STATUTORY INSTRUMENTS

1989 No. 986

TAXES

The Double Taxation Relief (Taxes on Estates of Deceased Persons and Inheritances and on Gifts) (Sweden) Order 1989

Made - - - - *13th June 1989*

At the Court at Buckingham Palace, the 13th day of June 1989

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 158(4) of the Inheritance Tax Act 1984(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 158 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 (Taxes on Estates of Deceased Persons and Inheritances and on Gifts) (Sweden) Order 1989.

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 Estates of Deceased Persons and Inheritances and on Gifts) (Sweden) Order 1981(b), have been made with the Government of the Kingdom of Sweden, with a view to affording relief from double taxation in relation to capital transfer tax or inheritance tax and taxes of a similar character imposed by the laws of the Kingdom of Sweden; and

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

G. I. de Deney
Clerk of the Privy Council

(a) 1984 c.51; section 158 was amended by section 70(2) of the Finance Act 1987 (c.16). By virtue of section 100(1) and (2) of the Finance Act 1986 (c.41) on and after 25th July 1986 the Capital Transfer Tax Act may be cited as the Inheritance Tax Act 1984, and any reference in that Act to capital transfer tax is to have effect as a reference to inheritance tax, except where the reference relates to a liability arising before that date. (b) S.I. 1981/840.

SCHEDULE

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON ESTATES OF DECEASED PERSONS AND INHERITANCES AND ON GIFTS, SIGNED IN STOCKHOLM ON 8 OCTOBER 1980

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 Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Estates of Deceased Persons and Inheritances and on Gifts, signed in Stockholm on 8 October 1980 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

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

"(a) in the United Kingdom, the capital transfer tax and the inheritance tax;".

(2) Paragraph (2) of that Article shall be amended by the substitution for the words "the existing taxes" of the words "the taxes referred to above".

ARTICLE II

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

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

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

(b) the term "Sweden" means the Kingdom of Sweden;

(c) the term "national" means:

(i) in relation to the United Kingdom, any British citizen or any British subject not possessing the citizenship of any other Commonwealth country or territory provided he had the right of abode in the United Kingdom at the time of the death or transfer or at any other time at which his domicile falls to be determined;

(ii) in relation to Sweden, any individual possessing Swedish nationality;

(d) the term "tax" means:

(i) the capital transfer tax or the inheritance tax imposed in the United Kingdom; or

(ii) the inheritance tax or the gift tax imposed in Sweden; or

(iii) any other tax imposed by a Contracting State to which this Convention applies by virtue of the provisions of paragraph (2) of Article 2, as the context requires;

(e) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Sweden as the context requires;

(f) the term "competent authority" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and, in the case of Sweden, the Minister of Finance, his authorised representative or the authority duly designated as competent authority for the purposes of this Convention.".

ARTICLE III

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

"(1) For the purposes of this Convention, a person was domiciled:

(a) in the United Kingdom, if he was domiciled in the United Kingdom in accordance with its law or is treated as so domiciled for the purposes of a tax which is the subject of this Convention;

(b) in Sweden, if he was a resident of Sweden in accordance with its law governing a tax which is the subject of this Convention or if he was a national of Sweden.".

ARTICLE IV

In paragraph (2) of Article 6 of the Convention, the word "buildings," shall be inserted before the word "livestock".

ARTICLE V

Paragraph (1) of Article 11 of the Convention shall be amended by the deletion of the words "or a national of".

ARTICLE VI

(1) Each of the Contracting States shall notify to the other the completion of the procedure required by its law for the bringing into force of this Protocol.

(2) The Protocol shall enter into force immediately after the expiration of thirty days following the date of the later of these notifications and shall thereupon have effect:

(a) in the United Kingdom, in respect of property by reference to which there is a charge to tax which arises after 17 March 1986;

(b) in Sweden, as regards inheritance tax, in respect of estates of persons who die after 17 March 1986, and, as regards gift tax, in respect of gifts by reference to which there is a charge to tax which arises after 17 March 1986.

(3) Where any greater relief from tax would have been afforded by any provision of the Convention before amendment by this Protocol than is due under the Convention as amended by this Protocol, any such provision shall continue to have effect for any charge to tax which arises before the entry into force of this Protocol.

ARTICLE VII

This Protocol shall cease to be effective at such time as the Convention ceases to be effective in accordance with Article 18 of the Convention.

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

Done in duplicate at London this 21st day of December 1987 in the English and Swedish languages, both texts being equally authoritative.

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

Lynda Chalker

For the Government of the Kingdom of Sweden:

Leif Leifland

EXPLANATORY NOTE

(This note is not part of the Order)

The Protocol scheduled to this Order makes certain alterations to the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Estates of Deceased Persons and Inheritances and on Gifts) (Sweden) Order 1981.

The principal amendments are as follows.

The United Kingdom's inheritance tax is added to the list of taxes covered by the Convention and the provision for extending the Convention to substantially similar taxes is clarified.

Amendments are made to the definitions of "national" in relation to the United Kingdom, "competent authority" in relation to Sweden and "immovable property". The first two amendments are necessary because the definitions in the Convention are now out of date. The third amendment makes it plain that the term includes buildings. This clarifies Sweden's right to tax such property, which is treated as movable property under its domestic laws.

The scope of fiscal domicile in relation to the Convention is now redefined separately for the United Kingdom and for Sweden, since there is no Swedish counterpart to the term "domicile" in the United Kingdom.

The Protocol enters into force 30 days after notification by the later of the two countries to complete the procedures required by its law to bring the Protocol into force that those procedures have been completed. It will then take effect for transfers after 17th March 1986. There is a transitional provision to allow the benefits of the existing Convention (before amendment by the Protocol) to apply for transfers up to the date of entry into force if this is to the taxpayer's advantage.

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