Draft Order in Council laid before the House of Commons under the Income and Corporation Taxes Act 1988, s788(10), for an Address to Her Majesty from that House praying that the Order be made.

DRAFT STATUTORY INSTRUMENTS

1998 No.

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Oman) Order 1998

Made - - - - 1998

At the Court at , the day of 1998

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons in accordance with the provisions of section 788(10) of the Income and Corporation Taxes Act 1988(**1**), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 788 of the said Act, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Oman) Order 1998.

2. It is hereby declared—

(a) that the arrangements specified in the Agreement set out in Part I of the Schedule to this Order and in the Exchange of Notes constituting an Agreement set out in Part II of that Schedule have been made with the Government of the Sultanate of Oman with a view to affording relief from double taxation in relation to income tax, corporation tax or capital gains tax and taxes of a similar character imposed by the laws of Oman;

(b) that those arrangements include provisions with respect to the exchange of information necessary for carrying out the domestic laws of the United Kingdom and the laws of Oman concerning taxes covered by the arrangements including, in particular, provisions about the prevention of fiscal evasion with respect to those taxes; and

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

(**1**) 1988 c. 1; section 788 is extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12).

1998 Clerk of the Privy Council

SCHEDULE

PART I

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE SULTANATE OF OMAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Sultanate of Oman,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and 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 each 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 Agreement shall apply are in particular:

(a) in the case of the Sultanate of Oman:

(i) the company income tax; and

(ii) the profit tax on commercial and industrial establishments;

(hereinafter referred to as "Omani 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 which 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 which have been made in their respective taxation laws.
ARTICLE 3

General definitions

(1) For the purposes of this Agreement, unless the context otherwise requires:

(a) the term "the Sultanate of Oman" means all the lands of the Sultanate of Oman within its geographical boundaries, the territorial waters and continental shelf including all the islands belonging thereto, their territorial waters and continental shelf and the air-space of these lands, islands and territorial waters;

(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 term "national" means:

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

(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;

(d) the terms "a Contracting State" and "the other Contracting State" mean the Sultanate of Oman or the United Kingdom, as the context requires;

(e) the term "person" includes an individual, a company, a body of persons, and any commercial or industrial establishment owned or exploited by an individual which is treated as a taxable entity under the laws of the Sultanate of Oman, but subject to paragraph (2) of this Article does not include a partnership;

(f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(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 "operation of ships or aircraft in international traffic" means the business of transport by sea or by air of passengers, mail, livestock or goods carried on by an enterprise of a Contracting State as owner, lessee or charterer of ships or aircraft, including the sale of tickets on behalf of other enterprises, the incidental lease of ships or aircraft and any other activity directly connected with such transport but does not include transport by any ship or aircraft on journeys solely between places in the other Contracting State;

(i) the term "competent authority" means:

(i) in the case of the Sultanate of Oman, the Minister of National Economy and Supervisor of Ministry of Finance or his authorised representative; and

(ii) in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative.

(2) A partnership which is treated as a taxable unit under the laws of the Sultanate of Oman shall be treated as a person for the purposes of this Agreement.

(3) As regards the application of the 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 law of that State for the purposes of the taxes to which the 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 purpose of this Agreement, the term "resident of a Contracting State" means any person who, under the law 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 or local authority thereof.

(2) 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 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 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 has not 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;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(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.

ARTICLE 5

Permanent establishment

(1) For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 6 months.

(4) Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;