STATUTORY INSTRUMENTS

1984 No. 1825

INCOME TAX

The Double Taxation Relief (Air Transport Profits) (Kuwait) Order 1984

Laid before the House of Commons in draft

Made - - - - 22*nd November* 1984

At the Court at Buckingham Palace, the 22nd day of November 1984

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons 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 that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the Income and Corporation Taxes Act 1970, 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 (Air Transport Profits) (Kuwait) Order 1984.

2. It is hereby declared—

(a) that the arrangements specified in the Agreement set out in the Schedule to this Order have been made with the Government of the State of Kuwait with a view to affording relief from double taxation in relation to income tax, corporation tax or capital gains tax and taxes of a similar character imposed by the laws of Kuwait; and

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

G. I. de Deney,
Clerk of the Privy Council.

(**a**) 1970 c.10; section 497 was amended and extended by sections 98(2) and 100(1) of the Finance Act 1972 (c.41) and section 10 of the Capital Gains Tax Act 1979 (c.14).

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE STATE OF KUWAIT FOR THE AVOIDANCE OF DOUBLE TAXATION ON REVENUES ARISING FROM THE BUSINESS OF INTERNATIONAL AIR TRANSPORT

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

Desiring to conclude an Agreement for the avoidance of double taxation on revenues arising from the business of international air transport;

Have agreed as follows:

ARTICLE 1

(1) The taxes which are the subject of this Agreement are:

(a) in the United Kingdom of Great Britain and Northern Ireland:

(i) the income tax;

(ii) the corporation tax;

(iii) the capital gains tax;

(hereinafter referred to as "United Kingdom tax");

(b) in the State of Kuwait:

(i) the income tax (imposed by Decree No 3 (1955), as amended);

(hereinafter referred to as "Kuwait tax").

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the taxes referred to in paragraph (1) of this Article.

ARTICLE 2

(1) In this Agreement, unless the context otherwise requires:

(a) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom of Great Britain and Northern Ireland or the State of Kuwait as the context requires;

(b) the term "tax" means United Kingdom tax or Kuwait tax as the context requires;

(c) the term "enterprise of a Contracting State" means an enterprise which has its place of effective management and control in a Contracting State and is designated in accordance with the existing Air Services Agreement (a) between the Contracting States or authorised by any similar general or special agreement or arrangement between the Contracting States to operate scheduled or non-scheduled air services between or beyond the Contracting States;

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

(2) In the application of the provisions of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

(a) Treaty Series No. 60 (1960), Cmnd. 1168.

ARTICLE 3

(1) Income derived from the operation of aircraft in international traffic by an enterprise of a Contracting State shall not be taxed in the other Contracting State.

(2) The provisions of paragraph (1) of this Article shall also apply to the share of income from the operation of aircraft in international traffic derived by an enterprise of a Contracting State through participation in a pool, a joint business or an international operating agency.

(3) For the purposes of this Article:

(a) the term "operation of aircraft" shall include transportation by air of persons, baggage, livestock, goods or mail, carried on by the owners or lessees or charterers of aircraft, including the sale of tickets or similar documents for such transportation on behalf of other enterprises, the incidental lease of aircraft on a charter basis and any other activity directly connected with such transportation; and

(b) interest on funds directly connected with the operation of aircraft in international traffic shall be regarded as income from the operation of such aircraft.

(4) Gains derived by an enterprise of a Contracting State from the alienation of aircraft owned and operated by the enterprise, the income from which is taxable only in that State, and gains from the alienation of spares and equipment used by the enterprise in the operation of such aircraft shall not be taxed in the other Contracting State.

ARTICLE 4

Each Contracting State shall notify the other through the diplomatic channel of the completion of the relevant procedures required by its law to bring this Agreement into force. The Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect as regards income derived from the operation of aircraft in international traffic arising on or after 1 January 1982.

ARTICLE 5

This Agreement shall remain in force indefinitely but either Contracting State may terminate it by giving notice of termination, through the diplomatic channel, at least six months before the end of any calendar year after the year 1986. In such event this Agreement shall cease to have effect from 1 January of the calendar year next following that in which the notice is given.

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

Done in duplicate at London this 25th day of September 1984 AD, corresponding to 30 Thulhijja 1404 AH, in the English and Arabic languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

Richard Luce

For the Government of the State of Kuwait:

Ghazi Al-Rayes

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

Under the Agreement with Kuwait scheduled to this Order income derived from the operation of a business in international traffic between the United Kingdom and Kuwait by an air transport enterprise of the United Kingdom or Kuwait is exempt from tax in the other country.

The Agreement applies to income arising on or after 1st January 1982.

SI 1984/1825
ISBN 0-11-047825-8

