Draft Order laid before the House of Commons under section 788(10) of the Income and Corporation Taxes Act 1988 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2008 No.

CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX

The Double Taxation Relief and International Tax Enforcement (Taxes on Income and Capital) (New Zealand) Order 2008

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 788(10) of the Income and Corporation Taxes Act 1988(**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 788(1) of the Income and Corporation Taxes Act 1988 and section 173(1) 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 (Taxes on Income and Capital) (New Zealand) Order 2008.

Double taxation arrangements to have effect

2. It is declared that—

(**1**) 1988 c. 1: section 788 was extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12). It has also been amended. The relevant amendments are as follows: Subsection (1) was amended by section 88(1) of the Finance Act 2002 (c. 23). Subsection (10) was substituted by section 176 of the Finance Act 2006 (c. 25).

(**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 to the Double Taxation Relief (Taxes on Income) (New Zealand) Order 1984(**3**) have been made with the Government of New Zealand with a view to affording relief from double taxation in relation to income tax, corporation tax and capital gains tax and taxes of a similar character imposed by the laws of New Zealand;

(b) those arrangements include provisions with respect to the exchange of information foreseeably relevant to the administration, enforcement or recovery of the taxes, and debts relating to the taxes, covered by the arrangements including, in particular, provisions about the prevention of fiscal evasion with respect to those taxes;

(c) those arrangements also include provisions with respect to the assistance in the collection of taxes; and

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

Clerk of the Privy Council

(**3**) S.I. 1984/365 amended by S.I. 2004/1274

SCHEDULE Article 2

PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF NEW ZEALAND TO AMEND THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS, SIGNED AT LONDON ON 4 AUGUST 1983, AS AMENDED BY THE PROTOCOL SIGNED AT LONDON ON 4 NOVEMBER 2003

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of New Zealand;

Desiring to conclude a Protocol to amend the Convention between the Contracting Governments for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains, signed at London on 4 August 1983, as amended by the Protocol signed at London on 4 November 2003 (hereinafter referred to as "the Convention");

Have agreed as follows:

ARTICLE I

Article 25 of the Convention shall be deleted and replaced by the following:

"ARTICLE 25

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against tax avoidance. The exchange of information is not restricted by Articles 1 and 2 of this Convention.

(2) Any information received under paragraph (1) of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, the taxes referred to in paragraph (1), or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(3) In no case shall the provisions of paragraphs (1) and (2) of this Article be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information,