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

1973 No. 2096

INCOME TAX

**The Double Taxation Relief (Taxes on Income) (Barbados)
Order 1973**

Laid before the House of Commons in draft

Made - - - 12th December 1973

At the Court at Buckingham Palace, the 12th day of December 1973

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the Commons House of Parliament in accordance with the provisions of section 497(8) of the Income and Corporation Taxes Act 1970(a), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of this Order:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the said Income and Corporation Taxes Act 1970, as amended by section 98 of the Finance Act 1972(b), 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) (Barbados) Order 1973.

2. It is hereby declared—

(a) that the arrangements specified in the Protocol 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) (Barbados) Order 1970(c), have been made with the Government of Barbados 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 Barbados; and

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

W. G. Agnew.

SCHEDULE

PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF BARBADOS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS, SIGNED AT BRIDGETOWN ON 26 MARCH 1970.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Barbados;

Desiring to conclude a protocol to amend the Agreement between the Contracting Governments for the avoidance of double taxation and the prevention of fiscal evasion with respect on taxes on income and capital gains, signed at Bridgetown on 26 March 1970 (hereinafter referred to as "the Agreement");

Have agreed as follows:

ARTICLE 1

Article 9 of the Agreement shall be deleted and replaced by the following:

"ARTICLE 9

Dividends

(1)(a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Barbados may be taxed in Barbados.

(b) Where a resident of Barbados is entitled to a tax credit in respect of such a dividend under paragraph (2) of this Article tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.

(c) Except as aforesaid, dividends paid by a company which is a resident of the United Kingdom to a resident of Barbados who is subject to tax in Barbados on them shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(2) A resident of Barbados who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of paragraph (3) of this Article and provided he is subject to tax in Barbados on those dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends, and to the payment of any excess of such credit over his liability to United Kingdom tax.

(3) Paragraph (2) of this Article shall not apply where the recipient of the dividend is a company which, either alone or together with one or more associated companies, controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends. For the purposes of this paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

(4) Dividends paid by a company which is a resident of Barbados to a resident of the United Kingdom who is subject to tax in the United Kingdom in respect thereof shall be exempt from any tax in Barbados which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(5) Subject to the provisions of paragraph (5) of Article 10 and paragraph (5) of Article 11 the term "dividends" includes any item which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a distribution of a company.

(6) If the recipient of a dividend is a company which owns 10 per cent or more of the class of shares in respect of which the dividend is paid, then paragraphs (1) and (2) or, as the case may be, paragraph (4) of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the beneficial owner of the dividend became the owner of 10 per cent or more of the class of shares in question.

Provided that this paragraph shall not apply if the beneficial owner of the dividend shows that the shares were acquired for bona fide commercial reasons and not primarily for the purpose of securing the benefit of this Article.

(7) The provisions of paragraphs (1) and (2) or, as the case may be, paragraph (4) of this Article shall not apply where a resident of a Contracting State has a permanent establishment in the other Contracting State and the holding by virtue of which the dividends are paid is effectively connected with a business carried on through that permanent establishment. In such a case the dividends shall be treated as if they were industrial or commercial profits to which the provisions of Article 6 are applicable.

(8) Where a company which is a resident of a Contracting State derives profits or income from sources within the other Contracting State, that other State shall not impose any form of taxation on dividends paid by the company to persons not resident in that other State, or any tax in the nature of an undistributed profits tax on undistributed profits of the company by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived."

ARTICLE 2

This Protocol, which shall form an integral part of the Agreement, shall come into force when the last of all such things shall have been done in the United Kingdom and Barbados as are necessary to give the Protocol the force of law in the United Kingdom and Barbados respectively, and shall thereupon have effect in relation to dividends paid on or after 6 April 1973.

In witness whereof, the undersigned, duly authorised by their respective Governments, have signed this Protocol.

Done in duplicate at Bridgetown this eighteenth day of September, one thousand nine hundred and seventy-three.

For the Government of
the United Kingdom of
Great Britain and
Northern Ireland:
J. R. JOHNSON,
Acting High Commissioner.

For the Government
of Barbados:
ERROL W. BARROW,
Prime Minister and
Minister of Finance.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Protocol scheduled to this Order makes certain alterations to the Agreement with Barbados signed on 26th March 1970. These alterations follow from the introduction of the new United Kingdom corporation tax system which, so far as it relates to the tax treatment of dividends paid by a United Kingdom company to an overseas shareholder, came into operation on 6th April 1973. The Protocol provides that where a United Kingdom company pays a dividend to a resident of Barbados other than a company which controls 10 per cent or more of the voting power in the paying company, the recipient is, subject to certain conditions, to receive the tax credit to which an individual resident in the United Kingdom and in receipt of such a dividend would be entitled less income tax at a rate not exceeding 15 per cent on the aggregate of the dividend and the tax credit.

The Protocol is expressed to take effect in relation to dividends paid on or after 6th April 1973.

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