STATUTORY INSTRUMENTS

1967 No. 482

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Canada) Order 1967

Laid before the House of Commons in draft
Made - - - - 23rd March 1967

At the Court at Windsor Castle, the 23rd day of March 1967

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 347(6) of the Income Tax Act 1952(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 347(1) of the said Income Tax Act 1952, as amended by section 39 and section 64 of the Finance Act 1965(b), 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 Income) (Canada) Order 1967.

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 Canada with a view to affording relief from double taxation in relation to income tax, profits tax, corporation tax or capital gains tax and taxes of a similar character imposed by the laws of Canada; and

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

W. G. Agnew.

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10. (b) 1965 c. 25.

SCHEDULE

AN AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

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

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

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:

the income tax including surtax, the profits tax, the corporation tax and the capital gains tax;

(*b*) in Canada:

the income taxes, including the old age security tax on income, which are imposed by the Government of Canada.

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes by either Government or by the Government of any territory to which the present Agreement is extended under Article 26.

ARTICLE 2

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

(*a*) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial waters of the United Kingdom which has been designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea-bed and sub-soil and their natural resources may be exercised;

(*b*) the term "Canada" means the territory of Canada including any area outside the territorial waters of Canada which under the laws of Canada is an area within which the rights of Canada with respect to the sea-bed and sub-soil and their natural resources may be exercised;

(*c*) the terms "the territory", "one of the territories" and "the other territory" mean the United Kingdom or Canada as the context requires;

(*d*) the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of Canada, the Minister of National Revenue or his authorised representative;

(*e*) the term "United Kingdom tax" means tax imposed by the United Kingdom being tax to which this Agreement applies by virtue of Article 1; the term "Canadian tax" means tax imposed by Canada being tax to which this Agreement applies by virtue of Article 1;

(*f*) the term "tax" means United Kingdom tax or Canadian tax as the context requires;

(*g*) the term "person" includes any body of persons corporate or not corporate;

(*h*) the term "company" means any body corporate;

(*i*) the term "national" means—

(i) in relation to the United Kingdom—

(*aa*) all citizens of the United Kingdom and Colonies and British protected persons other than those citizens and protected persons who derive their status as such from connection with any territory

for whose international relations the United Kingdom Government is responsible to which this Agreement may be extended under Article 26 but has not been so extended;

(*bb*) all legal persons, associations and other entities deriving their status as such from the law of the United Kingdom or any territory for whose international relations the United Kingdom Government is responsible to which this Agreement is extended under Article 26;

(ii) in relation to Canada—

(*aa*) any individual who is a Canadian citizen;

(*bb*) any legal person deriving its status as such from the law in force in Canada or in any part thereof;

(*j*) the term "international traffic" includes traffic between places in one country in the course of a voyage which extends over more than one country;

(*k*) the term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

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

ARTICLE 3

(1) For the purposes of this Agreement the terms "resident of the United Kingdom" and "resident of Canada" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and any person who is resident in Canada for the purposes of Canadian tax.

(2) Where by reason of the provisions of paragraph (1) above an individual is a resident of both territories, his status shall be determined in accordance with the following rules—

(*a*) he shall be deemed to be a resident of the territory in which he has a permanent home available to him. If he has a permanent home available to him in both territories, he shall be deemed to be a resident of the territory with which his personal and economic relations are closest (hereinafter referred to as his "centre of vital interests");

(*b*) if the territory in which he has his centre of vital interests cannot be determined or if he has not a permanent home available to him in either territory, he shall be deemed to be a resident of the territory in which he has an habitual abode;

(*c*) if he has an habitual above in both territories or in neither of them, he shall be deemed to be a resident of the territory of which he is a national;

(*d*) if he is a national of both territories or of neither of them, the taxation authorities of the territories shall determine the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) above a person other than an individual is a resident of both territories, then it shall be deemed to be a resident of the territory in which its place of effective management is situated.

(4) The term "resident of one of the territories" and "resident of the other territory" means a person who is a resident of the United Kingdom or a person who is a resident of Canada, as the context requires.

(5) The terms "United Kingdom enterprise" and "Canadian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Canada, and the terms

"enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Canadian enterprise, as the context requires.

ARTICLE 4

(1) For the purposes of this Agreement the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include especially—

(*a*) a place of management;

(*b*) a branch;

(*c*) an office;

(*d*) a factory;

(*e*) a workshop;

(*f*) a mine, quarry, or other place of extraction of natural resources;

(*g*) a building site or construction or assembly project which exists for more than twelve months.

(3) The term "permanent establishment" shall not be deemed to include—

(*a*) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(*b*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(*c*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(*d*) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

(*e*) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) An enterprise of one of the territories shall be deemed to have a permanent establishment in the other territory if it carries on the activity of providing the services within that other territory of public entertainers or athletes referred to in Article 15.

(5) A person acting in one of the territories on behalf of an enterprise of the other territory—other than an agent of an independent status to whom paragraph (6) applies—shall be deemed to be a permanent establishment in the first-mentioned territory—

(*a*) if he has, and habitually exercises in that first-mentioned territory, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(*b*) if he maintains in that first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which he habitually fills orders on behalf of the enterprise.

(6) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory through a broker, a general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

(7) The fact that a company which is a resident of one of the territories controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 5

(1) Income from immovable property may be taxed in the territory in which such property is situated.

(2) (*a*) The term "immovable property" shall, subject to subparagraph (*b*) below, be defined in accordance with the laws of the territory in which the property in question is situated;

(*b*) the term "immovable property" shall in any case include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of paragraphs (1) to (3) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

ARTICLE 6

(1) Industrial or commercial profits of a United Kingdom enterprise shall be exempt from Canadian tax unless the enterprise carries on business in Canada through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, tax may be imposed by Canada on the industrial or commercial profits of the enterprise but only on so much of them as is attributable to that permanent establishment.

(2) Industrial or commercial profits of a Canadian enterprise shall be exempt from United Kingdom tax unless the enterprise carries on business in the United Kingdom through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, tax may be imposed by the United Kingdom on the industrial or commercial profits of the enterprise but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories carries on business in the other territory through a permanent establishment situated therein, there shall be attributed to that establishment the industrial or commercial profits which it might be expected to make if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) In determining the industrial or commercial profits of an enterprise of one of the territories which are taxable in the other territory in accordance with the previous paragraphs of this Article, there shall be allowed as deductions all expenses of the enterprise (including executive and general administrative expenses) which would be deductible if the permanent establishment were an independent enterprise and which are reasonably connected with the profits so taxable, whether incurred in the territory in which the permanent establishment is situated or elsewhere.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) The term "industrial or commercial profits" means income derived by an enterprise from the conduct of a trade or business, including income derived by an enterprise from the furnishing of services of employees or other personnel, but it does not include dividends, interest, royalties (as defined in Articles 9, 10 and 11) or rents other than dividends, interest, royalties or rents effectively connected with a trade or business carried on through a permanent establishment which an enterprise of one of the territories has in the other territory; nor does the term include remuneration for personal (including professional) services.

(7) Nothing in the foregoing provisions of this Article shall affect any of the provisions of the law of the United Kingdom relating to the liability to tax of a life assurance company not having its head office in the United Kingdom in respect of income from the investments of its life assurance fund, being provisions which (except in so far as they were rendered ineffective by virtue of Article III of the Agreement between Canada and the United Kingdom with respect to taxes on income signed at Ottawa on 6 December, 1965(a)) were in force on the date of signature of this Agreement, or which, if they have been modified since that date, have been modified only in minor respects so as not to affect their general character.

ARTICLE 7

A resident of one of the territories shall be exempt from tax in the other territory on profits from the operation of ships or aircraft in international traffic.

ARTICLE 8

Where—

(*a*) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory;

and, in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would but for those conditions, have accrued to one of the enterprises but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

ARTICLE 9

(1) The United Kingdom tax on dividends derived from a company which is a resident of the United Kingdom and which are paid after 5 April, 1966 and beneficially owned by a resident of Canada shall not exceed 15 per cent. of the gross amount of the dividends.

(2) Dividends derived from a company which is a resident of the United Kingdom and which are paid before 6 April, 1966 and which are beneficially owned by a resident of Canada shall be exempt from United Kingdom surtax.

(3) The Canadian tax on dividends derived from a company which is a resident of Canada and which are beneficially owned by a resident of the United Kingdom shall not exceed 15 per cent. of the gross amount of the dividends.

(4) (*a*) Notwithstanding paragraphs (1) and (3) of this Article where a company which is a resident of one of the territories satisfies the condition prescribed in sub-paragraph (*b*) of this paragraph, tax shall not be imposed in that territory on dividends which that company pays after 5 April 1966 to a resident of the other territory, who is the beneficial owner thereof, provided the Government of the other territory does not impose on the profits attributable to a permanent establishment of the company in that

(a) S.I. 1966/227 (1966 I, p. 478).

other territory any tax which is in addition to the tax which would be chargeable on those profits if they were the profits of a company which was a resident of the territory of that Government;

(*b*) the condition referred to in sub-paragraph (*a*) of this paragraph is that the company derived not less than 90 per cent. of its income for each of its last three accounting periods or taxation years before the dividend was paid (or in the case of a company having fewer than three accounting periods or taxation years, for each accounting period or taxation year thereof before that date) from a business carried on by it in the other territory.

(5) Subject to the provisions of paragraph (4) of Article 10 and of paragraph (4) of Article 11 of this Agreement—

(*a*) the term "dividends" in the case of the United Kingdom includes any item which under the law of the United Kingdom is treated as a distribution of a company;

(*b*) the term "dividends" in the case of Canada includes any item which under the law of Canada is treated as a dividend.

(6) The provisions of paragraphs (1) (2) and (4) of this Article shall not apply if the owner of the dividends, being a resident of Canada, has in the United Kingdom a permanent establishment and the holding giving rise to the dividends is effectively connected with a trade carried on through such permanent establishment and, in the case of a company, the trade is such that a profit on the sale of the holding would be a trading receipt.

(7) The provisions of paragraphs (3) and (4) of this Article shall not apply if the owner of the dividends, being a resident of the United Kingdom has in Canada a permanent establishment and the holding giving rise to the dividends is effectively connected with a business carried on through such permanent establishment and, in the case of a company, the business is such that a profit on the sale of the holding would be included in computing its income.

(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.

(9) (*a*) If a resident of Canada does not bear Canadian tax on dividends derived from a company which is a resident of the United Kingdom and owns 10 per cent. or more of the class of shares in respect of which the dividends are paid, then neither paragraphs (1) or (2) shall apply to the dividends to the extent that they can have been paid only out of profits which the company paying the dividends 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 dividends became the owner of 10 per cent. or more of the class of shares referred to above;

(*b*) where a company which has been incorporated in Canada after the coming into force of this Agreement has its place of effective management in the United Kingdom, paragraph (8) shall not apply to dividends paid by that company;

(*c*) this paragraph shall not apply if in the case of sub-paragraph (*a*) the shares were acquired, or in the case of sub-paragraph (*b*) the choice of the place of effective management was made for bona fide commercial reasons and not primarily for the purpose of securing the benefit of this Article.

ARTICLE 10

(1) The United Kingdom tax on interest (on bonds, securities, debentures, or on any other form of indebtedness) derived and beneficially owned by a resident of Canada shall not exceed 15 per cent. of the gross amount of the interest.

(2) The Canadian tax on interest (on bonds, securities, debentures, or on any other form of indebtedness) derived and beneficially owned by a resident of the United Kingdom shall not exceed 15 per cent. of the gross amount of the interest.

(3) Paragraphs (1) and (2) of this Article shall not apply if the recipient of the interest, being a resident of one of the territories, has in the other territory a permanent establishment and the indebtedness giving rise to the interest is effectively connected with a trade or business carried on through that permanent establishment.

(4) Any provision in the law of either of the territories relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company which is a resident of the other territory to be treated as a distribution of the company paying such interest. The preceding sentence shall not apply to interest paid to a company which is a resident of one of the territories in which more than 50 per cent. of the voting power is controlled, directly or indirectly, by a person or persons resident in the other territory.

(5) The provisions of paragraphs (1) and (2) of this Article shall not apply to interest where the beneficial owner of the interest—

(*a*) is not subject to tax in respect thereof in the territory of which it is a resident; and

(*b*) sells (or makes a contract to sell) the holding from which the interest is derived within three months of the date on which such beneficial owner acquired that holding.

(6) Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the interest paid exceeds the amount which would have been agreed upon by the payer and recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

ARTICLE 11

(1) Copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including rents or royalties in respect of motion picture films and films or video tapes for use in connection with television) which are derived and beneficially owned by a resident of Canada, shall be exempt from tax in the United Kingdom.

The United Kingdom tax on royalties, other than royalties to which the preceding sentence applies and which are derived and beneficially owned by a resident of Canada shall not exceed 10 per cent. of the gross amount of the royalties.

(2) Copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including rents or royalties in respect of motion picture films and films or video tapes for use in connection with television) which are derived and beneficially owned by a resident of the United Kingdom, shall be exempt from tax in Canada.

The Canadian tax on royalties, other than royalties to which the preceding sentence applies, and which are derived and beneficially owned by a resident of the United Kingdom shall not exceed 10 per cent. of the gross amount of the royalties.

(3) Paragraphs (1) and (2) of this Article shall not apply if the recipient of the royalties, being a resident of one of the territories, has in the other territory a permanent establishment and the right or property giving rise to the royalties is effectively connected with a trade or business carried on through that permanent establishment.

(4) Royalties paid by a company which is a resident of one of the territories to a resident of the other territory shall not be treated as a distribution of or a dividend from such a company. The preceding sentence shall not apply to royalties paid to a company which is a resident of one of the territories where

(*a*) the same persons participate directly or indirectly in the management or control of the company paying the royalties, and (*b*) more than 50 per cent of the voting power in the company deriving the royalties is controlled, directly or indirectly, by a person or persons resident in the other territory.

(5) The term "royalties" as used in this Article means any royalties, rentals or other amounts paid as consideration for the use of, or the right to use, copyrights, patents, designs or models, plans, secret processes or formulae, trade-marks or other like property or rights, or for industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes any rental or like payment in respect of motion picture films and films or video tapes for use in connection with television, but does not include royalties or other amounts paid in respect of the operation of mines or quarries or of the extraction or removal of natural resources.

(6) Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the royalties paid exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

ARTICLE 12

(1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article 5, may be taxed in the territory in which such property is situated.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of one of the territories has in the other territory or of movable property pertaining to a fixed base available to a resident of one of the territories in the other territory for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other territory. However, gains derived by a resident of one of the territories from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that territory.

(3) Gains from the alienation of any property other than those mentioned in paragraphs (1) and (2) shall be taxable only in the territory of which the alienator is a resident.

ARTICLE 13

Income derived by a resident of one of the territories in respect of professional services or other independent activities of a similar character shall be subjected to tax only in that territory unless he has a fixed base regularly available to him in the other territory for the purpose of performing his activities. If he has such a fixed base, such part of that income as is attributable to that base may be taxed in that other territory.

ARTICLE 14

(1) Salaries, wages and other similar remuneration (other than remuneration to which Articles 17 and 18 apply) derived by a resident of one of the territories in respect of an employment shall be subjected to tax only in that territory unless the employment is exercised in the other territory. If the employment is so exercised such remuneration as is derived therefrom may be taxed in that other territory.

(2) Notwithstanding the provisions of paragraph (1) of this Article remuneration derived by a resident of one of the territories in respect of an employment exercised in the other territory shall be subjected to tax only in the first-mentioned territory if—

(*a*) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in the Canadian taxation year or the United Kingdom year of assessment concerned, as the case may be; and

(*b*) the remuneration is paid by or on behalf of an employer who is not a resident of the other territory; and

(*c*) the remuneration is not deducted from the profits of a permanent establishment or a fixed base which the employer has in the other territory.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the territory in which the place of effective management of the enterprise operating the ship or aircraft is situated.

(4) In relation to remuneration of a director of a company derived from the company the preceding provisions of this Article shall apply as if the remuneration were remuneration of an employee in respect of an employment, and as if references to employers were references to the company.

ARTICLE 15

Notwithstanding anything contained in Articles 13 and 14, income derived by public entertainers, such as theatre, motion picture, radio, or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the territory in which these activities are exercised.

ARTICLE 16

(1) Any pension (other than a pension referred to in paragraphs (2), (3) or (4) of this Article), or any annuity derived from sources within one of the territories by an individual who is a resident of the other territory shall be exempt from tax in the first-mentioned territory.

Provided that this paragraph shall also apply instead of paragraphs (2), (3) and (4) to any pensions referred to in those paragraphs if the provisions of this paragraph are more favourable to the individual to whom the pension is paid.

(2) Subject to the proviso to paragraph (1), any pension paid by one of the Contracting Governments to an individual for services rendered to it in the discharge of governmental functions by that individual shall be exempt from tax in the territory of the other Contracting Government if—

(*a*) that individual was a resident of the other territory on the relevant date;

(*b*) the first payment period of that pension commenced before the relevant date; and

(*c*) that pension would have been exempt from tax in that territory if Article VIII of the Agreement between Canada and the United Kingdom with respect to taxes on income signed in London on 5 June, 1946(a) were in force.

(3) Subject to the proviso to paragraph (1), any pension paid by one of the Contracting Governments to the surviving spouse or other surviving dependant of an individual who died before the relevant date, in respect of services rendered to it in the discharge of governmental functions by that individual, shall be exempt from tax in the territory of the other Contracting Government if—

(*a*) that spouse or other dependant was a resident of the other territory on the relevant date; and

(*b*) that pension would have been exempt from tax in that territory if Article VIII of the Agreement between Canada and the United Kingdom with respect to taxes on income signed in London on 5 June, 1946 were in force.

(4) Subject to the proviso to paragraph (1), any pension paid by one of the Contracting Governments to the surviving spouse or other surviving dependant of an individual who died after the relevant date in respect of services rendered

(a) S.R. & O. 1946/1885 (Rev. X, p. 369: 1946 I, p. 870).

to it in the discharge of governmental functions by that individual shall be exempt from tax in the territory of the other Contracting Government if it relates to a pension paid to that individual which was exempt from tax in the territory of the other Contracting Government by virtue of paragraph (2).

(5) In this Article the term "relevant date" means, in relation to a pension paid to a resident of Canada, 1 January, 1965 and, in relation to a pension paid to a resident of the United Kingdom, 6 April, 1965.

ARTICLE 17

(1) Remuneration (other than pensions) paid by one of the Contracting Governments to any individual for services rendered to that Contracting Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government if the individual is not ordinarily resident in that territory or is ordinarily resident in that territory solely for the purpose of rendering those services.

(2) This Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Governments for purposes of profit.

ARTICLE 18

A professor or teacher who visits one of the territories for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that territory and who is, or was immediately before that visit, a resident of the other territory shall be exempt from tax in the first-mentioned territory on any remuneration for such teaching.

ARTICLE 19

(1) A student or business apprentice, who is, or was immediately before visiting one of the territories, a resident of the other territory and is present in the first-mentioned territory solely for the purpose of his education or training shall not be taxed in that first-mentioned territory on payments which he receives for the purpose of his maintenance, education, or training provided that such payments are made to him from sources outside that first-mentioned territory.

(2) An individual who is, or was immediately before visiting one of the territories, a resident of the other territory, and who is present in the first-mentioned territory as a recipient of a grant, allowance or award for the primary purpose of research to be carried out in a period which does not exceed two years from a governmental, religious, charitable, scientific, literary or educational organization established in that other territory, shall not be taxed in that first-mentioned territory in respect of that grant, allowance or award.

ARTICLE 20

(1) Any alimony or other maintenance payment received from a resident of one of the territories by a resident of the other territory who is subject to tax there in respect thereof shall be taxable only in that other territory.

(2) The term "maintenance payment" means a payment made pursuant to an order of a competent tribunal or to a written separation agreement by one of the parties to a marriage (including a marriage which has been dissolved or annulled)—

(*a*) to or for the benefit of the other party to that marriage or children of the marriage; or

(*b*) to any person for the benefit of, or for the maintenance or education of, a person under twenty-one years of age.

ARTICLE 21

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof)—

(*a*) Canadian tax payable under the laws of Canada and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Canada, (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Canadian tax is computed; and

(*b*) in the case of a dividend paid by a company which is a resident of Canada to a company which is resident in the United Kingdom and which controls directly or indirectly at least 10 per cent. of the voting power in the Canadian company, the credit shall take into account (in addition to any Canadian tax creditable under (*a*)) the Canadian tax payable by the company in respect of the profits out of which such dividend is paid.

Provided that sub-paragraph (*b*) of this paragraph shall apply only for so long as Canada gives a deduction in computing taxable income for dividends received from a company which is a resident of the United Kingdom in which the recipient Canadian company owns more than 25 per cent. of the voting shares.

(2) Subject to the provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada (which shall not affect the general principle hereof), United Kingdom tax payable in respect of income from sources within the United Kingdom shall be deducted from any Canadian tax payable in respect of that income. Where such income is a dividend paid before 6 April, 1966, by a company which is a resident of the United Kingdom, the deduction shall take into account any United Kingdom income tax appropriate to the dividend.

(3) For the purposes of this Article profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated in international traffic by a resident of one of the territories shall be deemed to be performed in that territory.

ARTICLE 22

(1) The nationals of one of the territories shall not be subjected in the other territory to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which the nationals of the latter territory in the same circumstances are or may be subjected.

(2) The taxation on a permanent establishment which an enterprise of one of the territories has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities.

(3) Nothing in this Article shall be construed—

(*a*) as obliging either of the Contracting Governments to grant to individuals not resident in its territory those personal allowances and reliefs for tax purposes which are by law available only to individuals who are so resident;

(*b*) as restricting the right of either Contracting Government to tax in accordance with paragraphs (1) or (3) of Article 9 dividends derived by a resident of the other territory;

(*c*) as preventing the Government of one of the territories from imposing on the profits attributable to a permanent establishment in that territory of a company which is a resident of the other territory, tax in addition to the tax which would be chargeable on those profits if they were the profits of a company which was a resident of the territory of that Government, provided that any additional tax so imposed shall not be at a rate exceeding 15 per cent. of the amount of those profits after deducting therefrom all other taxes chargeable on income or profits in that territory.

(4) In this Article the term " taxation " means taxes which are the subject of this Agreement.

ARTICLE 23

In determining for the purpose of United Kingdom tax whether a company is a close company, the term " recognised stock exchange " shall include any stock exchange prescribed for the purposes of the Canadian Income Tax Act.

ARTICLE 24

(1) Where a taxpayer considers that the action of the taxation authorities of the Contracting Government has resulted or will result in taxation contrary to the provisions of this Agreement, he shall be entitled to present his case to the Government of the territory of or in which he is a national or resident. Should the taxpayer's claim be deemed worthy of consideration, the taxation authorities of the Government to which the claim is made shall endeavour to come to an agreement with the taxation authorities of the other Government with a view to a satisfactory adjustment.

(2) The taxation authorities of the Contracting Governments may communicate with each other directly to implement the provisions of this Agreement and to assure its consistent interpretation and application. In particular, the taxation authorities may consult together to endeavour to resolve disputes arising out of the application of paragraph (3) of Article 6 or Article 8 or the determination of the source of particular items of income.

ARTICLE 25

The taxation authorities of the Contracting Governments shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Agreement or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to persons other than persons (including a court or administrative tribunal) concerned with the assessment, collection, enforcement or prosecution in respect of the taxes which are the subject of this Agreement. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE 26

(1) This Agreement may be extended, either in its entirety or with modifications to any territory for whose international relations either of the Contracting Governments is responsible, and which imposes taxes substantially similar in character to those which are the subject of this 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 Letters to be exchanged for this purpose.

(2) The termination of this Agreement under Article 28 shall, unless otherwise expressly agreed by both Contracting Governments, terminate the application of this Agreement to any territory to which it has been extended under this Article.

ARTICLE 27

(1) This Agreement shall come into force on the date when the last of all such things shall have been done in the United Kingdom and Canada as are necessary to give the Agreement the force of law in the United Kingdom and Canada respectively, and shall thereupon have effect—

(*a*) in the United Kingdom—

(i) in respect of income tax for any year of assessment beginning on or after 6 April, 1965;

(ii) in respect of surtax, for any year of assessment beginning on or after 6 April, 1964;

(iii) in respect of profits tax, for any chargeable accounting period beginning on or after 1 January, 1965 and for the unexpired portion of any chargeable accounting period current at that date;

(iv) in respect of capital gains tax for any year of assessment beginning on or after 6 April, 1965; and

(v) in respect of corporation tax for any financial year beginning on or after 1 April, 1964;

(*b*) in Canada—

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after 1 January, 1965;

(ii) in respect of other Canadian tax, for the 1965 taxation year and subsequent years.

(2) The Contracting Governments shall, as soon as possible, inform one another in writing of the date when the last of all such things shall have been done as are necessary to give the Agreement the force of law in the United Kingdom and Canada respectively. The date specified by the last Government to fulfil this requirement, being the date on which the Agreement shall come into force in accordance with paragraph (1), shall be confirmed in writing by the Government so notified.

(3) The Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Canada signed at Ottawa on 6 December, 1965 shall not have effect in relation to any tax for any period for which this Agreement has effect as respects that tax.

(4) Where, however, any greater relief from tax would have been afforded by any provision of the Agreement signed at Ottawa on 6 December, 1965 than is due under this Agreement, any such provision as aforesaid shall continue to have effect—

(*a*) in the United Kingdom for any year of assessment, chargeable accounting period or financial year;

(*b*) in Canada for any taxation year;

beginning before the entry into force of this Agreement.

ARTICLE 28

This Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before the thirtieth day of June in any calendar year after the year 1967 give notice of termination to the other Contracting Government and, in such event this Agreement shall cease to be effective—

(*a*) in the United Kingdom—

(i) in respect of income tax (including surtax) and capital gains tax for any year of assessment beginning on or after 6 April, in the calendar year next following that in which the notice is given;

(ii) in respect of corporation tax for any financial year beginning on or after 1 April, in the calendar year next following that in which the notice is given;

(*b*) in Canada—

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after 1 January, in the calendar year next following that in which the notice is given; and

(ii) in respect of other Canadian tax for any taxation year ending in or after the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE at Ottawa, this twelfth day of December, one thousand nine hundred and sixty-six, in two copies in the English and French languages, both versions being equally authentic.

H. LINTOTT
For the Government of the United Kingdom of Great Britain and Northern Ireland

MITCHELL W. SHARP
For the Government of Canada

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Agreement with Canada scheduled to this Order replaces, and incorporates the substance of, the more limited Agreement signed on 6th December 1965. It also retains many of the provisions, some of them in a modified form, of the Agreement signed on 5th June 1946 which was terminated with effect, as regards United Kingdom income tax, from 6th April 1965.

There are, however, several new or substantially different provisions. The rates of tax on income flowing from one country to the other are, in general, not to exceed 15 per cent in the case of dividends and interest and 10 per cent in the case of patent royalties. Where income continues to be taxable in both countries credit is to continue to be given by the country of the taxpayer's residence for the tax payable in the country of origin of the income, but, in the case of dividends, credit for the tax on the profits out of which the dividend is paid is to be given for United Kingdom tax purposes only where the recipient of the dividend is a United Kingdom company which controls at least 10 per cent of the voting power in the paying company. Capital gains from the alienation of movable property are to be taxed only in the country of the taxpayer's residence, unless they arise from the disposal of the assets of a branch which the taxpayer has in the other country. There is also a new provision safeguarding nationals and enterprises of one country against discriminatory taxation in the other country; an additional tax not exceeding 15 per cent may, however, be charged on the net profits earned in one country by a permanent establishment of a company which is a resident of the other.

The Agreement is to take effect in the United Kingdom for corporation tax and capital gains tax for all years and for income tax, profits tax and surtax from the dates on which the 1946 Agreement ceased to have effect.