

2021 No. 633

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

The Double Taxation Relief (Sweden) Order 2021

Made - - - -

26th May 2021

At the Court at Windsor Castle, the 26th day of May 2021

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 approved by 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 (Sweden) Order 2021.

Double taxation arrangements to have effect

2. It is declared that—

- (a) the arrangements specified in the Protocol set out in the Schedule to this Order, which amend the arrangements set out in the Schedule to the Double Taxation Relief and International Tax Enforcement (Sweden) Order 2015^(b), have been made with the Government of the Kingdom of Sweden;
- (b) those arrangements have been made with a view to affording relief from double taxation in relation to capital gains tax, corporation tax, income tax and taxes of a similar character imposed by the laws of the Government of the Kingdom of Sweden; and
- (c) it is expedient that those arrangements should have effect.

^(a) 2010 c.8.
^(b) S.I. 2015/1891.

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE

Article 2

PROTOCOL AMENDING THE CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Sweden,

Desiring to conclude a Protocol to amend the Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Sweden for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains signed at Stockholm on 26 March 2015 (hereinafter referred to as “the Convention”),

Have agreed as follows:

ARTICLE I

The preamble of the Convention shall be deleted and replaced by the following:

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

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains,

Intending to eliminate double taxation with respect to taxes on income and on capital gains without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States),

Have agreed as follows:”

ARTICLE II

Paragraph 6 of Article 10 (Dividends) of the Convention shall be deleted.

ARTICLE III

Paragraph 5 of Article 11 (Interest) of the Convention shall be deleted.

ARTICLE IV

Paragraph 5 of Article 12 (Royalties) of the Convention shall be deleted.

ARTICLE V

Paragraph 5 of Article 20 (Other income) of the Convention shall be deleted.

ARTICLE VI

1. Paragraph 1 of Article 23 (Mutual agreement procedure) of the Convention shall be deleted and replaced by the following:

“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 Contracting States, present the case to the competent authority of either Contracting

State. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.”

2. Sub-paragraph a) of paragraph 6 of Article 23 (Mutual agreement procedure) of the Convention shall be deleted and replaced by the following:

“(6a) The provisions of paragraph 5 shall not apply to cases falling within paragraph 3 of Article 4.”

ARTICLE VII

The following new Article shall be inserted immediately after Article 27 (Preferential regimes) of the Convention:

“ARTICLE 27A

Entitlement to benefits

Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital gains if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.”

ARTICLE VIII

1. Each of the Contracting States shall notify the other in writing, through diplomatic channels, of the completion of the procedures required by its law for the entry into force of this Protocol.

2. The Protocol shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect

(a) in Sweden:

- (i) in respect of taxes withheld at source, for amounts paid or credited on or after 1st January of the year next following the date on which the Protocol enters into force;
- (ii) in respect of other taxes on income, for taxes chargeable for any tax year beginning on or after 1st January of the year next following the date on which the Protocol enters into force; and

(b) in the United Kingdom:

- (i) in respect of taxes withheld at source, for amounts paid or credited on or after 1st January of the year next following the date on which the 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 this Protocol enters into force;
- (iii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which this Protocol enters into force.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done in duplicate at London this 23rd day of February in the English language.

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to the Order contains a protocol (“the Protocol”) which amends a convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Sweden dealing with the elimination of double taxation with respect to taxes on income and on capital gains and the prevention of tax avoidance and evasion (“the Convention”). This Order brings the Protocol into effect.

The Convention was scheduled to the Double Taxation Relief and International Tax Enforcement (Sweden) Order 2015 (S.I. 2015/1891).

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 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 Protocol continues this approach.

Article 1 provides for citation.

Article 2 makes a declaration as to the effect and content of the Protocol. Amendments are made to the preamble to the Convention and the Articles of the Convention relating to dividends, interest, royalties, other income and mutual agreement procedure. An Article relating to entitlement to benefits is added to the Convention.

The Protocol will enter into force on the thirtieth day after the receipt of the later of the notifications by each country of the completion of its legislative procedures. They will take effect as follows:

- (a) in Sweden:
 - (i) in respect of taxes withheld at source, for amounts paid or credited on or after 1st January of the year next following the date on which the Protocol enters into force;
 - (ii) in respect of other taxes on income, for taxes chargeable for any tax year beginning on or after 1st January of the year next following the date on which the Protocol enters into force; and
- (b) in the United Kingdom:
 - (i) in respect of taxes withheld at source, for amounts paid or credited on or after 1st January of the year next following the date on which the 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 Protocol enters into force;
 - (iii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which the 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 the Order as it gives effect to a protocol amending a double taxation agreement. Double taxation agreements impose no obligations on taxpayers, rather they seek to eliminate double taxation and fiscal evasion.

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