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

2013 No. 0000

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX

The Double Taxation Relief and International Tax Enforcement (Panama) Order 2013

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 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 (Panama) Order 2013.

Double taxation and international tax enforcement arrangements to have effect

2. It is declared that—

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

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

(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 Republic of Panama 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

PART 1

CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE REPUBLIC OF PANAMA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS

The United Kingdom of Great Britain and Northern Ireland and the Republic of Panama, 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:

Chapter I

Scope of the Convention

Article 1

Persons Covered

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

Article 2

Taxes Covered

1. This Convention 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 the Convention shall apply are in particular:

a) in Panama:

The income tax provided in the *Fiscal Code, Book IV, Title I,* and its related decrees and regulations

(hereinafter referred to as "Panamanian tax");

b) in 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. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention 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.

Chapter II

Definitions

Article 3

General Definitions

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

a) the term "Panama" means the Republic of Panama and, when used in a geographical sense, means the territory of the Republic of Panama, including inland waters, its airspace, the territorial sea and any area outside the territorial sea upon which, in accordance with international law and on application of its domestic legislation, the Republic of Panama exercises, or may exercise in the future, jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;

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

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

d) the term "person" includes an individual, a company, a partnership 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 and 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 an 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 Panama, the Ministry of Economy and Finance or its authorized representative;

(ii) in the United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorized representatives;

j) the term "national" means:

(i) in relation to Panama, any individual possessing the nationality of Panama; and any legal person, partnership or association deriving its status as such from the laws in force in Panama;

(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 or association deriving its status as such from the 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 entity established in a Contracting State which operates to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements and

(i) in the case of Panama, is organized in accordance with Law 10 of 16 April 1993; and

(ii) in the case of the United Kingdom, is generally exempt from income taxation and is a pension scheme (other than a social security scheme) registered under Part 4 of the Finance Act 2004, including pension funds or pension schemes arranged through insurance companies and unit trusts where the unit holders are exclusively pension schemes.

2. As regards the application of the Convention 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 law of that State for the purposes of the taxes to which the Convention 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

Resident

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

2. 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 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 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 States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;