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

2012 No.

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX

The Double Taxation Relief and International Tax Enforcement (Bahrain) Order 2012

Made - - - - [date] [Month] 2012

At the Court at Buckingham Palace, the [date] day of [Month] 2012

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 exercise of 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 (Bahrain) Order 2012.

Double taxation and international tax enforcement agreement to have effect

2. It is declared that—

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

(a) the agreement set out in the Schedule to this Order has been made with the Government of the Kingdom of Bahrain;

(b) the agreement has 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 the Kingdom of Bahrain and for the purpose of assisting international tax enforcement; and

(c) it is expedient that the agreement should have effect.

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 KINGDOM OF BAHRAIN 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 Kingdom of Bahrain;

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 the Kingdom of Bahrain income tax payable under Amiri Decree No. 22/1979 ("The Oil Tax")

(hereinafter referred to as "Bahrain 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 " the Kingdom of Bahrain" means the territory of the Kingdom of Bahrain as well as the maritime areas, seabed and subsoil over which Bahrain exercises, in accordance with international law, sovereign rights and jurisdiction;

(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 Bahrain 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 or any other entity constituted or recognised under the laws of one or other of the Contracting States as a body corporate;

(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:

(i) in the case of Bahrain, the Minister of Finance or his authorised representative;

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

(k) the term "national" means:

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

(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;

(l) the term "recognised stock exchange" means:

(i) the Bahrain Stock Exchange, any successor thereto and any other Bahrain investment exchange recognised under Bahrain law;

(ii) the London Stock Exchange, any successor thereto and any other United Kingdom investment exchange recognised under United Kingdom law; and

(iii) any other stock exchange agreed upon by the competent authorities.

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

(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;