom are met;

(d) in the case of a dividend not exempted from tax under subparagraph (b) which is paid by a company which is a resident of Canada 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 mentioned in subparagraph (a) shall also take into account the Canadian tax payable by the company in respect of its profits out of which such dividend is paid."

ARTICLE XII

Article 23 of the Convention shall be deleted and replaced by the following:

"ARTICLE 23

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those States, address to the competent authority of the Contracting State of which that person is a resident an application in writing stating the grounds for claiming the revision of such taxation. To be admissible, the application must be submitted within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory 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 this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. For the purposes of Articles 6, 7 and 14 of this Convention, a Contracting State shall not, after the expiry of the time limits provided in its domestic laws and, in any case, after eight years from the end of the taxable period to which the income concerned was attributed, make a primary adjustment to the income of a resident of one of the Contracting States where that income has been charged to tax in the other Contracting State in the hands of that resident. The foregoing shall not apply in the case of fraud or wilful default or where a person's obligations have not been fulfilled owing to careless or deliberate behaviour.

4. 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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

5. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying this Convention.

6. Where,

(a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention, and

(b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within a period of three years from the date on which the information necessary to undertake substantive consideration for a mutual agreement has been received by both competent authorities or such other period from that date as is agreed by both competent authorities,

any unresolved issues arising from the case shall be submitted to arbitration. The arbitration shall be conducted in the manner prescribed by the rules and procedures agreed upon by the Contracting States through an exchange of diplomatic notes. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person whose taxation is directly affected by the arbitration decision does not accept that decision, the decision shall be binding on both States and shall constitute a resolution by mutual agreement under this Article.

7. The provisions of paragraph 6 shall apply only with respect to issues arising under Article 4 (but only insofar as the issue relates to the residence of an individual), Article 5, Article 7, Article 9, Article 12 (but only insofar as Article 12 might apply in transactions involving related persons to which Article 9 might apply), Article 14, and any other Articles subsequently agreed by the Contracting States through an exchange of diplomatic notes."

ARTICLE XIII

Article 24 of the Convention shall be deleted and replaced by the following:

"ARTICLE 24

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to taxes of every kind and description imposed by or on behalf of the Contracting States or of their political subdivisions, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation

(a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other 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 (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because the information relates to ownership interests in a person.

6. Authorized representatives of a Contracting State shall be permitted to enter the other Contracting State to interview individuals or examine a person's books and records with their consent, in accordance with procedures mutually agreed upon by the competent authorities."

ARTICLE XIV

The following new Article shall be inserted immediately after Article 24 of the Convention:

"ARTICLE 24A

Assistance in the Collection of Taxes

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, including agreement to ensure comparable levels of assistance.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description collected by or on behalf of the Contracting States, or on behalf of the political subdivisions of the Contracting States, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State made in accordance with the mode of application referred to in paragraph 1, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. Notwithstanding the provisions of paragraph 3, a revenue claim accepted by a Contracting State for purposes of paragraph 3 shall not, in that State, be accorded any

priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

5. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

6. Where, at any time after a request has been made by a Contracting State under paragraph 3 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

7. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

   (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

   (b) to carry out measures which would be contrary to public policy (ordre public);

   (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection available under its laws or administrative practice;

   (d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State;

   (e) to provide administrative assistance if and insofar as it considers the taxation in the other State to be contrary to generally accepted taxation principles."

ARTICLE XV

1. Paragraph 3 of Article 27 of the Convention shall be deleted and replaced by the following:

"3. Nothing in this Convention shall be construed as restricting the right of a Contracting State to tax a resident of that State on that resident's share of any income or capital gains of a partnership, trust or controlled foreign affiliate in which that resident has an interest."

2. Paragraph 5 of Article 27 of the Convention shall be deleted and paragraphs 6 and 7 shall be renumbered paragraphs 4 and 5 respectively.

ARTICLE XVI

1. Each Contracting State shall notify the other Contracting State, by diplomatic notes, of the completion of its internal procedures required to bring this Protocol into force. This Protocol shall enter into force on the date of the later of these notes and its provisions shall have effect:

(a) in Canada:

(i) in respect of tax withheld at the source, on amounts paid or credited to non residents on or after the first day of January in the calendar year next following the date that this Protocol enters into force; and

(ii) in respect of other Canadian tax, for taxation years beginning on or after the first day of January in the calendar year next following the date that this Protocol enters into force;

(b) in the United Kingdom:

(i) in respect of tax withheld at the source, on amounts paid or credited to non residents on or after the first day of January in the calendar year next following the date that this Protocol enters into force;

(ii) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date that this Protocol enters into force; and

(iii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date that this Protocol enters into force.

2. Notwithstanding the provisions of paragraph 1, the provisions of Article 23 (Mutual agreement procedure), Article 24 (Exchange of information) and Article 24A (Assistance in the collection of taxes) of the Convention, introduced by Articles XII, XIII and XIV of this Protocol, shall have effect from the date of entry into force of this Protocol, without regard to the taxable period to which the matters relate. However, paragraphs 6 and 7 of Article 23 (Mutual agreement procedure) of the Convention introduced by Article XII of this Protocol shall have effect from the date specified through an exchange of diplomatic notes, and Article 24A (Assistance in the collection of taxes) introduced by Article XIV of this Protocol shall not apply to revenue claims in respect of taxation years ending more than five years before the date on which this Protocol enters into force.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at London, this 21st day of July 2014, in the English and French languages, each version being equally authentic.

FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

David Gauke

FOR THE GOVERNMENT OF CANADA

John Baird

PART 2

INTERPRETATIVE PROTOCOL

At the signing of the Protocol amending the *Convention between the Government of Canada and the Government of the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains*, signed at London on 8th September 1978, as amended by the Protocol signed at Ottawa on 15th April 1980, by the Protocol signed at London on 16th October 1985 and by the Protocol signed at London on 7th May 2003 (hereinafter referred to as the "Convention"), the undersigned have agreed upon the following provisions which shall form an integral part of the Convention:

1. In relation to the application of the Convention to United Kingdom Limited Liability Partnerships:

> It is understood that for the purpose of providing benefits under the Convention in respect of income or gains derived by or through a Limited Liability Partnership which is established under the laws of the United Kingdom, has its place of effective management in the United Kingdom, and is treated as fiscally transparent under the tax laws of the United Kingdom, the income or gains shall be considered to be income or gains of the members of the Limited Liability Partnership, but only to the extent that the income or gains are treated, for purposes of taxation by the United Kingdom, as the income or gains of a resident of the United Kingdom. In no case shall the provisions of this paragraph be construed so as to restrict in any way a Contracting State's right to tax the residents of that State. The competent authorities of the Contracting States may consult to determine the application of this paragraph.

2. In relation to paragraph 1 of Article 4 of the Convention:

> It is understood that the word "instrumentality" includes a person that is wholly owned, directly or indirectly, by a Contracting State or a political subdivision or local authority of a Contracting State.

3. For the purposes of paragraph 3(c) of Article 11 of the Convention, it is understood that:

(a) in the case of Canada, whether persons are considered to be dealing at arm's length with each other, or not, is determined by subsection 251(1) of the Income Tax Act;

(b) in the case of the United Kingdom, persons are considered not to be dealing at arm's length where:

(i) one person is treated as having control of another person as defined in section 450 or section 1124 of Corporation Tax Act 2010;

(ii) persons are associates or connected persons as defined by section 448 or section 1122 of Corporation Tax Act 2010; or

(iii) neither subparagraph (i) nor subparagraph (ii) applies and conditions are made or imposed between those persons which does not reflect ordinary commercial dealing between persons acting in their separate interests.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Interpretative Protocol.

DONE in duplicate at London, this 21st day of July 2014, in the English and French languages, each version being equally authentic.

FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

David Gauke

FOR THE GOVERNMENT OF CANADA

John Baird

EXPLANATORY NOTE

(This note is not part of the Order)

Part 1 of the Schedule to this Order contains a Protocol ("the amending Protocol") which further amends a convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Canada ("the Convention"). Part 2 of the Schedule to this Order contains an Interpretative Protocol which clarifies the intended interpretation of particular aspects of the amending Protocol.

The Convention was scheduled to the Double Taxation Relief (Taxes on Income) (Canada) Order 1980 (S.I. 1980/709) and has previously been amended by the arrangements set out in the Schedules to the Double Taxation Relief (Taxes on Income) (Canada) (No. 2) Order 1980 (S.I. 1980/1528), and the Double Taxation Relief (Taxes on Income) Canada Orders of 1985 (S.I. 1985/1996) and 2003 (S.I. 2003/2619).

The Convention aims to eliminate the double taxation of income and gains arising in one country and paid to residents of the other country. This is done by allocating the taxing rights that each country has under its domestic law over the same income and gains, and/or by providing relief from double taxation. There are also specific measures which combat discriminatory tax treatment and provide for assistance in international tax enforcement. The amending Protocol continues this approach.

Article 2 makes a declaration that it is expedient that the amending Protocol and Interpretative Protocol should have effect. Amendments are made to Articles of the Convention relating to business profits, shipping and air transport, associated enterprises, dividends, interest, royalties, dependent personal services, government service, elimination of double taxation, exchange of information and the mutual agreement procedure. The general definitions Article is also amended to extend the meaning of "person" in the Convention to include partnerships, and the meaning of "resident of a Contracting State" is amended. An Article on assistance in the collection of taxes is added to the Convention.

The amending Protocol to the Order will enter into force on the date of the later of the notifications by each country of the completion of its legislative procedures. It will take effect in each country as follows:

(a) in the United Kingdom:

  (i) in respect of tax withheld at source, on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following the date on which the amending Protocol enters into force;

  (ii) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date on which the amending Protocol enters into force; and

  (iii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which the amending Protocol enters into force;

(b) in Canada:

  (i) in respect of tax withheld at source, on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following the date on which the amending Protocol enters into force; and

  (ii) in respect of other Canadian tax, for taxation years beginning on or after the first day of January in the calendar year next following the date on which the amending Protocol enters into force.

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 this Order as it gives effect to a previously announced policy to enact a double taxation agreement.

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