No. 508.

THE INCOME TAX LAW.

* CAP. 297 AND LAWS 13 OF 1950, 8 OF 1951, 31 OF 1952, 13 OF 1953 AND 5 OF 1955.

ORDER IN COUNCIL No. 2839

MADE UNDER SECTION 48 (1).

Whereas it is provided by sub-section (1) of section 48 of the Income Tax Law that if the Governor-in-Council by Order declares that arrangements specified in the Order have been made with the Government of any territory outside the Colony with a view to affording relief from Double Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything in any enactment;

And whereas by a Convention dated the 2nd day of May, 1951, between the Government of the United Kingdom and the Government of Norway, arrangements were made among other things for the avoidance of Double Taxation:

And whereas provision is made in the said Convention for the extension by means of an exchange of notes between the Contracting Parties of the said Convention, subject to such modifications and conditions (including conditions as to termination) as may be specified in the exchange of notes, to any territory, for whose international relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those which are the subject of the said Convention:

And whereas by an Exchange of Notes dated the 18th day of May, 1955, the said Convention with certain modifications was applied to the Colony:

Now, therefore, in exercise of the powers vested in the Governor-in-Council by sub-section (1) of section 48 of the Income Tax Law, His Excellency the Governor, with the advice of the Executive Council, has been pleased to order as follows:— Cap. 297.

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Norway) Order, 1956.

2. It is hereby declared—

(a) that the arrangements specified in the First Schedule to this Order, as modified by the provisions of the Second Schedule to this Order, have been made with the Government of Norway;

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

FIRST SCHEDULE.

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE NORWEGIAN GOVERNMENT FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

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

* NOTE: The Income Tax Law has been re-printed by authority and the sections referred to in this Order correspond with the sections in the Income Tax Law, as re-printed.

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

Have agreed as follows :—

ARTICLE I.

(1) The taxes which are the subject of the present Convention are :—

(*a*) In Norway :

The national income tax, including the national defence tax on income, the communal income tax, the old age pension tax, the war pension tax, and the seamen's tax, and, for the purposes of Article XIX, the national property tax, including the national defence tax on property (hereinafter referred to as " Norwegian tax ") ;

(*b*) In the United Kingdom of Great Britain and Northern Ireland :

The income tax (including surtax) and the profits tax (hereinafter referred to as " United Kingdom tax ").

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed in Norway or the United Kingdom subsequently to the date of signature of the present Convention.

ARTICLE II.

(1) In the present Convention, unless the context otherwise requires :—

(*a*) The term " United Kingdom " means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man ;

(*b*) The term " Norway " means the Kingdom of Norway, excluding Spitsbergen and Bear Island and Jan Mayen and the Norwegian dependencies outside Europe ;

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

(*d*) The term " tax " means United Kingdom tax or Norwegian tax, as the context requires ;

(*e*) The term " person " includes any body of persons, corporate or not corporate ;

(*f*) The term " company " means any body corporate ;

(*g*) The terms " resident of the United Kingdom " and " resident of Norway " mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Norway for the purposes of Norwegian tax, and any person who is resident in Norway for the purposes of Norwegian tax and not resident in the United Kingdom for the purposes of United Kingdom tax ; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in

(4) Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

(5) No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV.

Where—

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

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

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

ARTICLE V.

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

ARTICLE VI.

(1)—(*a*) Dividends paid by a company which is a resident of the United Kingdom to a resident of Norway, who is subject to tax in Norway in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(*b*) Norwegian tax on dividends paid by a company which is a resident of Norway to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on trade or business in Norway through a permanent establishment situated therein, shall not exceed 5 per cent :

Provided that, where the resident of the United Kingdom is a company which controls, directly or indirectly, not less than 50 per cent. of the entire voting power of the company paying the dividends, the dividends shall be exempt from Norwegian tax.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived,

ARTICLE VII.

(1) Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

(2) In this Article—

(*a*) The term "interest" includes interest on bonds, securities, notes, debentures or on any other form of indebtedness;

(*b*) The term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

(3) Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

(4) Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE VIII.

(1) Where under the provisions of the present Convention a resident of the United Kingdom is exempt or entitled to relief from Norwegian tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the United Kingdom.

(2) Norwegian tax on the undivided estate of a deceased person shall, in so far as the income accrues to a beneficiary who is resident in the United Kingdom, be allowed as a credit under Article XVI.

ARTICLE IX.

(1) Remuneration, including pensions, paid by, or out of funds created by, one of the Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

(2) The provisions of this Article shall not apply to payments in respect of services rendered in connexion with any trade or business carried on by either of the Contracting Parties for purposes of profit.

ARTICLE X.

(1) An individual who is a resident of the United Kingdom shall be exempt from Norwegian tax on profits or remuneration in respect of personal (including professional) services performed within Norway in any year of assessment if—

(*a*) he is present within Norway for a period or periods not exceeding in the aggregate 183 days during that year, and

(*b*) the services are performed for or on behalf of a resident of the United Kingdom, and

(*c*) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of Norway shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if—

(*a*) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(*b*) the services are performed for or on behalf of a resident of Norway, and

(*c*) the profits or remuneration are subject to Norwegian tax.

(3) The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLE XI.

A resident of one of the territories shall be exempt from tax in the other territory in respect of remuneration for services performed on ships or aircraft operating outside the other territory.

ARTICLE XII.

(1) Any pension (other than a pension of the kind referred to in paragraph (1) of Article IX) and any annuity, derived from sources within Norway by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Norwegian tax.

(2) Any pension (other than a pension of the kind referred to in paragraph (1) of Article IX) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Norway and subject to Norwegian tax in respect thereof, shall be exempt from United Kingdom tax.

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

ARTICLE XIII.

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school, or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XIV.

A student or apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him from abroad for the purposes of his maintenance, education or training.

ARTICLE XV.

(1) Individuals who are residents of Norway shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

(2) Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Norwegian tax as Norwegian nationals not resident in Norway.

ARTICLE XVI.

(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, Norwegian tax payable, whether directly or by deduction, in respect of income from sources within Norway shall be allowed as a credit against any United Kingdom tax payable in respect of that income.

Where such income is an ordinary dividend paid by a company resident in Norway the credit shall take into account (in addition to any Norwegian tax appropriate to the dividend) the Norwegian tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Norwegian tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate:

Provided that for the purposes of this paragraph of this Article, the credit to be allowed for Norwegian communal income tax shall not exceed one-half of the said communal income tax.

(2) Where United Kingdom tax is payable, whether directly or by deduction, in respect of income from sources within the United Kingdom, and that income is chargeable also to Norwegian tax, the Norwegian tax payable by the person entitled to such income on his total income chargeable to Norwegian tax shall be reduced by an amount which bears the same proportion to that Norwegian tax as the income from sources within the United Kingdom bears to the said total income: Provided that the Norwegian Ministry of Finance and Customs may decide that the deduction shall not exceed the amount of the United Kingdom tax.

Where such income is an ordinary dividend paid by a company resident in the United Kingdom, the deduction, in the event that it is restricted to the amount of the United Kingdom tax, shall take into account (in addition to the United Kingdom tax appropriate to the dividend) the United Kingdom profits tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate to which the shares are entitled and an additional participation in profits, the profits tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(3) Where income is derived from sources outside both the United Kingdom and Norway by a person who is resident in the United Kingdom for the purposes of United Kingdom tax and also resident in Norway for the purposes of Norwegian tax, the income may be taxed in both countries (subject to any Convention which may exist between either of the Contracting Parties and the territory or territories from which the income is derived). A credit shall be allowed in accordance with paragraph (1) of this Article against any United Kingdom tax payable in respect of that income, equal to that proportion of the United Kingdom tax or the Norwegian tax, whichever is the less, which such person's income from sources within the United Kingdom bears to the sum of his income from sources within the United Kingdom and his income from sources within Norway; and a deduction shall be allowed in accordance with paragraph (2) of this Article against any Norwegian tax payable in respect of that income equal to that proportion of the United Kingdom tax or the Norwegian tax, whichever is the less, which such person's income from sources within Norway bears to the sum of his income from sources within the United Kingdom and his income from sources within Norway.

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

Article XVII.

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

(2) As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of Norway, the Ministry of Finance and Customs; and, in the case of any territory to which the present Convention is extended under Article XX, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

Article XVIII.

The Agreement of 18th December, 1924, between Great Britain and Norway for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping, and the Agreement of 21st December, 1938, between the United Kingdom and Norway for the reciprocal exemption from taxes in certain cases of profits arising through agencies, shall not have effect—

(*a*) in Norway, for any period for which the present Convention has effect in that country;

(*b*) in the United Kingdom, in relation to any tax for any period for which the present Convention has effect as respects that tax.

Article XIX.

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

(2) The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits or capital attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory are or may be subjected in respect of the like profits or capital.

(3) The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory shall not be subjected in the first-mentioned territory to any taxation which is other, higher or more burdensome than the taxation to which other enterprises of that first-mentioned territory are or may be subjected in respect of the like income, profits and capital.

(4) Nothing in paragraph (1) or paragraph (2) of this Article shall be construed as obliging one of the Contracting Parties to grant to nationals of the other Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.

(5) In this Article the term "nationals" means—

(*a*) in relation to Norway, all Norwegian citizens and all juridical persons domiciled in Norway;

(*b*) in relation to the United Kingdom, all British subjects and British-protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XX, and all legal persons, partnerships and associations deriving their status as such from the law in force in any British territory to which the present Convention applies.

(6) In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XX.

(1) The present Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Parties in notes to be exchanged for this purpose.

(2) The termination in respect of Norway or the United Kingdom of the present Convention under Article XXII shall, unless otherwise expressly agreed by both Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

ARTICLE XXI.

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Oslo as soon as possible.

(2) The present Convention shall enter into force upon the exchange of ratifications and the foregoing provisions thereof shall have effect—

(*a*) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after 6th April, 1950;

as respects surtax for any year of assessment beginning on or after 6th April, 1949; and

as respects profits tax in respect of the following profits:—

(i) profits arising in any chargeable accounting period beginning on or after 1st April, 1950;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after 6th April, 1950;

(*b*) In Norway:

for the taxable years beginning on or after 1st January, 1950.

ARTICLE XXII.

The present Convention shall continue in force indefinitely but either of the Contracting Parties may, on or before 30th June in any calendar year not earlier than the year 1954, give to the other Contracting Party, through diplomatic channels, written notice of termination, provided that such notice of termination may be given in any year before 1954 if there should be any

important change in the laws of the other Contracting Party affecting the application of Article XVI. In such event, the present Convention shall cease to be effective—

(*a*) In the United Kingdom:

as respects income tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;

as respects surtax, for any year of assessment beginning on or after 6th April in the calendar year in which the notice is given; and

as respects profits tax, in respect of the following profits:—

(i) profits arising in any chargeable accounting period beginning on or after 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after 6th April in the next following calendar year;

(*b*) In Norway:

for the taxable years beginning on or after 1st January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed the present Convention and have affixed thereto their seals.

Done at London, in duplicate, in the English and Norwegian languages, both texts being equally authoritative, on the 2nd day of May, 1951.

(L.S.) HERBERT MORRISON.
(L.S.) P. PREBENSEN.

SECOND SCHEDULE.

APPLICATION.

1.—(*a*) The provisions of the Convention incorporated in the First Schedule to this Order shall apply as modified below—

(i) as if the Contracting Parties were the Colony of Cyprus and the Government of Norway; and as if the tax concerned in the case of the Colony were the income tax;

(ii) as if references to the date of signature were references to the 18th day of May, 1955.

(*b*) The extension shall have effect in the Colony as respects tax for the year of assessment 1955 and for subsequent years of assessment, (and will have effect in Norway—as respects Norwegian tax for the taxable years beginning on or after 1st January, 1954).

(*c*) The extension shall continue in effect indefinitely but may be terminated as respects the Colony by written notice of termination given on or before the 30th June in any calendar year not earlier than the year 1957 by either of the Contracting Parties to the Convention to the other Contracting Party through the diplomatic channel and in such event the extension shall cease to have effect in the Colony as respects tax for the year of assessment beginning in the calendar year next following the date of such notice and for subsequent years of assessment, (and will cease to have effect in Norway as respects Norwegian tax for the taxable years beginning on or after 1st January in the calendar year in which the notice is given).

MODIFICATIONS.

2.—(*a*) In article VI (1) of the Convention the words " shall be exempt from United Kingdom Surtax " shall be understood for the purposes of this extension as though they read " shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company ".

(*b*)—(i) In Article VII all references to interest shall be deemed to be deleted ; and

(ii) in paragraph 2 of Article XVI references to income (except in the phrase " total income ") shall be deemed not to include interest.

Made this 11th day of June, 1956.

By Command of His Excellency the Governor,

R. G. SHERIDAN,
Clerk of the Executive Council.

(M.P. 11230/55.)