Draft Order laid before the House of Commons under section 788(10) of the Income and Corporation Taxes Act 1988 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2009 No.

TAXES

The Double Taxation Relief and International Tax Enforcement (Qatar) Order 2009

Made - - - - ***

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

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 788(10) of the Income and Corporation Taxes Act 1988(**a**) and section 173(7) of the Finance Act 2006(**b**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 788(1) of the Income and Corporation Taxes Act 1988 and section 173(1) 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 (Qatar) Order 2010.

Double taxation and international tax enforcement arrangements to have effect

2. It is declared that—

(a) the arrangements specified in the Agreement scheduled to this Order have been made with the Government of the State of Qatar;

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

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

(**a**) 1988 c. 1: Section 788 was extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12). Subsection (1) of section 788 was amended by section 88(1) of the Finance Act 2002 (c. 23) and subsection (10) of that section was substituted by section 176 of the Finance Act 2006 (c. 25).

(**b**) 2006 c. 25.

Name
Clerk of the Privy Council

SCHEDULE

Article 2

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

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

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

Have agreed as follows:

ARTICLE 1

Persons covered

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

Taxes covered

1. This Agreement shall apply to taxes on income and on capital gains imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital gains all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which this Agreement shall apply are in particular:

(a) in the case of Qatar:

(i) the taxes on income;

(ii) (hereinafter referred to as "Qatari tax");

(b) in the case of the United Kingdom:

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax;

(hereinafter referred to as "United Kingdom tax").

4. This Agreement shall also apply to any identical or substantially similar taxes that are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3

General definitions

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term "Qatar" means the State of Qatar's lands, internal waters, territorial sea including its bed and subsoil, the air space over them, the exclusive economic zone and continental shelf, over which the State of Qatar exercises sovereign rights and jurisdiction in accordance with the provisions of international law and Qatar's national laws and regulations;

(b) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be 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;

(c) the terms "a Contracting State" and "the other Contracting State" mean Qatar or the United Kingdom, as the context requires;

(d) the term "person" includes an individual, a company and any other body of persons;

(e) the term "company" means any legal entity that is treated as a company or body corporate for tax purposes;

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

(g) the term "business" means any profit seeking activity including the performance of professional services and of other activities of an independent character;

(h) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "competent authority" means:

(k) in the case of Qatar, the Minister of Economy and Finance or his authorised representative;

(l) in the case of the United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorised representative;

(m) the term "national" means:

(i) in relation to Qatar, any individual possessing the nationality of the State of Qatar; and any legal person, partnership, association or other entity deriving its status as such from the law in force in Qatar;

(ii) in relation to the United Kingdom, any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that State for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4

Residence

1. For the purposes of this Agreement, the term "resident of a Contracting State" means:

(a) in the case of Qatar, any individual who has a permanent home, his centre of vital interests, or habitual abode in Qatar, and a company incorporated or having its place of effective management in Qatar;

(b) in the case of the United Kingdom, any person who, under the laws of the United Kingdom, is liable to tax therein by reason of his residence, place of management, place of incorporation or any other criterion of a similar nature. The term, however, does not include any person who is liable to tax in the United Kingdom in respect only of income from sources in the United Kingdom.

2. The term "resident of a Contracting State" also includes that State and any political subdivision or local authority thereof.

3. Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

(a) he shall be deemed to be a resident only of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

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

(c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

ARTICLE 5

Permanent establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a warehouse;

(g) a sales outlet;

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

3. A building site, a construction, assembly or installation project or supervisory activities in connection therewith constitute a permanent establishment only if such site, project or activities last more than six months in any twelve month period commencing or ending in the tax year concerned.

4. A permanent establishment shall be deemed to exist where:

(a) an enterprise furnishes services through employees or other personnel engaged by the enterprise for such purpose, but only if the activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than 183 days in any twelve month period commencing or ending in the tax year concerned;

(b) an enterprise through an individual resident in a Contracting State performs services in the other Contracting State and the individual's stay in that other Contracting State is for a period aggregating more than 183 days in any twelve month period commencing or ending in the tax year concerned.

5. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not 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 of collecting information, for the enterprise;

(e) 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;

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

6. Notwithstanding the provisions of paragraphs (1) and (2) of this Article, where a person - other than an agent of an independent status to whom paragraph (8) of this Article applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (5) of this Article 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 paragraph.

7. Notwithstanding the preceding provisions of this Article, an insurance company of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other Contracting State or insures risks situated therein through a person, other than an agent of an independent status to whom paragraph (8) of this Article applies.

8. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State 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.

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

ARTICLE 6

Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State 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, 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) of this Article 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) and (3) of this Article shall also apply to the income from immovable property of an enterprise.

ARTICLE 7

Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph (3) of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere which are allowed under the provisions relating to indirect expenses in the domestic law of the Contracting State in which the permanent establishment is situated.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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. For the purpose of the preceding paragraphs of this Article, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is a good and sufficient reason to the contrary.

7. Where profits include items of income or capital gains which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

Shipping and air transport

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

(a) profits from the rental on a bareboat basis of ships or aircraft; and

(b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. The provisions of paragraph (1) of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

4. The provisions of this Article shall also apply to the part of those profits derived by a shipping or airline company which is attributable under its constitutive contract to the Government of a Contracting State, and profits from the operation of ships or aircraft by such a company shall be treated as derived from international traffic except where attributable to the operation of ships or aircraft solely between places in the other Contracting State.

ARTICLE 9

Associated enterprises

1. Where:

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State;

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 by a Contracting State in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State 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 Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State;

(a) except as provided in sub-paragraph 2 (b) such dividends shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident;

(b) other than where the beneficial owner of the dividends is a pension scheme, where dividends are paid out of income derived directly or indirectly from immovable property within the meaning of Article 6 by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax, the tax charged by the Contracting State of which the company paying the dividends is a resident shall not exceed 15 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. 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 income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident and also includes any other item which, under the laws of the State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

4. The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Agreement shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State 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 State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

6. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to obtain a tax advantage under this Article by means of that creation or assignment.

ARTICLE 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the

other Contracting State and at least one of the conditions mentioned in paragraph (3) of this Article is met, that interest shall be taxable only in that other State.

3. The conditions mentioned in paragraph (2) of this Article are that:

(a) the interest is beneficially owned by:

(i) that other State itself, one of its political subdivisions, local authorities or statutory bodies;

(ii) an individual;

(iii) a company in whose principal class of shares there is substantial and regular trading on a stock exchange;

(iv) a company less than 25% of whose shares or other rights are owned, directly or indirectly, by persons who are not residents of Qatar;

(v) a pension scheme; or

(vi) a financial institution which is unrelated to and dealing wholly independently with the payer (the term "financial institution" here means a bank or other enterprise substantially deriving its profits by raising debt finance in the financial markets or by taking deposits at interest and using those funds in carrying on a business of providing finance);

and is not paid as part of an arrangement involving back-to-back loans or other arrangement that is economically equivalent and intended to have a similar effect to back-to-back loans; or

(b) the interest is paid:

(i) by a Contracting State, one of its political subdivisions, local authorities or statutory bodies;

(ii) by a bank in the ordinary course of its banking business; or

(iii) on a quoted Eurobond.

4. 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 penalty charges for late payment nor any interest treated as a dividend under the provisions of paragraph (3) of Article 10 of this Agreement.

5. The provisions of paragraph (1) and (2) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State 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 7 of this Agreement shall apply.

6. 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 State, due regard being had to the other provisions of this Agreement.

7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to obtain a tax advantage under this Article by means of that creation or assignment.

ARTICLE 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. 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, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State 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 7 of this Agreement shall apply.

5. Royalties shall be deemed to arise in a Contracting State where the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. 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 State, due regard being had to the other provisions of this Agreement.

7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to obtain a tax advantage under this Article by means of that creation or assignment.

ARTICLE 13

Capital gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 of this Agreement and situated in the other Contracting State may be taxed in that other State.

2. Gains derived by a resident of a Contracting State from the alienation of:

(a) shares, other than shares in which there is substantial and regular trading on a Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or

(b) an interest in a partnership or trust the assets of which consist principally of immovable property situated in the other Contracting State, or of shares referred to in sub-paragraph (a) of this paragraph,

may be taxed in that other State.

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

4. Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic by an enterprise of that Contracting State or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

5. With respect to gains derived by a shipping or airline company mentioned in paragraph (4) of Article 8 of this Agreement, the provisions of paragraph (4) of this Article shall apply to the part of those gains which is attributable under its constitutive contract to the Government of the Contracting State to which the profits mentioned in paragraph (4) of Article 8 are attributed.

6. 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 Contracting State of which the alienator is a resident.

ARTICLE 14

Income from employment

1. Subject to the provisions of Articles 15, 17 and 18 of this Agreement, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph (1) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable year concerned; and

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

(c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

4. An individual who is both a national of a Contracting State and an employee of an enterprise of that Contracting State the principal business of which consists of the operation of aircraft in international traffic and who derives remuneration in respect of duties performed in the other Contracting State shall be exempt from tax in that other State on remuneration derived from his employment with that enterprise for a period of four years beginning with the date on which he first performs duties in that other State. For the purposes of this paragraph, a national of a State which is a member of the Gulf Co-operation Council for the Arab States and who is an employee of such an enterprise of a Contracting State shall be treated as a national of the State of Qatar.

ARTICLE 15

Directors' fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 16

Artistes and sportspersons

1. Notwithstanding the provisions of Articles 7 and 14 of this Agreement, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by entertainers or sportspersons in their capacity as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 7 and 14 of this Agreement, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Income derived by a resident of a Contracting State as an entertainer or sportsperson from activities exercised in the other Contracting State shall be exempt from tax in that other State if the visit to that State is supported wholly or mainly by public funds of the first-mentioned Contracting State, a political subdivision or local authority thereof, or takes place under a cultural agreement between the Governments of the Contracting States.

ARTICLE 17

Pensions

1. Subject to the provisions of paragraph (2) of Article 18 of this Agreement:

(a) pensions and other similar remuneration paid in consideration of past employment, and

(b) any annuity paid,

to an individual who is a resident of a Contracting State shall be taxable only in that State.

2. The term "annuity" means a stated sum payable to an individual periodically at stated times during his 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.

ARTICLE 18

Government service

1. (a) Salaries, wages and other similar remuneration, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of that State.

The provisions of Articles 14, 15, 16 and 17 of this Agreement shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 19

Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that first-mentioned State, provided that such payments arise from sources outside that State.

ARTICLE 20

Other income

1. Items of income beneficially owned by a resident of a Contracting State, wherever arising, which are not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.

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 6 of this Agreement, if the beneficial owner of such income, being a resident of a Contracting State, carries on business in the other Contracting State 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 7 of this Agreement shall apply.

3. Notwithstanding the provisions of paragraphs (1) and (2) of this Article, items of income of a resident of a Contracting State not dealt with in the foregoing articles of the Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 21

Elimination of double taxation

1. In the case of Qatar, double taxation shall be avoided as follows:

Where a resident of Qatar derives income which in accordance with the provisions of this Agreement is taxable in the United Kingdom, then Qatar shall allow as a deduction from the tax on income of that resident an amount equal to the tax paid in the United Kingdom provided that such deduction shall not exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from the United Kingdom.

2. 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) Qatari tax payable under the laws of Qatar and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Qatar (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 Qatari tax is computed;

(b) in the case of a dividend paid by a company which is a resident of Qatar 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 shall take into account (in addition to any Qatari tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Qatari tax payable by the company in respect of the profits out of which such dividend is paid.

3. For the purposes of paragraphs (1) and (2) of this Article, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Agreement shall be deemed to arise from sources in that other State.

ARTICLE 22

Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State, in the same circumstances, in particular with respect to residence, are or may be subjected.

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

3. Except where the provisions of paragraph (1) of Article 9, paragraph (6) or (7) of Article 11, or paragraph (6) or (7) of Article 12 of this Agreement apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident or to its own nationals.

6. The non-taxation of Qatari nationals under Qatari Tax Law shall not be regarded as discrimination under the provisions of this Article.

7. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

ARTICLE 23

Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph (1) of Article 22 of this Agreement, to that of the Contracting State of which he is a national.

2. The competent 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 competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Where,

(a) under paragraph (1) of this Article, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Agreement, and

(b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph (2) of this Article within three years from the presentation of the case to the competent authority of the other Contracting State,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. Unless the person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.

ARTICLE 24

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as may be relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement, in particular, to prevent fraud and to facilitate the administration of laws against tax avoidance. The exchange of information is not restricted by Articles 1 and 2 of this Agreement.

2. Any information received under paragraph (1) of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State 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, or the determination of appeals in relation to, the taxes referred to in paragraph (1) of this Article, and persons responsible for the oversight of the afore-mentioned persons, authorities or activities. 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.

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

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

(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 State;

(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 State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State 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 Contracting State 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 State 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.

ARTICLE 25

Members of diplomatic or permanent missions and consular posts

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic or permanent missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 26

Entry into force

1. The Contracting States shall notify each other in writing, through diplomatic channels, of the completion of the procedures required by their laws for the bringing into force of this Agreement. The Agreement shall enter into force on the thirtieth day from the date of the later of these notifications.

2. The provisions of this Agreement shall have effect:

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year following the year in which the Agreement enters into force;

(b) with regard to other taxes, in respect of taxable years (and in the case of United Kingdom corporation tax, financial years) beginning on or after the first day of January of the calendar year following the year in which the Agreement enters into force;

(c) notwithstanding the provisions of sub-paragraph (b) of this paragraph, in relation to the profits, income and gains referred to in Article 8, paragraphs (4) and (5) of Article 13 and paragraph (4) of Article 14 of this Agreement, in respect of taxes on income or gains arising on or after 1st January 2004.

ARTICLE 27

Termination

1. This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year following the expiration of a period of five years from the date of its entry into force.

2. This Agreement shall cease to have effect:

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year following the year in which the notice is given; and

(b) with regard to other taxes, in respect of taxable years (and in the case of United Kingdom corporation tax, financial years) beginning on or after the first day of January of the calendar year following the year in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at London this 25th day of June 2009 in the Arabic and English languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland	For the Government of the State of Qatar
Stephen Timms	*Y H Kamal*

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order contains the Agreement between the United Kingdom and Northern Ireland and the Government of the State of Qatar for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital Gains.

Article 1 of this Order provides for its citation.

Article 2 makes a declaration as to the effect and content of the arrangements set out in the Agreement and provides that it is expedient that those arrangements should have effect.

A detailed explanation of the Agreement can be found in the Explanatory Memorandum published with the Agreement and which may be seen on the website of the Office of Public Sector Information at http://www.opsi.gov.uk/stat.htm.

The Agreement will enter into force on the thirtieth day after the date of the later of the notifications by each party of the completion of its legislative procedures.

The Agreement will take effect in respect of exchange of information on the date it enters into force.

In respect of the provisions for the avoidance of double taxation, it will have effect as follows—

(a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after 1 January next following the date of entry into force;

(b) with regard to certain profits, capital gains and income derived from the operation of ships and aircraft in international traffic by an enterprise of a contracting state, in respect of taxes on such profits, income and gains arising on or after 1 January 2004; and

(c) with regard to all other taxes, in respect of taxable years (and, in the case of United Kingdom corporation tax, financial years) beginning on or after 1 January next following the date of entry into force.

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

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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Draft Order laid before the House of Commons under section 788(10) of the Income and Corporation Taxes Act 1988 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2009 No.

TAXES

The Double Taxation Relief and International Tax Enforcement (Qatar) Order 2009

£5.50

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