Draft Order in Council laid before the House of Commons under section 5(2) of the Taxation (International and Other Provisions) Act 2010 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2019 No.

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

The Double Taxation Relief and International Tax Enforcement (Israel) Order 2019

Made - - - - ***

At the Court at Buckingham Palace, the *** day of 2019

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 5(2) of the Taxation (International and Other Provisions) Act 2010(**a**) and section 173(7) of the Finance Act 2006(**b**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercising the powers conferred upon Her by section 2 of the Taxation (International and Other Provisions) Act 2010 and section 173(1) to (3) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows–

Citation

1. This Order may be cited as the Double Taxation Relief and International Tax Enforcement (Israel) Order 2019.

Double taxation and international tax enforcement arrangements to have effect

2. It is declared that–

(a) the arrangements specified in the Protocol set out in the Schedule to this Order have been made with the Government of the State of Israel;

(**a**) 2010 c. 8.
(**b**) 2006 c. 25.

(b) the arrangements have been made with a view to affording relief from double taxation in relation to capital gains tax, corporation tax and income tax and taxes of a similar character imposed by the laws of the State of Israel and for the purposes of assisting international tax enforcement; and

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

Name
Clerk of the Privy Council

SCHEDULE

Article 2

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE STATE OF ISRAEL, FURTHER AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF ISRAEL FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT LONDON ON 26th SEPTEMBER 1962, AS AMENDED BY THE PROTOCOL SIGNED AT LONDON ON 20th APRIL 1970

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

Desiring to conclude a Protocol to further amend the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Israel for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income, signed at London on 26th September 1962, as amended by the Protocol signed at London on 20th April 1970, (hereinafter referred to as "the Convention");

Have agreed as follows:

Article 1

The following wording of the preamble to the Convention:

> "Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,"

shall be replaced by:

> "Intending to eliminate double taxation with respect to the taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),".

Article 2

(1) The following new Article shall be inserted immediately before the existing Article I of the Convention:

"Article 1

(1) This Convention shall apply to persons who are residents of one or both of the territories.

(2) For the purposes of this Convention, income or gains derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting Party shall be considered to be income or gains of a resident of one of the territories but only to the extent that the income is treated, for purposes of taxation by that territory, as the income or gains of a resident of that territory.

(3) This Convention shall not affect the taxation, by a Contracting Party, of its residents except with respect to the benefits granted under paragraph (3) of Article III, paragraph (2) of Article IV and Articles X, XV, XVI, XVIII, XX and XXI."

(2) The existing Article I shall be renumbered as Article IA.

Article 3

(1) In sub-subparagraph (i) of subparagraph (a) of paragraph (1) of Article I of the Convention the words "(including surtax)" shall be deleted.

(2) Subparagraph (b) of paragraph (1) of Article I of the Convention shall be deleted and replaced by:

"(b) in Israel:

(i) the income tax (including capital gains tax and tax imposed under the Petroleum Profits Taxation Law 5771-2011);

(ii) the company tax; and

(iii) the tax on gains from the sale of land under the Real Estate Taxation Law

(hereinafter referred to as "Israel tax")."

Article 4

(1) Sub-subparagraph (iii) of subparagraph (h) of paragraph (1) Article II of the Convention shall be deleted and replaced by the following:

"Where by reason of the provisions of subparagraph (i) a person other than an individual is a resident of both territories, the taxation authorities of the both territories shall endeavour to determine by mutual agreement the territory of which such person shall be deemed to be a resident for the purposes of this Convention, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Convention except to the extent and in such manner as may be agreed upon by the taxation authorities of the Contracting Parties."

(2) Subparagraph (k) of paragraph (1) Article II of the Convention shall be deleted and replaced by the following:

"(k) (i) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

(ii) The term "permanent establishment" includes especially:

(aa) a place of management;

(bb) a branch;

(cc) an office;

(dd) a factory;

(ee) a workshop; and

(ff) a mine, an oil or gas well, a quarry or any other place of extraction, exploration or exploitation of natural resources.

(iii) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

(iv) Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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

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

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

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

(ee) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(ff) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (aa) to (ee), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(v) Sub-subparagraph (iv) shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same territory and

(aa) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or

(bb) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

(vi) Notwithstanding the provisions of sub-subparagraphs (i) and (ii), where a person - other than an agent of an independent status to whom sub-subparagraph (vii) applies - is acting on behalf of an enterprise and has, and habitually exercises, in one of the territories an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that territory in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in sub-subparagraph (iv) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that sub-subparagraph.

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

(viii) 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.

(ix) For the purposes of this Article, a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise."

(3) In subparagraph (l) of paragraph (1) of Article II of the Convention the full stop shall be deleted and a semi colon inserted.

(4) After subparagraph (l) of paragraph (1) of Article II of the Convention the following subparagraphs shall be added:

"(m)the term "enterprise" applies to the carrying on of any business;

(n) the term "business" includes the performance of professional services and of other activities of an independent character;

(o) The term "pension scheme" means any plan, scheme, fund, trust or other arrangement established in one of the territories which operates principally to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements and which:

(i) in the case of Israel is a pension scheme that has been approved in accordance with the provisions of the Control of the Financial Services Act (Provident Funds) 2005, as a Pension Provident Fund;

(ii) in the case of the United Kingdom is a pension scheme (other than a social security scheme) registered under Part 4 of the Finance Act 2004, including a pension fund or a pension scheme arranged through an insurance company or a unit trust where the unit holders are exclusively pension schemes; or

(iii) is any other pension scheme that has been agreed by the taxation authorities of both Contracting Parties."

(5) Paragraph (2) of Article II shall be deleted and the existing paragraph (3) shall be renumbered paragraph (2).

Article 5

Article III of the Convention shall be deleted and replaced by the following:

"Article III

(1) Profits of an enterprise of one of the territories shall be taxable only in that territory unless the enterprise carries on business in the other territory through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph (2) of this Article may be taxed in that other territory.

(2) For the purposes of this Article and Article XVII, the profits that are attributable in each territory to the permanent establishment referred to in paragraph (1) of this Article are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

(3) Where, in accordance with paragraph (2) of this Article, a Contracting Party adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the territories and taxes accordingly profits of the enterprise that have been charged to tax in the other territory, the other Party shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the taxation authorities of the territories shall if necessary consult each other.

(4) Where profits include items of income or gains which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article."

Article 6

The following new paragraph shall be inserted after the existing paragraph in Article IV of the Convention and the existing paragraph numbered (1):

"**2.** Where a Contracting Party includes in the profits of an enterprise of its territory – and taxes accordingly – profits on which an enterprise of the other territory has been charged to tax in that other territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then the other Party shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the taxation authorities of the territories shall if necessary consult each other."

Article 7

Article VI of the Convention shall be deleted and replaced by the following:

"Article VI

(1) Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed in that other territory.

(2) However, dividends paid by a company which is a resident of one of the territories may also be taxed in that territory according to the laws of that territory, but if the beneficial owner of the dividends is a resident of the other territory, the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner of the dividends is a company (other than a partnership or a real estate investment trust) which holds directly at least 10 per cent of the capital of the company paying the dividends throughout a 365 day period that includes the day of payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends);

(b) 15 per cent of the gross amount of the dividends in all other cases.

(3) Notwithstanding the provisions of paragraph (2) of this Article, dividends arising in one of the territories and beneficially owned by a pension scheme that is a resident of the other territory shall be exempt from tax in the first mentioned territory.

(4) Notwithstanding the previous provisions of this Article,

(a) distributions made by a real estate investment trust, according to Article 64A3 of the Israeli Income Tax Ordinance, which is a resident of Israel to a resident of the United Kingdom may be taxed in the United Kingdom. However, such distributions may also be taxed in Israel and according to the laws of Israel, but if

the beneficial owner of these distributions is a resident of the United Kingdom and holds directly less than 10 per cent of the capital of that real estate investment trust, the tax so charged shall not exceed 15 per cent of the gross amount of the distributions;

(b) where dividends are paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article IX by a real estate investment trust which is a resident of the United Kingdom and which distributes most of this income annually and whose income from such immovable property is exempted from tax, such dividends may be taxed in Israel. However, such dividends may also be taxed in the United Kingdom and according to the laws of the United Kingdom, but if the beneficial owner of these dividends is a resident of Israel, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. For the purposes of this subparagraph, a real estate investment trust means an investment vehicle within the meaning of Part 12 of Corporation Tax Act 2010 or a property authorised investment fund within the meaning of Part 4A of the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964).

(5) Paragraphs (2), (3) and (4) of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid or distributions are made.

(6) The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as any other item which is subjected to the same taxation treatment as income from shares by the laws of the territory of which the company making the distribution is a resident.

(7) The provisions of paragraphs (1), (2), (3) and (4) of this Article shall not apply if the beneficial owner of the dividends or of the distributions by a real estate investment company, being a resident of a territory, carries on business in the other territory of which the company paying the dividends or making the distributions is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends or distributions are paid is effectively connected with such permanent establishment. In such case the provisions of Article III shall apply.

(8) Where a company which is a resident of a territory derives profits or income from the other territory, that other territory may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other territory or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other territory, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other territory.

This paragraph shall apply also to distributions made by a real estate investment company."

Article 8

Article VII of the Convention shall be deleted and replaced by the following:

"Article VII

(1) Interest arising in one of the territories and paid to a resident of the other territory may be taxed in that other territory.

(2) However, interest arising in one of the territories may also be taxed in that territory according to the laws of that territory, but if the beneficial owner of the interest is a resident of the other territory, the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the interest in the case of interest arising in one of the territories and paid on any loan of whatever kind granted by a bank which is a resident of the other territory; and

(b) 10 per cent of the gross amount of the interest in all other cases.

(3) Notwithstanding the provisions of paragraph (2) of this Article, a resident of a territory may elect, after the end of the taxable period, to be taxed on its interest income after allowable deductions at the appropriate statutory rate that applies in the other territory.

(4) Notwithstanding the provisions of paragraphs (1), (2) and (3) of this Article, interest arising in one of the territories shall be exempt from tax in that territory if it is paid:

(a) to the Government of the other territory, a political subdivision, a local authority or the Central Bank thereof;

(b) by the Government of that territory, a political subdivision, a local authority or the Central Bank thereof;

(c) to a pension scheme which is a resident of the other territory;

(d) to a resident of the United Kingdom on corporate bonds traded on a Stock Exchange in Israel which were issued by a company which is a resident of Israel, if all the conditions in Article 9(15d) of the Israeli Income Tax Ordinance, as it stood on 1 January 2017, are met;

(e) to a resident of Israel on corporate bonds traded on a Stock Exchange in the United Kingdom which were issued by a company which is a resident of the United Kingdom, if all the conditions in section 117 of the Taxation of Chargeable Gains Act 1992, as it stood on 1 January 2017, are met.

(5) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures. The term shall not include any amounts falling within Article VI.

(6) The provisions of paragraphs (1), (2) and (3) of this Article shall not apply if the beneficial owner of the interest, being a resident of a territory, carries on business in the other territory in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article III shall apply.

(7) Interest shall be deemed to arise in one of the territories when the payer is a resident of that territory. Where, however, the person paying the interest, whether he is a resident of one of the territories or not, has in one of the territories a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the territory in which the permanent establishment is situated.

(8) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the

beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Convention."

Article 9

Article VIII of the Convention shall be deleted and replaced by the following:

"Article VIII

(1) Royalties arising in one of the territories and beneficially owned by a resident of the other territory shall be taxable only in that other territory.

(2) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a territory, carries on business in the other territory in which the royalties arise, through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article III shall apply.

(4) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Convention."

Article 10

Article VIIIA shall be deleted and replaced by the following:

"Article VIIIA

(1) Gains derived by a resident of one of the territories from the alienation of immovable property referred to in paragraph (2) of Article IX and situated in the other territory may be taxed in that other territory.

(2) Gains derived by a resident of one of the territories from the alienation of shares, other than shares in which there is substantial and regular trading on a Stock Exchange, or comparable interests, such as interests in a partnership or trust, may be taxed in the other territory if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article IX, situated in that other territory (except immovable property, or part thereof, that was alienated between that time and the time of the alienation of the shares or comparable interests, as long as no part of the value of these shares or comparable interests is derived directly or indirectly from that immovable property, or the part thereof that was alienated, at the time of that subsequent alienation).

(3) Gains from the alienation of moveable property forming part of the business property of a permanent establishment which an enterprise of one of the territories has in the other territory, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other territory.

(4) Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the territory in which the place of effective management of the enterprise is situated.

(5) Gains from the alienation of any property other than that referred to in paragraphs (1), (2), (3) and (4) of this Article shall be taxable only in the territory of which the alienator is a resident."

Article 11

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

"(2) The term "immovable property" shall have the meaning which it has under the law of the territory of the Contracting Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, any option or similar right to acquire immovable property, 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, boats and aircraft shall not be regarded as immovable property."

(2) In paragraph (4) of Article IX the words "and to income from immovable property used for the performance of professional services" shall be deleted.

Article 12

Article XI of the Convention shall be deleted and replaced by the following:

"Article XI

Subject to the provisions of paragraph (1) of Article X, pensions and other similar remuneration paid to an individual who is a resident of one of the territories, shall be taxable only in that territory."

Article 13

Article XII of the Convention shall be deleted.

Article 14

In subparagraph (c) of paragraph (2) of Article XIII the words "or a fixed base" shall be deleted.

Article 15

Article XVII of the Convention shall be deleted and replaced by the following:

"Article XVII

(1) Items of income beneficially owned by a resident of one of the territories, wherever arising, which are not dealt with in the foregoing Articles of this Convention, other than income paid out of trusts or the estates of deceased persons in the course of administration, shall be taxable only in that territory.

(2) The provisions of paragraph (1) of this Article shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article IX, if the beneficial owner of such income, being a resident of one of the territories, carries on business in the other territory through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article III shall apply.

(3) Where, by reason of a special relationship between the resident referred to in paragraph (1) of this Article and some other person, or between both of them and some third person, the amount of the income referred to in that paragraph exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the income shall remain taxable according to the laws of each Contracting Party, due regard being had to the other applicable provisions of this Convention."

Article 16

Article XVIII of the Convention shall be deleted and replaced by the following:

"Article XVIII

(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 or, as the case may be, regarding the exemption from United Kingdom tax of a dividend arising in a territory outside the United Kingdom or of the profits of a permanent establishment situated in a territory outside the United Kingdom (which shall not affect the general principle hereof):

(a) Israel tax payable under the laws of Israel and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Israel (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 Israel tax is computed;

(b) a dividend which is paid by a company which is a resident of Israel to a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax when the exemption is applicable and the conditions for exemption under the law of the United Kingdom are met;

(c) the profits of a permanent establishment in Israel of a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax when the exemption is applicable and the conditions for exemption under the law of the United Kingdom are met;

(d) in the case of a dividend not exempted from tax under sub-paragraph (b) above which is paid by a company which is a resident of Israel to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit mentioned in sub-paragraph (a) above shall also take into account the Israel tax payable by the company in respect of its profits out of which such dividend is paid.

(2) In the case of Israel double taxation shall be avoided as follows:

(a) Where a resident of Israel derives income which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Israel shall (subject to the laws of Israel regarding the allowance of a credit of foreign taxes, which shall not affect the general principle contained in this paragraph) allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in the United Kingdom;

(b) Such deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in the United Kingdom.

(3) For the purposes of paragraphs (1) and (2) of this Article, profits, income and gains owned by a resident of one of the territories which may be taxed in the other territory in

accordance with this Convention shall be deemed to arise from sources in that other territory.

(4) The provisions of paragraph (1) of this Article shall not apply where the Israel tax payable is in accordance with this Convention solely because the profits, income or chargeable gains referred to in that paragraph are also profits, income or chargeable gains derived by a resident of Israel.

(5) The provisions of paragraph (2) of this Article shall not apply where the United Kingdom tax payable is in accordance with the provisions of this Convention solely because the income referred to in that paragraph is also income derived by a resident of the United Kingdom."

Article 17

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

"Article XIX

(1) The taxation authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of domestic laws concerning taxes covered by this Convention imposed on behalf of the Contracting Parties, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Article I.

(2) Any information received under paragraph 1 of this Article by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, taxes of every kind and description, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting Party may be used for other purposes when such information may be used for such other purposes under the laws of both Contracting Parties and the taxation authority of the supplying Party authorises such use.

(3) In no case shall the provisions of paragraphs (1) and (2) of this Article be construed so as to impose on a Contracting Party the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

(4) If information is requested by a Contracting Party in accordance with this Article, the other Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph (3) of this Article but in no case shall such limitations be construed to permit a Party to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph (3) of this Article be construed to permit a Contracting Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

(2) If after the date of signature of this Protocol, an agreement is signed between Israel and a third state and that agreement provides for exchange of information in respect of taxes of every kind and description, the words in paragraph (1) of Article XIX of the Convention "taxes covered by this Convention" shall be deleted and replaced by the words "taxes of every kind and description" with effect from the date on which such agreement enters into force or, if later, the date on which this Protocol enters into force.

Article 18

Article XX of the Convention shall be deleted and replaced by the following:

"Article XX

(1) Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of the territories, present his case to the taxation authorities of either Contracting Party. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

(2) The taxation authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the taxation authority of the other territory, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the territories.

(3) The taxation authorities of the territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

(4) The taxation authorities of the territories may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs."

Article 19

The following new Article shall be inserted immediately after Article XXI:

"Article XXIA

(1) Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

(2) Where under any provision of this Convention any income or gains are relieved from tax in one of the territories and, under the law in force in the other territory a person, in respect of that income or those gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other territory and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned territory shall apply only to so much of the income or gains as is taxed in the other territory.
"

Article 20

(1) Each of the Contracting Parties shall notify the other, through diplomatic channels, of the completion of the procedures required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) in the United Kingdom:

(i) in respect of taxes withheld at source, on amounts paid or credited on or after 1 January of the calendar year following the year in which this Protocol enters into force;

(ii) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April following the date on which this Protocol enters into force;

(iii) in respect of corporation tax, for any financial year beginning on or after 1 April following the date on which this Protocol enters into force; and

(b) in Israel:

(i) in respect of taxes withheld at source, on amounts paid or credited on or after 1 January of the calendar year following the year in which this Protocol enters into force;

(ii) in respect of other taxes on income, on taxes chargeable for any tax year beginning on or after 1 January of the calendar year following the year in which this Protocol enters into force.

(2) Notwithstanding subparagraphs (a) and (b) of paragraph (1), the provisions of Articles XIX and XX of the Convention, as amended by this Protocol (including, if appropriate, paragraph (2) of Article 17 of this Protocol), shall have effect from the date of entry into force of this Convention without regard to the taxable period to which the matter relates.

Done in duplicate at London this 17th day of January 2019, which corresponds to the 11th day of Sh'vat, 5779, of the Hebrew Calendar, in the English and Hebrew languages, both texts being equally authoritative. In case of any divergence of the provisions of this Protocol, the English text shall prevail.

For the Government of the United Kingdom of Great Britain and Northern Ireland:	**For the Government of the State of Israel:**
Mel Stride	**Mark Regev**

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order contains a Protocol ("the Protocol") which amends a Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel dealing with the elimination of double taxation with respect to taxes on income and on capital gains and the prevention of tax avoidance and evasion ("the Convention"). This Order brings the Protocol into effect.

The Convention was scheduled to the Double Taxation Relief and International Tax Enforcement (Israel) Order 1970 (S.I. 1971/391).

The Convention aims to eliminate the double taxation of income and gains arising in one country and paid to residents of the other country. This is done by allocating the taxing rights that each country has under its domestic law over the same income and gains, and/or by providing relief from double taxation. There are also specific measures which combat discriminatory tax treatment and provide for assistance in international tax enforcement. The Protocol continues this approach.

Article 1 provides for citation.

Article 2 makes a declaration as to the effect and content of the Protocol.

The Protocol will enter into force on the date of the later of the notifications by each country of the completion of its legislative procedures. It will take effect as follows:

(a) in respect of taxes withheld at source, on amounts paid or credited on or after 1st January of the calendar year following the year in which this Protocol enters into force;

(b) in Israel, in respect of other taxes on income, on taxes chargeable for any tax year beginning on or after 1st January of the calendar year following the year in which this Protocol enters into force;

(c) in the United Kingdom in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April following the date on which this Protocol enters into force;

(d) in respect of corporation tax, for any financial year beginning on or after 1st April following the date on which this Protocol enters into force;

(e) notwithstanding paragraphs (a) to (d) above, the provisions of Articles XIX (Exchange of Information) and XX (Mutual Assistance Procedure) of the Convention, as amended by this Protocol (including, if appropriate, paragraph (2) of Article 17 of this Protocol), shall have effect from the date of entry into force of this Convention without regard to the taxable period to which the matter relates.

The date of entry into force will, in due course, be published in the *London, Edinburgh* and *Belfast Gazettes*.

A Tax Information and Impact Note has not been produced for the Order as it gives effect to a double tax agreement. Double taxation agreements impose no obligations on taxpayers, rather they seek to eliminate double taxation and fiscal evasion.

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