STATUTORY INSTRUMENTS

1976 No. 2152

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Republic of Ireland) (No. 2) Order 1976

Laid before the House of Commons in draft

Made - - - 15th December 1976

At the Court at Buckingham Palace, the 15th day of December 1976

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, section 98(2) of the Finance Act 1972(**b**) and section 39 of the Finance Act 1965(**c**), as amended, 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) (Republic of Ireland) (No. 2) Order 1976.

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 Income) (Republic of Ireland) Order 1976(**d**), have been made with the Government of the Republic of Ireland with a view to affording relief from double taxation in relation to income tax, corporation tax, petroleum revenue tax or capital gains tax and taxes of a similar character imposed by the laws of the Republic of Ireland; and

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

N. E. Leigh,
Clerk of the Privy Council.

(**a**) 1970 c. 10. (**b**) 1972 c. 41. (**c**) 1965 c. 25.
(d) S.I. 1976/2151 (1976 III, p. 5987).

SCHEDULE

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND AMENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS, SIGNED ON 2 JUNE 1976.

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

Desiring to conclude a Protocol to amend the Convention between the Contracting Parties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains, signed on 2 June 1976 (hereinafter referred to as "the Convention");

Have agreed as follows:—

Article I

The following sub-paragraph shall be substituted for sub-paragraph (*a*) of paragraph (3) of Article 11 ot the Convention:

" (3)(*a*) The provisions of paragraph (1) of this Article and the provisions of sub-paragraphs (*a*) (ii) and (*a*) (iii) of paragraph (2) of this Article shall not apply to dividends derived from a company which is a resident of a Contracting State by a resident of the other Contracting State if the competent authority of that other Contracting State certifies that such dividends are not subject to tax in that other Contracting State by reason of provisions in the laws of that other Contracting State which afford relief from taxation to charities and superannuation schemes, as such, or to insurance companies in respect of their pension business, being provisions which were in force at the date of signature of this Convention 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. Such dividends shall be exempt from any tax in the first-mentioned Contracting State which is chargeable on dividends."

Article II

The following new Article shall be inserted immediately after Article 14 of the Convention:

"ARTICLE 14A

Charities and superannuation schemes: additional provisions

(1) Notwithstanding the provisions of Articles 7 and 14 income derived by a resident of one Contracting State from immovable property situated in the other Contracting State, and capital gains derived by such a resident from the alienation of such property or of related movable property, shall be exempt in that other Contracting State from taxes which are the subject of this Convention by virtue of paragraph (1) of Article 2 if the competent authority of the first-mentioned Contracting State certifies that the said income or capital gains are not subject to such taxes in that State by reason of provisions in the laws of that State which afford relief from taxation to charities and superannuation schemes, as such, or to insurance companies in respect of their pension business, being provisions which were in force at the date of signature of this Convention 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.

(2) For the purposes of this Article:

(*a*) the term "related movable property" means movable property the gains from the alienation of which may, under the provisions of paragraphs (2) and (3) of Article 14, be taxed in the Contracting State in which specified immovable property is situated;

(*b*) the term "superannuation scheme" means a superannuation scheme as defined in sub-paragraph (*b*) of paragraph (3) of Article 11;

(*c*) the term "immovable property" means immovable property as defined in paragraph (2) of Article 7."

Article III

This Protocol, which shall form an integral part of the Convention, shall enter into force on the exchange of Notes confirming that the necessary steps have been taken to give it the force of law in the United Kingdom and the Republic of Ireland, and shall thereupon have effect in accordance with Article 28 of the Convention.

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

Done in two originals at Dublin this 28th day of October, 1976.

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

J. K. HICKMAN

For the Government of the Republic of Ireland:

GARRET FITZGERALD

EXPLANATORY NOTE

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

The Protocol with the Republic of Ireland scheduled to this Order makes two amendments to the Convention which is scheduled to the Double Taxation Relief (Taxes on Income) (Republic of Ireland) Order 1976.

The amendments relate to certain income and capital gains derived from one country by a resident of the other.

The Convention provides that dividends are to be exempt from income tax in the source country if the recipient is a charity or superannuation scheme which is exempt from tax in its residence country. The Protocol extends this exemption to dividends which the residence country exempts from tax because they are referable to an insurance company's pension business.

The Protocol also gives charities, superannuation schemes and the pension business of insurance companies similar reciprocal exemptions from the taxes listed in Article 2(1) of the Convention on income from immovable property and on capital gains from the alienation of immovable property or related movable property.

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