DEATH DUTIES

1957 No. 1522

The Double Taxation Relief (Estate Duty) (Pakistan) Order, 1957

Made - - - - 23*rd August*, 1957

At the Court at Balmoral, the 23rd day of August, 1957

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 subsection (2) of section fifty-six of the Finance (No. 2) Act, 1945(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 subsection (1) of section fifty-four of the said Act 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 (Estate Duty) (Pakistan) Order, 1957.

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 Pakistan with a view to affording relief from double taxation in relation to estate duty payable under the laws of the United Kingdom and duty of a similar character imposed under the laws of Pakistan; and

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

W. G. Agnew.

(a) 9 & 10 Geo. 6. c. 13.

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF PAKISTAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO DUTIES ON THE ESTATES OF DECEASED PERSONS.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Pakistan, desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to duties on the estates of deceased persons, have agreed as follows:—

ARTICLE I

(1) The duties which are the subject of the present Agreement are:—

(*a*) In the United Kingdom, the estate duty imposed in Great Britain, and

(*b*) In Pakistan, the estate duty imposed in Pakistan by or under the law of the Central Government.

(2) The present Agreement shall also apply to any other duties of a substantially similar character imposed by either Contracting Government subsequently to the date of signature of the present Agreement or by the Government of any territory to which the present Agreement is extended under Article IX or applies under Article X.

ARTICLE II

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

(*a*) The term "United Kingdom" means Great Britain and Northern Ireland;

(*b*) The term "Pakistan" means the Provinces of Pakistan and the Capital of the Federation;

(*c*) The term "Great Britain" means England, Wales and Scotland, and does not include the Channel Islands and the Isle of Man;

(*d*) The term "territory" when used in relation to one or the other Contracting Government means Great Britain or Pakistan, as the context requires;

(*e*) The term "duty" means the estate duty imposed in Great Britain or the estate duty imposed in Pakistan by the Central Government, as the context requires.

(2) For the purposes of the present Agreement, the question whether a deceased person was at the time of his death domiciled in any part of Great Britain or in any part of Pakistan shall be determined in accordance with the law in force in Great Britain and Pakistan respectively.

(3) In the application of the provisions of the present Agreement by either Contracting Government any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the law of that Contracting Government relating to the duties which are the subject of the present Agreement.

ARTICLE III

(1) Where a person was at the time of his death domiciled in any part of the territory of one of the Contracting Governments, the situs of any property which for the purposes of duty passes or is deemed to pass on his death shall for the purposes of the imposition of duty and for the purposes of Article V and of the credit to be allowed under Article VI be determined exclusively in accordance with the rules in Article IV.

(2) Paragraph (1) of this Article shall apply if, and only if, apart from the said Article IV—

(*a*) duty would be imposed on the property under the law of each of the Contracting Governments; or

(*b*) duty would be imposed on the property under the law of one of the Contracting Governments and would, but for some specific exemption, also be imposed thereon under the law of the other Contracting Government.

(3) Paragraph (1) of this Article shall not apply if by reason of its application duty would be imposed in the territory of one of the Contracting Governments on property on which, apart from the said paragraph, duty would not be imposed in that territory.

ARTICLE IV

The rules referred to in paragraph (1) of Article III are:—

(*a*) Rights or interests (otherwise than by way of security) in or over immovable property shall be deemed to be situated at the place where such property is located;

(*b*) Rights and interests (otherwise than by way of security) in or over tangible movable property other than such property for which specific provision is hereinafter made, and in or over bank or currency notes or other forms of currency recognised as legal tender in the place of issue, shall be deemed to be situated at the place where such property, notes or currency are located at the time of the death, or, if *in transitu*, at the place of destination;

(*c*) Debts (including bills of exchange and promissory notes, whether negotiable or not), secured or unsecured and whether under seal or not, excluding the forms of indebtedness for which specific provision is made elsewhere in this Article, shall be deemed to be situated at the place where the debtor was resident at the time of the death, or, if the debtor is a company, at the place where the company is incorporated;

(*d*) Bank accounts shall be deemed to be situated at the branch at which the account was kept;

(*e*) Securities issued by any government, municipality or public authority shall be deemed, if in bearer form, to be situated at the place where they are located at the time of the death and, if inscribed or registered, to be situated at the place of inscription or registration;

(*f*) Shares, stock, debentures or debenture stock in a company (including any such property held by a nominee, whether the beneficial ownership is evidenced by scrip certificates or otherwise) shall be deemed to be situated at the place where the company was incorporated;

(*g*) Moneys payable under a policy of assurance or insurance, whether under seal or not, shall be deemed to be situated at the place where the policy provided that the moneys shall be payable or, in the absence of any such provision, at the head office of the company;

(*h*) An interest in a partnership shall be deemed to be situated at the place where the business is carried on; and if the business is carried on at more places than one an appropriate proportion of the interest shall be deemed to be situated at each of those places;

(*i*) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on; and if a trade, business or profession is carried on at more places than one an appropriate proportion of the goodwill shall be deemed to be situated at each of those places;

(*j*) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft;

(*k*) Patents, trade marks and designs shall be deemed to be situated at the place where they are registered;

(*l*) Copyright, franchises and rights or licences to use any copyrighted material, patent, trade mark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;

(*m*) Rights or causes of action *ex-delicto* surviving for the benefit of the estate of a deceased person shall be deemed to be situated at the place where such rights or causes of action arose;

(*n*) Judgment debts shall be deemed to be situated at the place where the judgment is recorded;

(*o*) Any other right or interest shall—

(*i*) where the deceased person was domiciled at the date of his death in the territory of only one of the Contracting Governments, be deemed to be situated at the place determined by the law in force in the territory of the other Contracting Government ;

(ii) where the deceased person was domiciled at the date of his death in the territory of both Contracting Governments, be deemed to be situated—

(*aa*) for the purposes of the imposition of duty in Great Britain, at the place determined by the law in force in England or Scotland, as the case may be, and

(*bb*) for the purposes of the imposition of duty in Pakistan, at the place determined by the law in force in Pakistan.

ARTICLE V

(1) Where a person at the time of his death was domiciled in some part of Great Britain and was not domiciled in some part of Pakistan, duty shall not be imposed in Pakistan on any property which for the purposes of duty passes or is deemed to pass on his death unless that property

(*a*) is situated in Great Britain, or

(*b*) is settled property of which the deceased was life tenant where the settlor was domiciled in some part of Pakistan at the date on which the settlement took effect, or

(*c*) passes under a devolution regulated by the law of some part of Pakistan ;

and, in determining the amount or rate of duty payable in Pakistan, property not falling within sub-paragraph (*a*), (*b*) or (*c*) shall be disregarded.

(2) Where a person at the time of his death was domiciled in some part of Pakistan and was not domiciled in some part of Great Britain, duty shall not be imposed in Great Britain on any property which for the purposes of duty passes or is deemed to pass on his death unless that property

(*a*) is situated in Pakistan, or

(*b*) passes under a disposition or devolution regulated by the law of some part of Great Britain ;

and, in determining the amount or rate of duty payable in Great Britain, property not falling within sub-paragraph (*a*) or (*b*) shall be disregarded.

(3) In determining the amount on which duty is to be computed, permitted deductions shall be allowed in accordance with the law in force in the territory in which the duty is imposed.

ARTICLE VI

(1) Where one Contracting Government imposes duty on any property which is not situated in its territory but is situated in the territory of the other Contracting Government, the former Government shall allow against so much of its duty (as otherwise computed) as is attributable to that property a credit (not exceeding the amount of the duty so attributable) equal to so much of the duty imposed by the other Contracting Government as is attributable to such property.

(2) Where each Contracting Government imposes duty on any property which is situated—

(*a*) in the territories of both Governments, or

(*b*) outside those territories,

each Government shall allow against so much of its duty (as otherwise computed) as is attributable to that property a credit which bears the same proportion to the amount of its duty so attributable or to the amount of duty imposed by the other Contracting Government and attributable to the same property, whichever is less, as the former amount bears to the sum of both amounts.

(3) For the purposes of this Article, the amount of duty imposed by a Contracting Government and attributable to any property shall be ascertained after taking into account any credit, allowance or relief, or any remission or reduction of duty, otherwise than in respect of duty payable in the territory of the other Contracting Government.

ARTICLE VII

(1) Any claim for a credit or for a refund of duty founded on the provisions of the present Agreement shall be made within six years from the date of the death of the deceased person in respect of whose estate the claim is made, or, in the case of a reversionary interest where payment of duty is deferred until the date on which the interest falls into possession, within six years from that date.

(2) Any such refund shall be made without payment of interest on the amount so refunded.

ARTICLE VIII

(1) The taxation authorities of the Contracting Governments shall exchange such information (being information which is available under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the duties which are the subject of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the duties which are the subject of the present Agreement. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) The taxation authorities of the Contracting Governments may consult together, as may be necessary, for the purpose of carrying out the provisions of the present Agreement and in particular the provisions of Articles III and IV.

(3) As used in this Article, the term " taxation authorities " means, in the case of Great Britain, the Commissioners of Inland Revenue or their authorised representative; in the case of Pakistan, the Central Board of Revenue or their authorised representative; in the case of Northern Ireland, to which the present Agreement applies under Article X, the Minister of Finance or his authorised representative; and, in the case of any territory to which the present Agreement is extended under Article IX, the competent authority for the administration in such territory of the duties to which the present Agreement applies.

ARTICLE IX

(1) The present Agreement may be extended, either in its entirety or with modifications, to any territory to which this Article applies and which imposes duties substantially similar in character to those which are the subject of the present Agreement and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Governments in notes to be exchanged for this purpose.

(2) The termination in respect of Pakistan or Great Britain of the present Agreement under Article XII shall, unless otherwise expressly agreed by both Contracting Governments, terminate the application of the present Agreement to any territory to which the Agreement has been extended under this Article.

(3) The territories to which this Article applies are—

(*a*) in relation to the United Kingdom:

Any territory other than the United Kingdom for whose international relations the United Kingdom is responsible;

(*b*) in relation to Pakistan:

Any territory other than Pakistan for whose international relations Pakistan is responsible.

ARTICLE X

The present Agreement shall apply in relation to the estate duty imposed in Northern Ireland as it applies in relation to the estate duty imposed in Great Britain, but shall be separately terminable in respect of Northern Ireland by the same procedure as is laid down in paragraph (2) of Article XII.

ARTICLE XI

The present Agreement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and Pakistan as are necessary to give the Agreement the force of law in the United Kingdom and Pakistan respectively, and the Agreement shall be effective as to—

(*a*) the estates of persons dying on or after such date; and

(*b*) the estate of any person dying before such date and after the 4th December, 1951, where the accountable person elects that the provisions of the present Agreement shall be applied to such estate.

ARTICLE XII

(1) The present Agreement shall remain in force for not less than three years from the date of its coming into force.

(2) If, not less than six months before the expiration of such period of three years, neither of the Contracting Governments shall have given to the other Contracting Government written notice of its intention to terminate the present Agreement, the Agreement shall remain in force after such period of three years until either of the Contracting Governments shall have given written notice of such intention, in which event the present Agreement shall not be effective as to the estates of persons dying on or after the date specified in such notice (such date not being earlier than the sixtieth day after the date on which such notice is given) or, if no date is specified, on or after the sixtieth day after the date on which such notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed the present Agreement.

Done, in duplicate, at Karachi, the 8th day of June, 1957.

For the Government of the United Kingdom
Alexander Symon.

For the Government of Pakistan
S. Amjad Ali.

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

Article IV of the double estate duty Agreement with Pakistan which is scheduled to this Order provides a code of rules for determining the situs of the categories of property which may pass on the death of a person who dies domiciled in either country. The code of rules does not apply where the effect of applying it would be to bring within either country's charge to duty property which, apart from the code, would be outside the charge of the country in question (Paragraphs (2) and (3) of Article III).

For cases in which duty is charged by both countries, Article VI provides a system of "credits". Where property has a situs in one country and not in the other, the country of situs will retain its duty and the other country will allow a "credit" (Paragraph (1)); otherwise both countries will allow "credits", the sum of which will eliminate the smaller of the two duties (Paragraph (2)).

Provision is made for the exchange of information between the taxation authorities of the two countries.

The Agreement applies to the estate duty (separate from British estate duty) which is imposed in Northern Ireland.

The Agreement is effective as regards the estates of persons who die on or after the date when it comes into force. But provision is made for the Agreement to be applied to the estate of a person who dies before the Agreement comes into force and after 4th December, 1951, if the accountable person so elects.

1957 No. 426

The Double Taxation Relief (Estate Duty) (Switzerland) Order, 1957

Made - - - - 15th March, 1957

At the Court at Buckingham Palace, the 15th day of March, 1957

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 subsection (4) of section seventy-seven of the Finance Act, 1948(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 on Her by subsection (1) of the said section seventy-seven 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 (Estate Duty) (Switzerland) Order, 1957.

2. It is hereby declared—

(*a*) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Swiss Federal Council with a view to affording relief from double taxation in relation to estate duty payable under the laws of the United Kingdom and cantonal and communal taxes leviable on or by reference to death imposed by the laws of Switzerland; and

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

W. G. Agnew.

(a) 11 & 12 Geo. 6. c. 49.