STATUTORY INSTRUMENTS

2015 No. 1892

CAPITAL GAINS TAX
COPORATION TAX
INCOME TAX

The Double Taxation Relief and International Tax Enforcement (Senegal) Order 2015

Made - - - - 11th November 2015

At the Court at Buckingham Palace, the 11th day of November 2015

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(**1**) and section 173(7) of the Finance Act 2006(**2**) 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 (Senegal) Order 2015.

Double taxation and international tax enforcement arrangements to have effect

2. It is declared that—

(a) the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Republic of Senegal;

(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

(**1**) 2010 c. 8.
(**2**) 2006 c. 25.

character imposed by the laws of the Republic of Senegal and for the purposes of assisting international tax enforcement; and

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

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE Article 2

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND TH GOVERNMENT OF THE REPUBLIC OF SENEGAL FOR THE AVOIDAN OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASIO 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 Republic of Senegal;

Desiring to conclude a Convention 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 Convention shall apply to persons who are residents of one or both of the Contracting St

ARTICLE 2

Taxes Covered

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

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

3. The existing taxes to which the Convention shall apply are in particular:

a) in Senegal:

(i) the income tax on companies;

(ii) the minimum income tax on companies;

(iii) the income tax on individuals; and

(iv) the capital gains tax on developed and undeveloped land;

(hereinafter referred to as "Senegalese tax");

(iii) the capital gains tax;

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

4. The Convention shall apply also to any identical or substantially similar taxes that ar imposed after the date of signature of the Convention in addition to, or in place of, the existin 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 Convention, unless the context otherwise requires:

a) the term "Senegal" means the Republic of Senegal and, from the geographical point view, includes the national territory, the territorial waters as well as the maritime area over which, in accordance with international law, Senegal exercises sovereign rights jurisdiction;

b) the term "United Kingdom" means Great Britain and Northern Ireland, including any outside the territorial sea of the United Kingdom designated under its laws concernin Continental Shelf and in accordance with international law as an area within which th rights of the United Kingdom with respect to the sea bed and subsoil and their natura resources may be exercised;

c) the terms "a Contracting State" and "the other Contracting State" mean Senegal or th 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 body corporate or any entity that is treated as a body corporate for tax purposes;

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

g) 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 an enterprise carried on by a resident of the other Contracting State;

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

i) the term "competent authority" means:

(i) in Senegal, the Minister in charge of Finance or his authorised representative; and

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

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

l) the term "pension scheme" means any scheme or other arrangement which:

(i) is generally exempt from income taxation; and

(ii) operates to administer or provide pension or retirement benefits or to ea income for the benefit of one or more such arrangements.

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

ARTICLE 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" mean person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar natu and also includes that State and any political subdivision or local authority thereof. This term however, does not include any person who is liable to tax in that State in respect only of incor capital gains from sources in that State.

2. The term "resident of a Contracting State" includes

a) a pension scheme established in that State; and

b) an organisation that is established and is operated exclusively for religious, charitable scientific, cultural, or educational purposes (or for more than one of those purposes) a that is a resident of that State according to its laws, notwithstanding that all or part of income or gains may be exempt from tax under the domestic law of that State.

3. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

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