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) (Ireland) Order 1998

Made - - - - 1998

At the Court at Buckingham Palace, 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) (Ireland) Order 1998.

2. It is hereby declared—

(a) that 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) (Republic of Ireland) Order 1976(**2**), as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Republic of Ireland) (No. 2) Order 1976(**3**) and by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Republic of Ireland) Order 1995(**4**), have been made with the Government of Ireland with a view to affording relief from double taxation in relation to

(**1**) 1988 c. 1; section 788 is extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12).
(**2**) S.I.1976/2151.
(**3**) S.I. 1976/2152.
(**4**) S.I. 1995/764.

income tax, corporation tax or capital gains tax and taxes of a similar character imposed by the laws of Ireland; and

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

Clerk of the Privy Council

SCHEDULE

PROTOCOL

BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF IRELAND AMENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS SIGNED AT DUBLIN ON 2ND JUNE 1976, AS AMENDED BY THE PROTOCOLS SIGNED AT DUBLIN ON 28TH OCTOBER 1976 AND AT LONDON ON 7TH NOVEMBER 1994

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

Desiring to conclude a Protocol to amend the Convention between the Contracting Parties for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, signed at Dublin on 2nd June 1976, as amended by the Protocols signed at Dublin on 28th October 1976 and at London on 7th November 1994 (hereinafter referred to as "the Convention");

Have agreed as follows:

Article I

Article 5 of the Convention shall be amended as follows:

(a) sub-paragraph (g) of paragraph (2) shall be deleted and replaced by the following:

"(g) an installation or structure used for the exploration of natural resources;

(h) a building site or construction or installation project which lasts for more than six months."

(b) paragraph (5) shall be deleted and replaced by the following:

"(5) A person carrying on activities offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in that Contracting State shall be deemed to be carrying on a business through a permanent establishment in that Contracting State."

Article II

Article 11 of the Convention shall be deleted and replaced by the following:

"Article 11

Dividends

(1) Dividends derived from a company which is a resident of a Contracting State by a resident of the other Contracting State may be taxed in that other Contracting State. Such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but provided the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:

(a) 5 per cent. of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly 10 per cent. or more of the voting power in the company paying the dividends;

(b) in all other cases 15 per cent. of the gross amount of the dividends.

(2) The provisions of paragraph (1) of this Article shall not apply to dividends derived from a company which is a resident of a Contracting State by a resident of the other Contracting State if the competent authority of that other Contracting State certifies that such dividends are not subject to tax in that other Contracting State by reason of provisions in the laws of that other Contracting State