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 (Singapore) Order 2012

Made - - - - [day] [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 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 (Singapore) Order 2012.

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 Protocol set out in the Schedule to this Order, which vary the arrangements set out in the Schedule of the Double Taxation Relief (Taxes on Income) (Singapore) Order 1997(**3**) have been made with the Government of the Republic of Singapore;

(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 the Republic of Singapore and for the purpose of assisting international tax enforcement; and

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

Name
Clerk of the Privy Council

(**3**) S.I. 1997/2988; the arrangements scheduled to which were previously amended by the arrangements scheduled to S.I. 2010/2685.

SCHEDULE Article 2

SECOND PROTOCOL AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS SIGNED AT SINGAPORE ON 12 FEBRUARY 1997 AS AMENDED BY A PROTOCOL SIGNED AT SINGAPORE ON 24 AUGUST 2009

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

Desiring to amend the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Singapore for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains signed at Singapore on 12 February 1997 as amended by a Protocol signed at Singapore on 24 August 2009 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

ARTICLE I

With respect to Article 3 (General Definitions) of the Agreement:

1. Paragraph 1(e) shall be deleted and replaced by the following:

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

2. Paragraph 1(i)(i) shall be deleted and replaced by the following:

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

3. Paragraph 1(k) shall be deleted and replaced by the following:

"(k) the term "fiscal year" means,

(i) in the case of the United Kingdom:

- for the purposes of the income tax, a year of assessment beginning on 6 April in one year and ending on 5 April in the following year;

- for the purposes of the corporation tax, a year of assessment beginning on 1 April in one year and ending on 31 March in the following year; and,

(ii) in the case of Singapore, a calendar year."

4. A new paragraph 2 shall be inserted after paragraph 1 as follows:

"2. For the purposes of Articles 10, 11 and 12 of this Agreement, a trustee subject to

tax in a Contracting State in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of that interest or those dividends or royalties."

5. The existing paragraph 2 of the Article shall be renumbered as paragraph 3.

ARTICLE II

With respect to Article 4 (Residence) of the Agreement:

1. Paragraph 1 shall be deleted and replaced by the following:

"1. For the purposes of this Agreement, 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 management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision, local authority or statutory body thereof."

2. Paragraph 3 shall be deleted and replaced by the following:

"3. 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. In cases of doubt, the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the State in which the person's place of effective management is situated taking into consideration all relevant factors. In the absence of a mutual agreement by the competent authorities of the Contracting States, the person shall not be considered a resident of either Contracting State for the purposes of claiming any benefits provided by the Agreement, except those provided by Articles 23, 25 and 26."

ARTICLE III

With respect to Article 5 (Permanent Establishment) of the Agreement,

Paragraph 4(b) shall be deleted and replaced by the following:

"(b) it furnishes services, including consultancy services, through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days in the fiscal year concerned;

provided that the provisions of subparagraph (b) shall cease to have effect for any fiscal year beginning after five years from the date on which the Second Protocol first had effect."

ARTICLE IV

With respect to Article 10 (Dividends) of the Agreement:

1. Paragraphs 1, 2 and 3 shall be deleted and replaced by the following:

"1. Subject to the provisions of paragraph 2 of this Article, dividends paid by a company which is a resident of a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other Contracting State.

2. However,

(a) dividends paid by a real estate investment trust which is a resident of the United Kingdom may also be taxed, according to its laws, in the United

Kingdom. However, if the beneficial owner of the dividends is a resident of Singapore, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends;

(b) distributions paid by a real estate investment trust which is organised in Singapore may also be taxed, according to its laws, in Singapore. However, if the beneficial owner of the distributions is a resident of the United Kingdom, the tax so charged shall not exceed 15 per cent of the gross amount of the distributions.

This paragraph and paragraph 1 shall not affect the taxation of the company or the real estate investment trust in respect of the profits out of which the dividends or distributions are paid.

3. For the purposes of paragraph 2 of this Article, a real estate investment trust means:

(a) in the case of the United Kingdom, a real estate investment trust within the meaning of Part 12 of Corporation Tax Act 2010 and a property authorised investment fund within the meaning of Part 4A of the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964);

(b) in the case of Singapore, a trust that is constituted as a collective investment scheme authorised under section 286 of the Securities and Futures Act (Chapter 289) and listed on the Singapore Exchange, and that invests or proposes to invest in immovable property and immovable property-related assets."

2. There shall be inserted at the end of paragraph 4 the following additional sentence:

"For the purposes of paragraphs 5, 6 and 7 of this Article, the term "dividends" also includes distributions within the meaning of subparagraph b) of paragraph 2 of this Article and reference to a company shall be read as including reference to a real estate investment trust as appropriate."

ARTICLE V

With respect to Article 11 (Interest) of the Agreement:

1. Paragraphs 2, 3 and 4 shall be deleted and replaced by the following:

"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 recipient is the beneficial owner of the interest the tax so charged shall not exceed 5 per cent of the gross amount of interest.

3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if the recipient is the beneficial owner of that interest and:

(a) is the Government of the other Contracting State;

(b) is a bank or similar financial institution; or

(c) the interest is paid by a bank or similar financial institution.

4. For the purposes of paragraph 3 of this Article, the term Government: