STATUTORY INSTRUMENTS

1973 No. 2097

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Belize) 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 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) (Belize) Order 1973.

2. It is hereby declared—

(*a*) that the arrangements specified in the Supplementary Arrangement 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) (British Honduras) Order 1947(c) as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (British Honduras) Order 1968(d) have been made with the Government of Belize 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 Belize; and

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

W. G. Agnew.

(a) 1970 c. 10.
(b) 1972 c. 41.
(c) S.R. & O. 1947/2866 (Rev. X, p. 363: 1947 I, p. 1084).
(d) S.I. 1968/573 (1968 I, p. 1312).

SCHEDULE

SUPPLEMENTARY ARRANGEMENT BETWEEN HER MAJESTY'S GOVERNMENT AND THE GOVERNMENT OF BELIZE TO AMEND THE EXISTING ARRANGEMENT MADE IN 1947 FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, AS MODIFIED BY THE ARRANGEMENT MADE IN 1968.

1. The Arrangement made in 1947 between His Majesty's Government and the Government of British Honduras for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income as modified by the Arrangement made in 1968 (hereinafter referred to as "the existing Arrangement") shall be amended—

(*a*) by the deletion of paragraph 2(1)(*b*);

(*b*) by the substitution for the references therein to "the Colony", "Colonial enterprise" and "Colonial tax" of references to "Belize", "Belize enterprise" and "Belize tax" respectively;

(*c*) by the substitution for Paragraph 6 of the following new Paragraph—

"6.—(1) (*a*) Dividends paid by a company which is a resident of the United Kingdom to a resident of Belize may be taxed in Belize.

(*b*) Where a resident of Belize is entitled to a tax credit in respect of such a dividend under sub-paragraph (2) of this Paragraph 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 Belize who is subject to tax in Belize on them shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(2) A resident of Belize who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (3) of this Paragraph and provided he is subject to tax in Belize 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 that tax credit over his liability to United Kingdom tax.

(3) Sub-paragraph (2) of this Paragraph 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 dividend. For the purposes of this sub-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 Belize 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 Belize which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(5) The term "dividends" as used in this Paragraph means income from shares or any other item which, under the law of the territory of which the company paying the dividend is a resident, is treated as a dividend or distribution of the 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 sub-paragraphs (1) and (2) or, as the case may be, sub-paragraph (4) of this Paragraph 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 sub-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 sub-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 Paragraph.

(7) The provisions of sub-paragraphs (1) and (2) or, as the case may be, sub-paragraph (4) of this Paragraph shall not apply where a resident of one of the territories has in the other territory a permanent establishment 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 provisions of Paragraph 3 shall apply.

(8) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, 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."

(*d*) by the addition immediately after sub-paragraph (1) of Paragraph 13 of the following new sub-paragraph—

"(1A) For the purposes of sub-paragraph (1) of this Paragraph, the term "Belize tax payable" shall be deemed to include any amount which would have been payable as Belize tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under:

(*a*) the provisions of the Development Incentives Ordinance, 1960, so far as it was in force on, and has not been modified since, the date when this Supplementary Arrangement came into force, or has been modified only in minor respects so as not to affect its general character; or

(*b*) any other provision which may subsequently be made granting exemption or reduction of tax which is agreed by the taxation authorities of the United Kingdom and Belize to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character."

2. This Supplementary Arrangement, which shall form an integral part of the existing Arrangement, shall enter into force when the last of all such things shall have been done in the United Kingdom and Belize as are necessary to give the Supplementary Arrangement the force of law in the United Kingdom and Belize respectively and shall thereupon have effect—

(*a*) as respects Paragraph 1(*c*), in relation to dividends paid on or after 6 April 1973; and

(*b*) as respects Paragraph 1(*d*)

(i) in relation to United Kingdom income tax, for any year of assessment beginning on or after 6 April 1973; and

(ii) in relation to United Kingdom corporation tax, for any financial year beginning or on after 1 April 1973.

EXPLANATORY NOTE

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

This Supplementary Arrangement makes two amendments to the Arrangement which was made in 1947 and amended in 1968 between the United Kingdom and British Honduras (renamed Belize as from 1st June 1973).

The first follows the introduction of the new system of corporation tax in the United Kingdom, which, so far as it relates to dividends paid by a United Kingdom company to an overseas shareholder, came into operation on 6th April 1973. The Supplementary Arrangement provides that where a United Kingdom company pays a dividend to an individual resident in Belize or to a Belize company which controls less than 10 per cent 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 second amendment provides for double taxation relief to be given by the United Kingdom for tax which would have been payable in Belize but for relief granted under certain provisions of Belize law in order to encourage development.

The Supplementary Arrangement is to take effect in the United Kingdom for 1973/74 and subsequent years.

SI 1973/2097
ISBN 0-11-032097-2

