
CHAPTER 212

THE INCOME TAX (APPEALS) RULES

Arrangement of Rules Rules

1. Short title.
2. Interpretation.

PART I

APPEAL TO THE APPEAL BOARD

3. Procedure on Appeals.
4. Provisions as to Appeals.
5. Power of Board to Summon and Examine Witnesses.
6. Decision of Board.

PART II

APPEAL TO A JUDGE IN CHAMBERS

7. Notice of Appeal.
8. Service and Filing of Notice of Appeal.
9. Notice of Hearing of Appeal.
10. Board's Statement of Facts and Reasons.
11. Copies to be Supplied by the Registrar
12. Place for Hearing Appeals.
13. Appellant Limited to Grounds Stated.
14. Leave to Amend.
15. Extension of Time.
16. Withdrawal of Appeal.

PART III

CASE STATED FOR THE CONSIDERATION OF THE COURT OF APPEAL

17. Time to apply for a Stated Case.
 18. Form of Case Stated.
-

19. Notice of Hearing of Stated Case.
20. Applicant for Stated Case to be Deemed the Appellant.
21. Hearing by the Court of Appeal.

PART IV

MISCELLANEOUS

22. Service of Documents.
 23. Judgment to be Filed by the Successful Party.
 24. Application of Rules of Court.
 25. Fees to be taken by the Registrar.
- SCHEDULE I.
SCHEDULE II.
-

S.R.O. 3/1930.
S.R.O. 14/1960.

THE INCOME TAX ACT

THE INCOME TAX (APPEALS) RULES MADE UNDER SECTIONS 60 (5) AND 61 (11) OF THE INCOME TAX ACT.

1. SHORT TITLE. These Rules may be cited as the Income Tax (Appeals) Rules.

2. INTERPRETATION. In these Rules—

“Board” means the Appeal Board constituted as provided in section 60 of the Act;

“case” means a case stated on a question of law under section 61 (10) of the Act;

“Commissioner” has the meaning assigned to it in section 2 of the Act;

“form” means a form in Schedule I;

“Judge” means a Judge of the High Court in Chambers;

“the Act” means the Income Tax Act.

PART I

APPEAL TO THE APPEAL BOARD

3. PROCEDURE ON APPEALS. (1) The Board shall cause notice of the day for hearing an appeal to be given to the appellant and the Commissioner, and shall meet for the hearing of an appeal, with or without adjournment, until the appeal has been determined.

(2) The Commissioner or any person appointed by him as his representative shall be entitled—

(a) to be present during all the time of the hearing and at the determination of the appeal; and

(b) to produce any lawful evidence in support of the assessment; and

(c) to give reasons in support of the assessment.

(3) Upon any appeal, whether or not the appellant is present, the Board shall permit any barrister or solicitor to plead before them on behalf of the appellant, either *viva voce* or in writing, and shall hear any accountant, that is to say, any person who has been admitted a member of an incorporated society of accountants:

Provided that on any appeal against an assessment on property, the Board shall permit any agent appointed by the appellant to plead before them on his behalf.

4. PROVISIONS AS TO APPEALS. In the case of an appeal against an assessment in respect of any trade, business, profession or vocation the appellant shall in the notice of appeal specify the grounds of the appeal:

Provided that, if on the hearing of the appeal the appellant desires to go into any ground of appeal which was not specified in the notice and the omission of that ground from the notice was, in the opinion of the Board hearing the appeal, not wilful or unreasonable, the Board shall not, by reason of anything in this rule, be precluded from allowing the appellant to go into that ground or taking it into their consideration.

5. POWER OF BOARD TO SUMMON AND EXAMINE WITNESSES. (1) The Board may summon any person whom they think

able to give evidence respecting an assessment under appeal, to appear before them and to be examined, and may examine such person on oath (except the clerk, agent, servant or other person confidentially employed in the affairs of a person charged who shall be respectively examined in the same manner, and subject to the same restrictions, as in the case of the person charged who tenders himself to be examined orally).

(2) Any person who after being duly summoned—

(a) neglects or refuses to appear before the Board at the time and place appointed for that purpose; or

(b) appears, but refuses to be sworn or, as the case may be, to make a solemn affirmation; or

(c) refuses to answer any lawful question touching the matters under consideration,

shall be liable on summary conviction to a fine not exceeding five hundred dollars.

6. **DECISION OF BOARD.** The decision of the Board in any appeal heard by them shall be that of the majority of the Board present throughout the hearing.

PART II

APPEAL TO A JUDGE IN CHAMBERS

7. **NOTICE OF APPEAL.** A notice under section 61 (1) of the Act shall be in the Form A in Schedule I and it shall set out a full statement of the grounds of appeal by specifically stating the several facts and contentions of law upon which the appellant alleges that the assessment of the Board was erroneous and it shall give an address in St. John's at which documents may be served upon the appellant or his solicitor.

8. **SERVICE AND FILING OF NOTICE OF APPEAL.** A copy of every such appeal notice shall be filed with the Registrar together with an affidavit of service and the Registrar shall thereupon lay the same before the Judge who shall appoint a day for hearing the appeal. Instead of an affidavit of service there may be substituted an indorsement of service in the manner of such an indorsement under the Rules of the Supreme Court in respect of the service of a writ of summons.

9. **NOTICE OF HEARING OF APPEAL.** The Registrar shall forthwith cause due notice, in Form B in Schedule I of the day appointed for the

hearing of the appeal to be served on the respondent and the appellant or their respective solicitors. Not less than seven clear days' notice shall be given.

10. BOARD'S STATEMENT OF FACTS AND REASONS. (1) Within five days of the service of the notice the Board shall file with the Registrar a statement of the material facts upon every point specified in the appeal notice as a ground of appeal together with the reasons in support of the assessment.

(2) The Judge may cause the statement and reasons to be sent back to the Board for amendment and thereupon they shall be amended accordingly and returned to the Registrar.

(3) The Judge may direct the Registrar to request the Board to send to the Registrar any papers in relation to the assessment that may appear to the Judge to be material for the determination of the appeal and any papers so sent to the Registrar shall be treated by him as confidential.

11. COPIES TO BE SUPPLIED BY THE REGISTRAR. Either party shall be entitled, on payment of the proper fee, to obtain from the Registrar a copy of the Board's statement of material facts and of the reasons in support of the assessment, and/or a copy of the appellant's grounds of appeal.

12. PLACE FOR HEARING APPEALS. (1) An appeal under the Act shall be heard in Chambers unless the Judge hearing the appeal shall on the application of the appellant otherwise direct.

(2) If evidence is tendered it shall be taken orally unless the Judge otherwise directs.

(3) Either party may be represented by counsel or solicitor, and shall be entitled to be present, at the hearing of the appeal; and if it is intended that the appeal shall be attended by counsel for the appellant, it shall be so stated in the notice of appeal.

(4) An appeal may be heard in vacation if the Judge so directs.

13. APPELLANT LIMITED TO GROUNDS STATED. Without leave of the Judge an appellant shall not be entitled to rely upon any facts or contentions of law other than those stated in the notice of appeal.

14. LEAVE TO AMEND. The Judge may at any time allow any amendment upon such terms as he may think right.

15. EXTENSION OF TIME. The Judge may extend the time for doing any act or taking any proceeding under these rules upon such terms as he may think just, and any such extension may be ordered although the application for it is not made until after the expiration of the time appointed or allowed.

16. WITHDRAWAL OF APPEAL. (1) An appellant may withdraw an appeal by filing with the Registrar a notice of withdrawal before the day fixed for hearing, and the appellant shall forthwith serve on the respondent a copy of the notice of withdrawal. Upon the filing of a notice of withdrawal the assessment shall have full force and effect as a final and conclusive assessment.

(2) Where an appeal is withdrawn the Judge may, on the application of the respondent, order that the appellant shall pay such a sum for costs as the Judge may think just.

PART III

CASE STATED FOR THE CONSIDERATION OF THE COURT OF APPEAL

17. TIME TO APPLY FOR A STATED CASE. An application by the appellant or the respondent for a case to be stated may be made orally to the Judge at the hearing of the appeal, or in writing within seven days of the determination of the appeal. If the Judge desires to state a case of his own accord he shall do so within seven days of the determination of the appeal.

18. FORM OF CASE STATED. A case stated shall be in Form C in Schedule I with such modifications as may be necessary.

19. NOTICE OF HEARING OF STATED CASE. The Registrar on receipt of a stated case shall forthwith cause a copy of the case to be served on the respective parties or their solicitors together with a notice, in Form D in Schedule I of the day appointed for hearing the case. Not less than fourteen clear days' notice shall be given of the date of hearing.

20. APPLICANT FOR STATED CASE TO BE DEEMED THE APPELLANT. (1) The party on whose application a case has been stated shall be deemed to be the appellant in the case.

(2) If the Judge states a case of his own accord he shall direct who shall be deemed to be the appellant.

21. HEARING BY THE COURT OF APPEAL. Proceedings in the Court of Appeal shall be conducted as on the hearing of an appeal; and the Court of Appeal—

(a) shall hear and determine any question of law arising on the case and shall reverse, affirm or amend the determination in respect of which the case has been stated; or

(b) may remit the matter to the Board with the opinion or direction of the Court thereon; or

(c) may make such other order in relation to the matter and may make such order as to costs, as to the Court may seem fit.

PART IV

MISCELLANEOUS

22. SERVICE OF DOCUMENTS. Any document to be served under these rules shall be deemed to be duly served—

(a) on the Commissioner, if left with the Commissioner or if sent by registered post addressed to “The Commissioner of Inland Revenue, St. John’s, Antigua”;

(b) on any other party, if served on such party personally or on his solicitor or sent by registered post to his address for service stated in the notice of appeal.

23. JUDGMENT TO BE FILED BY THE SUCCESSFUL PARTY. (1) Every judgment or order of the Judge in Chambers or of the Court of Appeal shall, unless otherwise directed by the Judge or the Court of Appeal, be drawn up by the successful party and filed by him with the Registrar.

(2) The Registrar shall forthwith send to the Board a copy of every judgment or order filed by him.

24. APPLICATION OF RULES OF COURT. Save as otherwise provided in the Act or in these Rules, the Rules of Court as to applications in Chambers, as to appeals, and as to the taxation of costs, shall with the necessary modification, if any, apply to appeals to a Judge in Chambers and to cases stated under the Act.

25. FEES TO BE TAKEN BY THE REGISTRAR. The fees specified in Schedule II shall be taken by the Registrar in proceedings under the Act

and these rules. Save as therein provided the fees prescribed by the Rules of Court shall be taken by the Registrar so far as they may be applicable.

SCHEDULE I

FORM A

r.7.

In the matter of The Income Tax Act.

A.B.,

Appellant.

and

E.F.,

Respondent.

TAKE NOTICE that the above named A.B., intends to appeal against the decision of the Board given on the day of 19 .

And further take notice that you are required to attend the Judge in Chambers at the Court House St. John's on the day and at the time notified by the Registrar for the hearing of the said appeal against the decision of the Board.

(*If the appeal is to be attended by counsel, add—*

And further take notice that it is the intention of the said A.B., to attend the appeal by counsel).

The grounds of appeal are as follows—

Dated the day of 19 .

(SIGNED) A.B.

or

C.D.

Solicitor for the said A.B. or C.D.

The said A.B.'s (or C.D.'s) address for service is
St. John's.

LAWS OF ANTIGUA AND BARBUDA

Income Tax

(CAP. 212

9

FORM B

r.9.

IN THE EASTERN CARIBBEAN SUPREME COURT

Notice of date of
hearing of
appeal.

In the matter of The Income Tax Act.

Between:

A.B. of

,

Appellant.

and

E.F.

,

Respondent.

Take notice that the Judge will hear this appeal on the
day of 19 , at o'clock in the
forenoon.

Dated the day of 19 .

Registrar.

To

FORM C

r.18.

IN THE EASTERN CARIBBEAN SUPREME COURT

Stated Case.

In the matter of The Income Tax Act.

Between:

A.B. of

,

Appellant.

and

E.F.

,

Respondent.

This is a special case state pursuant to section 61 of the Income
Tax Act.

(Here state the facts giving rise to the questions of law.)

LAWS OF ANTIGUA AND BARBUDA

10

CAP. 212)

Income Tax

The questions of law for the opinion of the Court of Appeal
are whether

(Here state the questions of law.)

(Signed) Y.Z.,
Judge.

FORM D

r.19.

Notice of hearing
of stated case.

IN THE EASTERN CARIBBEAN SUPREME COURT

In the matter of The Income Tax Act.

Between:

A.B. of

,

Appellant.

and

E.F.

,

Respondent.

Take notice that the Court of Appeal will hear the case stated
in the abovementioned matter on the day of
19 , at the hour of o'clock in the forenoon.

Dated the day of 19

Registrar.

To

SCHEDULE II

r.25.

FEES TO BE TAKEN BY THE REGISTRAR IN PROCEEDINGS UNDER THE INCOME TAX ACT

\$

On filing a notice of appeal (including hearing fee)..... 4.80

	\$
For a copy of statement of facts and reasons of Board or copy of appellant's grounds of appeal (Rule 11).....	1.92
For copy of case stated (Rule 19)	1.92
On filing notice of withdrawal (Rule 16).....	.96
On filing any judgment or order of a Judge or the Court of Appeal (Rule 23)	1.92
On filing any exhibit or document other than those mentioned above	.48
On inspection of any exhibit or document.....	.24
For every taxation of a bill of costs (including certificate).....	2.40

THE INCOME TAX RULES

Arrangement of Rules

Rule

1. Short Title.
2. Interpretation.
3. Date for Delivering Returns.
4. Method of Determining the Annual Value of Land and Improvements.
5. Depreciation or Wear and Tear.
6. Form of Declaration of Secrecy.
7. Form of Income Tax Return.
8. Notice to Deliver Return.
9. Form of Notice to Furnish Particulars.
10. Form of Notice to Employer to Deliver Statement.
11. Form of Notice to Representative or Agent.
12. Assessment List.
13. Form of Notice of Assessment.
14. Payment of Tax.
15. Exit Certificates.
16. Exemption from Exit Certificates.
17. Power of Commissioner to Forbid Sale of Ticket.
18. Power of Police to Prevent Departure of Persons.

SCHEDULE A.
SCHEDULE B.
SCHEDULE C.
SCHEDULE D.
SCHEDULE E.

SCHEDULE F.
SCHEDULE G.
SCHEDULE H.
SCHEDULE I.
SCHEDULE J.

S.R.O. 1/1946.
S.R.O. 13/1946.
S.R.O. 7/1950.
S.R.O. 34/1952.
S.R.O. 13/1959.
S.R.O. 45/1959.

THE INCOME TAX ACT

* THE INCOME TAX RULES, MADE UNDER SECTION 67 OF
THE INCOME TAX ACT

1. SHORT TITLE. These Rules may be cited as the Income Tax Rules.

2. INTERPRETATION. In these Rules the expression—

“Act” means the Income Tax Act;

“Commissioner” means the Commissioner appointed under the Act.

3. DATE FOR DELIVERING RETURNS. Every person liable to pay income tax shall deliver to the Commissioner a true and correct return of his whole income accruing in, derived from or received in Antigua and Barbuda for the year immediately preceding the year of assessment, not later than the 31st day of March of the year of assessment:

Provided that where any public officer or person in receipt of a pension or other allowance payable out of the public revenue of Antigua and Barbuda has not, during the year immediately preceding the year of assessment neither has his wife, received any income other than his or her emoluments as a public officer or pension or other allowance respectively, such public officer or person in receipt of a pension or other allowance shall deliver a return of his whole income as aforesaid not later than the 31st day of January, of the year of assessment.

4. METHOD OF DETERMINING THE ANNUAL VALUE OF LAND AND IMPROVEMENTS. (1) The annual value of land and improvements thereon used by or on behalf of the owner, or used rent free by the occupier, for the purpose of residence or enjoyment, and not for the purpose of gain, shall be understood to be five per centum of the estimated value thereof less the following deductions—

*Saved by section 87 of the Income Tax Act.

(a) the amount paid for property tax during the year immediately preceding the year of assessment;

(b) the amount expended during the year immediately preceding the year of assessment on repairs, provided that this deduction shall not exceed one per centum of the estimated value of the property;

(c) the amount expended during the year immediately preceding the year of assessment in insuring the property against fire, etc., provided that this deduction shall not exceed one and one quarter per centum of the estimated value of the property;

(d) the amount of any interest on a mortgage or loan where the Commissioner is satisfied that the mortgage or loan was effected in connection with the purchase or improvement of the property.

(2) The Commissioner may, if he deems it necessary, appoint a fit and proper person or fit and proper persons for the purpose of estimating the value of properties.

5. DEPRECIATION OR WEAR AND TEAR. (1) The deduction to be allowed under the provisions of Section 14 of the Act for wear and tear of property including plant and machinery shall be at such rate as the Commissioner may consider just and reasonable.

(2) Where full effect cannot be given to any such deduction in any year owing to there being no profits or gains chargeable for that year, or owing to the profits or gains chargeable being less than the deduction, the deduction or part of the deduction to which effect has not been given, as the case may be, shall, for the purpose of making the assessment for the following year, be added to the amount of the deduction for wear and tear for that year, and deemed to be part of that deduction, or, if there is no such deduction for that year, be deemed to be the deduction for that year and so on for succeeding years.

(3) No deduction for wear and tear shall be allowed for any year if the deduction, when added to the deductions allowed on account of previous years will make the aggregate amount of the deductions exceed the actual cost of the plant or machinery, including in that actual cost any expenditure in the nature of capital expenditure on the plant or machinery by way of renewal, improvement or re-instatement.

6. FORM OF DECLARATION OF SECRECY. The declaration required to be made and subscribed under section 4 (1) of the Act shall be in the form contained in Schedule A.

7. FORM OF INCOME TAX RETURN. The return of income required to be delivered to the Commissioner under section 46 of the Act shall be in the form contained in Schedule B.

8. NOTICE TO DELIVER RETURN. The notice to a person who has not complied with the provisions of section 46 of the Act requiring him to make and deliver a return of his income shall be in the form contained in Schedule C.

9. FORM OF NOTICE TO FURNISH PARTICULARS. The notice to a person requiring him under section 49 of the Act to furnish particulars of his income shall be in the form contained in Schedule D.

10. FORM OF NOTICE TO EMPLOYER TO DELIVER STATEMENT. The notice to employers provided for under section 47 (2) of the Act shall be in the form contained in Schedule E.

11. FORM OF NOTICE TO REPRESENTATIVE OR AGENT. The notice to a representative or agent provided for under section 26 of the Act shall be in the form contained in Schedule F.

12. ASSESSMENT LIST. The assessment list provided for under section 55 of the Act shall contain the particulars set forth in Schedule G.

13. FORM OF NOTICE OF ASSESSMENT. The notice required to be served under the provisions of section 56 of the Act shall be in the form contained in Schedule H.

14. PAYMENT OF TAX. Income Tax shall be payable in one sum on or before the 30th day of September of the year of assessment or within one month of the date of the service of the notice of assessment, whichever is the later:

Provided that any public officer or person in receipt of a pension or other allowance payable from the public revenue of Antigua and Barbuda who has not received during the year preceding the year of assessment any income other than his emoluments as a public officer or pension or other allowance, may, at his election,

(a) pay his tax in one sum within two months of the date of his assessment, or,

(b) pay his tax by a number of equal monthly deductions from his emoluments as a public officer, or his pension, or other allowance respectively, after the date of his assessment, such deductions being

of such amount that the tax shall be wholly paid during the year of assessment:

Provided also that if any person leaves Antigua and Barbuda or dies, or if any person in receipt of a pension from the public revenue of Antigua and Barbuda dies, during the year of assessment, any income tax due from such persons for the year of assessment, and unpaid, shall immediately become payable.

15. EXIT CERTIFICATES. (1) Subject to the provisions of rule 16 no person shall leave or attempt to leave Antigua and Barbuda unless the person so leaving or attempting to leave has in his possession an exit certificate in the form contained in Schedule 1 duly signed by or on behalf of the Commissioner certifying that he—

- (a) does not owe any income tax; or
- (b) has made satisfactory arrangements for the payment of any income tax payable by him.

(2) Subject to the provisions of rule 16 no person shall issue or cause to be issued to any other person any ticket entitling such other person to leave Antigua and Barbuda unless such other person has in his possession an exit certificate as mentioned in paragraph (1).

16. EXEMPTION FROM EXIT CERTIFICATES. Rule 15 shall not apply to—

- (a) any person of the age of 16 years or under;
- (b) any person between the ages of 16 and 25 years, who is a whole time student at a secondary school, college or university;
- (c) any married woman;
- (d) the Governor-General, his spouse and children under 21 years of age;
- (e) members of the Cabinet and of Parliament;
- (f) any member of the Military, Naval or Air Forces of Her Majesty or of any foreign state;
- (g) any person in the diplomatic or consular service of a foreign state unless any such person is also engaged in any business or other employment in Antigua and Barbuda;
- (h) any high official, his spouse and child under 21 years of age and any other official of any organization in respect of which a declara-

tion has been made by Order of the Cabinet under and for the purposes of section 2 of the Diplomatic Privileges (Extension) Act, and any representative of any member Government as defined in any such Order; and

(i) any person temporarily resident in Antigua and Barbuda. For the purposes of this paragraph a person shall be deemed to be temporarily resident in Antigua and Barbuda whose period of residence in Antigua and Barbuda since the date of his last arrival therein does not exceed one month.

17. POWER OF COMMISSIONER TO FORBID SALE OF TICKET. Notwithstanding anything to the contrary, no person shall issue or cause to be issued to any other person any ticket entitling such other person to leave Antigua and Barbuda or shall arrange for any transportation for such other person to leave Antigua and Barbuda if a written request has been issued by or on behalf of the Commissioner to such first named person prohibiting the issue of a ticket to such other person:

Provided that the provisions of this rule shall cease to have effect on the receipt by such first named person of a subsequent written request issued by or on behalf of the Commissioner withdrawing such prohibition.

18. POWER OF POLICE TO PREVENT DEPARTURE OF PERSONS. It shall be lawful for any police officer who has reasonable grounds to suspect that any person is attempting to leave Antigua and Barbuda in breach of the provisions of rules 15, 16 or 17 to order such person to disembark from or not to embark on any ship or aircraft, and to arrest such person if he disobeys any such order.

CONFIDENTIAL

SCHEDULE A

r.6.

“I of

a person having official duty under the Income Tax Act, hereby declare that I will regard and deal with the returns, assessment lists and copies of such lists relating to the income or items of the income of any person, as secret and confidential

documents and that I will not at any time divulge in any manner anything contained in such returns, lists or copies, save as authorized by the Act.

“Declared before and in the presence of

Magistrate

”

T. 107

ANTIGUA AND BARBUDA

CONFIDENTIAL.

SCHEDULE B

r.7.

RETURN OF INCOME

Income Tax Act

File No..... No. of Assessment.....

YEAR OF ASSESSMENT ENDING 31ST DECEMBER, 19

RETURN TO BE MADE OF THE INCOME OF THE PRECEDING YEAR
ENDING 31ST DECEMBER, 19

To

of.....

In pursuance of the provisions of the Income Tax Act, you are hereby required to prepare a true and correct statement of the whole of your income from every source whatsoever for the preceding year ending 31st December, 19 , and to deliver the same to the Commissioner of Inland Revenue, duly signed by you, on or before the day of 19.....

Dated this day of 19.....

.....
For the Commissioner

NOTE—If further information is desired on any particular point you should apply to the Office of the Commissioner of Inland Revenue. Any person who wishes to keep a copy of the original return rendered can obtain a duplicate form for that purpose from the Office of the Commissioner of Inland Revenue.

NOTE SPECIALLY—1. Any person required to make a return who neglects duly to furnish the same is liable to a penalty not exceeding \$5000 and

in default of payment to imprisonment with or without hard labour for any term not exceeding six months.

2. Any person knowingly making any false statement, etc., in any income tax return, or any person aiding or abetting in such offences, is liable to a penalty not exceeding \$25000 and in default of payment to imprisonment with or without hard labour for any term not exceeding six months.

PERSONS LIABLE TO ASSESSMENT TO INCOME TAX

(1) All persons other than persons who are excepted from liability to tax under the Income Tax Act (which term includes all companies, corporations, societies, and other bodies or persons, whether corporate or not corporate), who derive from or receive in Antigua and Barbuda any income from—

- (a) trade, business, profession or vocation;
- (b) employment, pension, charge or annuity; or
- (c) rents, royalties, premiums and any other profits arising from property.

NON-RESIDENTS IN ANTIGUA AND BARBUDA

(2) The income arising or accruing to any person not residing in Antigua and Barbuda must be returned under the respective "Heads" hereof and the name of an agent or other representative in Antigua and Barbuda of such non-resident person given.

(3) In the case of a firm carrying on business in Antigua and Barbuda, the proprietors of which, or partners therein, are resident out of Antigua and Barbuda, the full profits and shares of the profits of such non-resident proprietors or partners are returnable by the attorney, agent or representative of such non-resident proprietors or partners.

SECTION I

DECLARATION AS TO PARTNERS IN A FIRM AND THE DIVISION
OF THE
PARTNERSHIP PROFITSPARTICULARS OF THE SHARE OF EACH PARTNER IN THE PARTNERSHIP PROFITS OF THE
FIRM INCLUDING INTEREST ON CAPITAL AND SALARIES OF PARTNERS.

Names of partners as at 1st January, 19	Residence of partners	State whether personally acting in the partnership	Basis of distribution of the partnership profits as at 1st January, 19	Amount of each part- ner's share of profits for year 19

Date

Precedent Partner

LAWS OF ANTIGUA AND BARBUDA

20

CAP. 212)

Income Tax

SECTION 2

Heads of Income (Col. 1)	Source of Income under each Head	Amount of income. (Col. 3) If under any Head you have no income write the word "none" opposite the Head in this column.	
		\$	c.
1. Profits or gains from trade, business, profession or vocation.	Description of business, etc. Address By whom carried on Attach trading profit and loss accounts, and balance sheet, with an "adjusting statement" for income tax purposes.		
2. Income from employment or pension.	State description of office or nature of employment State name of department or name and address of employer If derived from more than one source, attach a Statement containing full particulars, annual value of any quarters, board, residence or other allowance granted in respect of the employment whether in money or otherwise. Nature of the allowance Annual value of quarters, etc		
3. Profits from occupation or cultivation of lands.	Name of estate State here precise nature By whom carried on Attach a statement showing the total acreage and number of acres under each class of cultivation, e.g., canes, cotton, etc.		

LAWS OF ANTIGUA AND BARBUDA

Income Tax

(CAP. 212

21

Heads of Income (Col. 1)	Source of Income under each Head	Amount of income. (Col. 3) If under any Head you have no income write the word "none" opposite the Head in this column.	
4. Income from dividends, interest, discounts, premiums, charges or annuities, royalties, etc.	Attach statement showing full details of the gross income from each source.	\$	c.
5. Income from letting houses, lands, or other property.	Attach a statement showing (1) situation of the property, (2) name of tenant, (3) gross rent, (4) particulars of any deductions claimed, <i>e.g.</i> rates, taxes other than income tax, repairs, and insurance, but not including exhaustion, wear and tear.		
6. The annual value of land and improvements thereon used by or on behalf of the owner or used rent-free by the occupier, for the purpose of residence or enjoyment and not for the purpose of gain or profit.	Attach a statement showing (1) situation of property, (2) Name of occupier, (3) Estimated value, (4) particulars of deduction claimed, <i>e.g.</i> rates, taxes, repairs, insurance, mortgage interest.		
7. Wife's income.			

LAWS OF ANTIGUA AND BARBUDA

22

CAP. 212)

Income Tax

Heads of Income (Col. 1)	Source of Income under each Head	Amount of income. (Col. 3) If under any Head you have no income write the word "none" opposite the Head in this column.	
8. Income from any other source not included under the above Heads.	Attach a statement giving details of the income.	\$	c.

N.B.—Dividend Certificates must be annexed so that relief for double taxation may be granted by the Commissioner.

SECTION 3

Heads of Income (Col. 1)	Source of Income under each Head	Amount of income. (Col. 3) If under any Head you have no income write the word "none" opposite the Head in this column.	
	TOTAL OF INCOME RETURNED. <i>Deduct—</i> Exhaustion, wear and tear. Attach a statement showing (1) subjects on which the allowance is claimed, (2) values at the commencement of the preceding year, (3) rate per cent. claimed, (4) what sums, if any, are written off in the proprietor's accounts.	\$	c.

LAWS OF ANTIGUA AND BARBUDA

Income Tax

(CAP. 212

23

SECTION 4

DEDUCT—"Encumbrances" on above income, viz—

Mortgages or loans	Name and full address of person to whom payable	On what secured	For what precise purpose incurred	Amount paid for the preceding year ended 19.....			
				\$	c.	\$	c.
\$							
at %							
\$							
at %							
\$							
at %							
Other legal obligations (if any)							
(State nature of payment and name and address of the person to whom payable).							
N.B.—Voluntary payments of allowances are not deductible.							
NET INCOME ...						\$	

SECTION 5

GENERAL DECLARATION

I declare that in the foregoing statement and in any statements or accounts sent herewith, I have given a full, just and true return and particulars of the whole of the income from every source whatsoever chargeable under the Income Tax Act, to the best of my judgment and belief, according to the directions and Rules of the said Act; also that the declarations, claims and statements in sections 1, 3 and 4 inclusive of this Form, are true and correct to the best of my judgment and belief.

.....Signature.

.....Business address.

.....Private address.

Note—A woman must state after her signature whether married, widow or single.

RATE OF TAX

The tax upon the chargeable income of every person other than a company shall be charged at the following rates—

On every dollar of the first \$500 of chargeable income 2½ cents on the \$

.....next \$500 *viz* \$501 to \$1,000 5 cents on the \$

.....next \$500 *viz* \$1,001 to \$1,500 7½ cents on the \$

On every dollar of the next \$500 *viz* \$1,501 to \$2,000 10 cents on the \$

.....next \$500 *viz* \$2,001 to \$2,500 12½ cents on the \$

.....next \$500 *viz* \$2,501 to \$3,000 15 cents on the \$

.....next \$1,000 *viz* \$3,001 to \$4,000 20 cents on the \$

.....next \$1,000 *viz* \$4,001 to \$5,000 25 cents on the \$

LAWS OF ANTIGUA AND BARBUDA

Income Tax

(CAP. 212

25

.....next \$2,500 *viz* \$5,001 to \$7,500 30 cents on the \$
.....next \$2,500 *viz* \$7,501 to \$10,000 35 cents on the \$
.....next \$5,000 *viz* \$10,001 to \$15,000 40 cents on the \$
.....next \$5,000 *viz* \$15,001 to \$20,000 45 cents on the \$
.....next \$10,000 *viz* \$20,001 to \$30,000 50 cents on the \$
On every dollar beyond \$30,000 55 cents on the \$

The rate of tax upon the chargeable income of a company is 40%.

SCHEDULE C

r.8.

Income Tax Act

NOTICE TO A PERSON TO DELIVER A RETURN OF HIS INCOME

To _____ of _____

Take notice that you are hereby required to deliver to the Commissioner of Inland Revenue within fourteen days after the service of this notice upon you a true and correct return of your whole income as required by the Act, for the year 19____ and that if you fail to do so you are liable to prosecution under section 78 of the Act.

Dated this _____ day of _____ 19____.

For the Commissioner.

SCHEDULE D

r.9.

Income Tax Act

To _____ of _____

Take notice that you are hereby required to furnish to the Commissioner of Inland Revenue within _____ days of the service of this notice upon you, replies to the inquiries set out on the other side hereof.

GENERAL DECLARATION

*I do hereby declare that all the particulars required in this notice to be returned are in every respect fully and truly stated herein according to the best of my judgment and belief.

Signature

Date

Description

*Insert full name.

SCHEDULE F

r.11.

NOTICE TO A PERSON REFERRED TO IN SECTION 26

To of

Take notice that you are hereby required to deliver to the Commissioner of Inland Revenue within days of the service of this notice upon you, a list containing a true and correct statement of all money, value, profits or gains received by you and belonging to any persons, resident or non-resident, who are chargeable in respect thereof.

Dated this day of 19 .

For the Commissioner.

LAWS OF ANTIGUA AND BARBUDA

28

CAP. 212)

Income Tax

RETURNS BY PERSONS IN RECEIPT OF MONEY, VALUE, PROFITS
OR GAINS BELONGING TO ANY OTHER PERSON

Christian name, surname and address of owners	Sources of money, value, profits or gains	Amount received	
		\$	c.

SCHEDULE G

r.12.

Year of Assessment 19.....

ASSESSMENT LIST

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. No. of assessment. 2. Name of person assessed. 3. Address. 4. File No. 5. Description of trade, profession, employment or other profits chargeable. 6. Returns and assessments of preceding year of assessment, 19 .
 <ol style="list-style-type: none"> (a) Gross amount returned. (b) Deductions claimed. (c) Gross amount assessed. (d) Deductions allowed. 7. Amount returned by employer. 8. Particulars from return—
 <ol style="list-style-type: none"> (a) Gross amount. (b) Total deductions. (c) Net amount. 9. Gross amount assessed by Commissioner under each head in return. 10. Deductions allowed under section 10. 11. Allowance for exhaustion, wear and tear. 12. Losses of previous years allowed. | <ol style="list-style-type: none"> 13. Net amount assessed by Commissioner. 14. Total relief. 15. Net total on which tax is payable. 16. Tax payable. 17. Relief in respect of U.K. or Commonwealth Tax. Sections 41/42. 18. Amount of set off. Section 34. 19. Net tax payable. 20. Date due. 21. General notes. 22. Particulars of payment. (Receipt No.). 23. Particulars of discharge or repayment. (Voucher No.). |
|---|---|

SCHEDULE H

r.13.

ANTIGUA AND BARBUDA

Assessment No.

INCOME TAX—NOTICE OF ASSESSMENT
YEAR OF ASSESSMENT 19.....
(INCOME YEAR 19.....)

Sources of Income	\$
1. Profits of trade or business or profession	
2. Employment	
3. Agricultural profits	
4. Interest, dividends or discount within the Island	
Interest, dividends or discount without the Island	
5. Rents of properties	
6. Annual value of house or land used rent free, etc.	
7. Wife's income	
8. Other source	
Total Income	
Less Allowances.	Amount
Wear and tear	
Abatement	
Losses	
Total Allowances	
Chargeable income	
Income tax chargeable	
Relief for tax deducted dividends	
Relief for double taxation	
Total tax payable	
Total tax repayable	

TAKE NOTICE that you have been assessed by the Commissioner under the Income Tax Act, as amended as set out hereon.

RATES OF TAXES CHARGEABLE ARE SHOWN OVERLEAF: AS ALSO PROCEEDINGS RELATING TO APPEALS AND PAYMENTS OF DUTY.

If you do not object to this assessment within fifteen days from the date of service of this notice the *net tax* as shown must be paid without further application on or before the following date—

One month from date of issue shown below on this notice.

THE ACT PROVIDES FOR PENALTIES TO BE ADDED TO THE DUTY IF THE TAX IS NOT PAID BY THE TIME INDICATED ABOVE.

Please bring this notice when making payment.

If made by post please quote the assessment number.

Date of Issue

To—

OBJECTIONS TO ASSESSMENT

If you object to the above assessment or any part thereof you may give notice of objection in writing to the Commissioner within fifteen days from the date of the service of this notice. *Such notice must state precisely the grounds of your objection to the assessment.* The Commissioner may notwithstanding the lapse of the above period of fifteen days, allow an objection to the assessment if it is shown to his satisfaction that owing to absence from the Island, sickness or other reasonable cause, you were prevented from making the objection within fifteen days.

Until such time as the objection or appeal is determined payment may be enforced of that portion of the tax which is not in dispute.

The onus of proving that the assessment is excessive is on the appellant.

.....
Commissioner of Inland Revenue.

RATE OF TAX

The tax upon the chargeable income of every person other than a company shall be charged at the following rates—

On every dollar of the first \$500 of chargeable income	2½ cents on the \$
.....next \$500 viz \$501 to \$1,000	5 cents on the \$
.....next \$500 viz \$1,001 to \$1,500	7½ cents on the \$
On every dollar of the next \$500 viz \$1,501 to \$2,000	10 cents on the \$
.....next \$500 viz \$2,001 to \$2,500	12½ cents on the \$
.....next \$500 viz \$2,501 to \$3,000	15 cents on the \$
.....next \$1,000 viz \$3,001 to \$4,000	20 cents on the \$
.....next \$1,000 viz \$4,001 to \$5,000	25 cents on the \$
.....next \$2,500 viz \$5,001 to \$7,500	30 cents on the \$

LAWS OF ANTIGUA AND BARBUDA

32

CAP. 212)

Income Tax

.....next \$2,500 *viz* \$7,501 to \$10,000 35 cents on the \$
next \$5,000 *viz* \$10,001 to \$15,000 40 cents on the \$
next \$5,000 *viz* \$15,001 to \$20,000 45 cents on the \$
next \$10,000 *viz* \$20,001 to \$30,000 50 cents on the \$
 On every dollar beyond \$30,000 55 cents on the \$

The rate of tax upon the chargeable income of a company is 40%.

SCHEDULE 1

r.15.

INCOME TAX ACT

Exit certificate to be presented to the shipping or air transport lines under rule 15 of the Income Tax Rules.

.....19.....

APPLICANT

ADDRESS

OCCUPATION

This is to certify that the above person

*(i) does not owe any income tax; or

*(ii) has made satisfactory arrangements for the payment of any income tax payable by him,

and that the Commissioner of Inland Revenue has no objection to a ticket being issued to the above person to leave Antigua and Barbuda.

.....
For the Commissioner.

*Delete what is not applicable.

SCHEDULE J

INCOME TAX ACT

Exemption certificate to be presented to shipping or air transport lines under Rule 16
of the Income Tax Rules

.....19.....

APPLICANT

ADDRESS

OCCUPATION

This is to certify that the above person is exempt from producing an exit
certificate on the ground that such person is*

.....
and that the Commissioner of Inland Revenue has no objection to a ticket being
issued to the above person to leave Antigua and Barbuda.

.....
For the Commissioner

*Insert what is applicable.

THE INCOME TAX (DOUBLE TAXATION RELIEF)
(UNITED KINGDOM) ORDER

Arrangement of Sections
Section

1. Short title.
 2. Declaration.
- SCHEDULE.

S.R.O. 1/1948.
S.R.O. 22/1968.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (UNITED KINGDOM) ORDER, 1948, DATED THE 30th DAY OF JANUARY, 1948, MADE UNDER SECTION 43 OF THE INCOME TAX ACT.

1. SHORT TITLE. This Order may be cited as the Income Tax (Double Taxation Relief) (United Kingdom) Order.

2. DECLARATION. It is hereby declared—

(a) that the arrangements specified in the Agreement set out in the Schedule have been made with the Government of the United Kingdom with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of the United Kingdom; and

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

SCHEDULE

Arrangements between Her Majesty's Government and the Government of Antigua and Barbuda for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income.

1. (1) The Taxes which are the subject of this Arrangement are—

(a) In the United Kingdom:

The income tax (including sur-tax) and the profits tax (hereinafter referred to as "United Kingdom tax").

(b) In Antigua and Barbuda:

The income tax (hereinafter referred to as "Antigua and Barbuda tax").

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Antigua and Barbuda after this Arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man.

(b) The terms "one of the territories" and "the other territory" mean the United Kingdom or Antigua and Barbuda, as the context requires.

(c) The term "tax" means United Kingdom tax or Antigua and Barbuda tax, as the context requires.

(d) The term "person" includes any body of persons, corporate or not corporate.

(e) The term "company" includes any body corporate.

(f) The terms "resident of the United Kingdom" and "resident of Antigua and Barbuda" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Antigua and Barbuda for the purposes of Antigua and Barbuda tax and any person who is resident in Antigua and Barbuda for the purposes of Antigua and Barbuda tax and not resident in the United Kingdom for the purposes of United Kingdom tax; and a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Antigua and Barbuda if its business is managed and controlled in Antigua and Barbuda.

(g) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Antigua and Barbuda, as the context requires.

(h) The terms "United Kingdom enterprise" and "Antigua and Barbuda enterprise" mean respectively an industrial or commercial enterprise or under-

taking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Antigua and Barbuda; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or Antigua and Barbuda enterprise, as the context requires.

(i) The term "industrial or commercial profits" includes rentals in respect of cinematograph films.

(j) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a bona fide broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under this Arrangement any income is exempt from tax in one of the territories if (with or without other conditions), it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Arrangement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Arrangement by the United Kingdom or Antigua and Barbuda, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of the United Kingdom, or, as the case may be, Antigua and Barbuda, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Antigua and Barbuda tax unless the enterprise is engaged in trade or business in Antigua and Barbuda through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Antigua and Barbuda but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of an Antigua and Barbuda enterprise shall not be subject to United Kingdom tax unless the enterprise is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive from its activities in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

4. Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

(c) in either case conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises,

then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

6. (1) Dividends paid by a company resident in one of the territories to a resident of the other territory who is subject to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from any tax in that first-mentioned territory which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that

other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

(3) If the recipient of a dividend is a company which owns 10 per cent or more of the class of shares in respect of which the dividend is paid then subparagraph (1) shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this subparagraph the term "relevant date" means the date on which the beneficial owner of the dividend became the owner of 10 per cent or more of the class of shares in question. Provided that this subparagraph shall not apply if the beneficial owner of the dividend shows that the shares were acquired for *bona fide* commercial reasons and not primarily for the purpose of securing the benefit of this paragraph.

7. (1) Any royalty derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof and is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory; but no exemption shall be allowed under this paragraph in respect of so much of any royalty as exceeds an amount which represents a fair and reasonable consideration for the rights for which the royalty is paid.

(2) In this paragraph the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, but does not include a royalty or other amount paid in respect of the operation of a mine or quarry or of other extraction of natural resources.

8. (1) Remuneration, including pensions, paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other territory if the individual is not ordinarily resident in that other territory or (where the remuneration is not a pension) is ordinarily resident in that other territory solely for the purpose of rendering those services.

(2) The provisions of this paragraph shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for purposes of profit.

9. (1) An individual who is a resident of the United Kingdom shall be exempt from Antigua and Barbuda tax on profits or remuneration in respect of personal (including professional) services performed within Antigua and Barbuda in any year of assessment if—

(a) he is present within Antigua and Barbuda for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of Antigua and Barbuda shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Antigua and Barbuda, and

(c) the profits or remuneration are subject to Antigua and Barbuda tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artistes, musicians and athletes.

10. (1) Any pension (other than a pension paid by the Government of Antigua and Barbuda for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within Antigua and Barbuda by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Antigua and Barbuda tax.

(2) Any pension (other than a pension paid by the Government of the United Kingdom for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Antigua and Barbuda and subject to Antigua and Barbuda tax in respect thereof, shall be exempt from United Kingdom tax.

(3) The term “annuity” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in consideration of money paid.

11. The remuneration derived by a professor or teacher who is ordinarily resident in one of the territories, for teaching, during a period of temporary residence not exceeding two years, at a university, college, school, or other educational institution in the other territory, shall be exempt from tax in that other territory.

12. A student or business apprentice from one of the territories who is receiving full time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

13. (1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against the United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof)—

(a) Antigua and Barbuda tax payable under the laws of Antigua and Barbuda and in accordance with this Arrangement, whether directly or by deduction, on profits or income from sources within Antigua and Barbuda shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits or income by reference to which Antigua and Barbuda tax is computed:

Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the Company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(b) Where a company which is a resident of Antigua and Barbuda pays a dividend to a company resident in the United Kingdom which controls directly or indirectly at least 10 per cent of the voting power in the first mentioned company, the credit shall take into account (in addition to any Antigua and Barbuda tax for which credit may be allowed under (a) of this sub-paragraph) the Antigua and Barbuda tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid.

(2) Subject to the provisions of the law of Antigua and Barbuda regarding the allowance as a credit against Antigua and Barbuda tax of tax payable in a territory outside Antigua and Barbuda (which shall not affect the general principle hereof)—

(a) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Arrangement, whether directly or by deduction, on profits or income from sources within the United Kingdom shall be allowed as a credit against any Antigua and Barbuda tax computed by reference to the same profits or income by reference to which the United Kingdom tax is computed:

Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(b) Where a company which is a resident of the United Kingdom pays a dividend to a company resident in Antigua and Barbuda which controls directly or indirectly at least 10 percent of the voting power in the first-mentioned company, the credit shall take into account (in addition to any United Kingdom tax for which credit may be allowed under (a) of this sub-paragraph) the United Kingdom tax payable by that first mentioned company, in respect of the profits out of which such dividend is paid.

(3) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

(4) Where Antigua and Barbuda income tax is payable for a year for which this Arrangement has effect in respect of any income in respect of which United Kingdom income tax is payable for a year prior to the year beginning on the 6th April, 1947, then—

(a) in the case of a person resident in Antigua and Barbuda, the Antigua and Barbuda income tax shall, for the purposes of subparagraph (2) of this paragraph, be deemed to be reduced by the amount of any relief allowable in respect thereof under the provisions of section 27 of the United Kingdom Finance Act, 1920; and

(b) in the case of a person resident in the United Kingdom, the provisions of section 41 of the Antigua and Barbuda Income Tax Act, shall apply for the purposes of the allowance of relief from Antigua and Barbuda tax.

14. This Arrangement shall not apply to companies entitled to any special tax benefit under the Antigua and Barbuda International Business Companies (Exemption from Income Tax) Act as in effect on 1st January, 1968, or any substantially similar law enacted by Antigua and Barbuda after that date.

15. (1) The taxation authorities of the United Kingdom and Antigua and Barbuda shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph the term “taxation authorities” means the Commissioners of Inland Revenue or their authorized representative in the case of the United Kingdom and the Commissioner of Inland Revenue or his authorized representative in the case of Antigua and Barbuda.

16. This Arrangement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and Antigua and Barbuda as are necessary to give the Arrangement the force of law in the United Kingdom and Antigua and Barbuda respectively, and shall thereupon have effect—

(a) in the United Kingdom, as respects income tax for the year of assessment beginning on the 6th day of April, 1947, and subsequent years; as

respects surtax for the year of assessment beginning on the 6th day of April, 1946, and subsequent years; and as respects profits tax for any chargeable accounting period beginning on or after the 1st day of January, 1947, and for the unexpired portion of any chargeable accounting period current at that date;

(b) in Antigua and Barbuda as respects income tax for the year of assessment beginning on the first day of January, 1947, and subsequent years.

17. This Arrangement shall continue in effect indefinitely but either of the Governments may, on or before the 30th day of June in any calendar year after the year 1948, give notice of termination to the other Government and, in such event, this Arrangement shall cease to be effective—

(a) in the United Kingdom as respects income tax for any year of assessment beginning on or after the 6th day of April in the calendar year next following that in which such notice is given; as respects surtax for any year of assessment beginning on or after the 6th day of April in the calendar year in which such notice is given; and as respects profits tax for any chargeable accounting period beginning on or after the first day of January in the calendar year next following that in which such notice is given and for the unexpired portion of any chargeable accounting period current at that date;

(b) in Antigua and Barbuda, as respects income tax for any year of assessment beginning on or after the first day of January of the calendar year next following that in which such notice is given.

18. EFFECT. Sub-paragraphs (1) and (2) of paragraph 13 of this Agreement shall have effect—

(a) in the United Kingdom:

- (i) as respects income tax including surtax, for any year of assessment beginning on or after the 6th day of April, 1968; and
- (ii) as respects corporation tax, for any financial year beginning on or after the 1st day of April, 1968;

(b) in Antigua and Barbuda:

as respects income tax, for any year of assessment beginning on or after the 1st day of January, 1968.

THE INCOME TAX (DOUBLE TAXATION RELIEF)
(NEW ZEALAND) ORDER

Arrangement of Sections
Section

1. Short title.
 2. Declaration.
- SCHEDULE.

S.R.O. 7/1951.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (NEW ZEALAND) ORDER, 1951, DATED THE 8th DAY OF AUGUST, 1951 MADE UNDER SECTION 43 OF THE INCOME TAX ACT.

1. SHORT TITLE. This Order may be cited as the Income Tax (Double Taxation Relief) (New Zealand) Order.

2. DECLARATION. In is hereby declared—

(a) that the arrangements specified in the Arrangement set out in the Schedule have been made with the Government of New Zealand with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of New Zealand; and

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

SCHEDULE

Arrangement between the Government of New Zealand and the Government of Antigua and Barbuda for the Avoidance of Double Taxation and the prevention of Fiscal Evasion with respect to Taxes on Income.

1. (1) The Taxes which are the subject of this Arrangement are—

(a) In New Zealand:

the Income Tax and the social security charge (hereinafter referred to as “New Zealand tax”).

(b) In Antigua and Barbuda:

the Income Tax (hereinafter referred to as “Antigua and Barbuda tax”).

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in New Zealand or Antigua and Barbuda after this Arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The term “New Zealand” includes all islands and territories within the limits thereof for the time being, including the Cook Islands.

(b) The terms “one of the territories” and “the other territory” mean New Zealand or Antigua and Barbuda as the context requires.

(c) The term “tax” means New Zealand tax or Antigua and Barbuda tax, as the context requires.

(d) The term “person” includes any body of persons, corporate or not corporate.

(e) The term “company” includes any body corporate.

(f) The terms “resident of New Zealand” and “resident of Antigua and Barbuda” mean respectively any person who is resident in New Zealand for the purposes of New Zealand tax and not resident in Antigua and Barbuda for the purposes of Antigua and Barbuda tax and any person who is resident in Antigua and Barbuda for the purposes of Antigua and Barbuda tax and not resident in New Zealand for the purposes of New Zealand tax; and a company shall be regarded as resident in New Zealand if its business is managed and controlled in New Zealand and as resident in Antigua and Barbuda if its business is managed and controlled in Antigua and Barbuda.

(g) The terms “resident of one of the territories” and “resident of the other territory” mean a person who is a resident of New Zealand or a person who is a resident of Antigua and Barbuda, as the context requires.

(h) The terms “New Zealand enterprise” and “Antigua and Barbuda enterprise” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of New Zealand and an industrial or commercial enterprise or undertaking carried on by a resident of Antigua and Barbuda; and the terms “enterprise of one of the territories” and “enterprise of the other territory” mean a New Zealand enterprise or an Antigua and Barbuda enterprise, as the context requires.

(i) The term "industrial or commercial enterprise or undertaking" includes an enterprise or undertaking engaged in mining, agricultural or pastoral activities, or in the business of banking, insurance, life insurance or dealing in investments, and the term "industrial or commercial profits" includes profits from such activities or business but does not include income in the form of dividends, interest, rents, royalties, management charges, or remuneration for personal services.

(j) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management, factory, mine, farm, or other fixed place of business, but does not include an agency in the other territory unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or regularly fills orders on its behalf from a stock of goods or merchandise in that other territory.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such and receiving remuneration in respect of those dealings at a rate not less than that customary in the class of business in question.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) The terms "New Zealand tax" and "Antigua and Barbuda tax", as used in the present Arrangement, do not include any tax payable in New Zealand or Antigua and Barbuda which represents a penalty imposed under the law of New Zealand or Antigua and Barbuda relating to the taxes which are the subject of the present Arrangement.

(3) In the application of the provisions of this Arrangement by New Zealand or Antigua and Barbuda, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of New Zealand, or, as the case may be, Antigua and Barbuda, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of a New Zealand enterprise shall not be subject to Antigua and Barbuda tax unless the enterprise is engaged in trade or business in Antigua and Barbuda through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Antigua

and Barbuda but only on so much of them as is attributable to that permanent establishment:

Provided that nothing in this paragraph shall affect any provisions of the law of New Zealand regarding the taxation of income from the business of insurance.

(2) The industrial or commercial profits of a New Zealand enterprise shall not be subject to Antigua and Barbuda tax unless the enterprise is engaged in trade or business in Antigua and Barbuda through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Antigua and Barbuda, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities and its dealings with the enterprise of which it is a permanent establishment were dealings at arm's length with that enterprise or an independent enterprise; and the profits so attributed shall be deemed to be income derived from sources in that other territory.

If the information available to the taxation authority concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this sub-paragraph shall affect the application of the law of either territory in relation to the liability of the permanent establishment to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that territory:

Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in this sub-paragraph.

(4) Profits derived by an enterprise of one of the territories from sales, under contracts concluded in that territory, of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent of the enterprise in that other territory, and transmitted by him to the enterprise for acceptance.

(5) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

4. (1) Where—

(a) an enterprise of one of the territories participants directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

(c) in either case conditions are operative between the two enterprises in their commercial or financial relations which differ from those which might be expected to operate between independent enterprises dealing at arm's length with one another,

then, if by reason of those conditions profits which might be expected to accrue to one of the enterprises do not accrue to that enterprise, there may be included in the profits of that enterprise the profits which would have accrued to it if it were an independent enterprise and its dealings with the other enterprise were dealings at arm's length with that enterprise or an independent enterprise.

(2) Profits included in the profits of an enterprise of one of the territories under sub-paragraph (1) of this paragraph shall be deemed to be income derived from sources in that territory and shall be taxed accordingly.

(3) If the information available to the taxation authority concerned is inadequate to determine, for the purposes of sub-paragraph (1) of this paragraph, the profits which might be expected to accrue to an enterprise, nothing in that paragraph shall affect the application of the law of either territory in relation to the liability of that enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that territory:

Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in that sub-paragraph.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

6. (1) Dividends paid by a company resident in one of the territories to a resident of the other territory who is subject to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from any tax in that first-mentioned territory which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company:

Provided that dividends paid by a company resident in New Zealand to a person who is resident in the Antigua and Barbuda may be included in that person's total income for the purposes of determining the amount of any New Zealand tax payable in respect of income of that person other than such dividends.

(2) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature

of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits, or income so derived.

7. (1) Any royalty derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof and is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory; but no exemption shall be allowed under this paragraph in respect of so much of any royalty as exceeds an amount which represents a fair and reasonable consideration for the rights for which the royalty is paid.

(2) In this paragraph the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or, other like property, but does not include royalties or other amounts paid in respect of the operation of mines or quarries or of the extraction or removal of timber or other natural resources or rents or royalties in respect of motion picture films.

8. (1) Remuneration (other than pensions) paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the Government of the other territory if the individual is not ordinarily resident in that other territory or is ordinarily resident in that other territory solely for the purpose of rendering those services.

(2) The provisions of this paragraph shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for purposes of profit.

9. (1) An individual who is a resident of Antigua and Barbuda shall be exempt from New Zealand tax on profits or remuneration in respect of personal (including professional) services performed within New Zealand in any year of assessment if—

(a) he is present within New Zealand for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Antigua and Barbuda, and

(c) the profits or remuneration are subject to Antigua and Barbuda tax.

(2) An individual who is a resident of New Zealand shall be exempt from Antigua and Barbuda tax on profits or remuneration in respect of personal (including professional) services performed within Antigua and Barbuda in any year of assessment if—

(a) he is present within Antigua and Barbuda for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in New Zealand, and

(c) the profits or remuneration are subject to New Zealand tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artistes, musicians and athletes.

10. (1) Any pension or annuity, derived from sources within one of the territories by an individual who is a resident of the other territory and liable to tax in that other territory in respect thereof, shall be exempt from tax in the first-mentioned territory.

(2) The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in consideration of money paid.

11. A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

12. A student or business or trade apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

13. Income of a person who is a resident of Antigua and Barbuda (other than dividends paid by a company resident in New Zealand) which is exempt from New Zealand tax under any provision of the present Arrangement shall not be included in that person's total income for the purposes of determining the amount of any New Zealand tax payable in respect of income of that person which is assessable to New Zealand tax.

14. (1) Subject to the provisions of the law of Antigua and Barbuda regarding the allowance as a credit against Antigua and Barbuda tax of tax payable in a territory outside Antigua and Barbuda, New Zealand tax payable, whether directly or by deduction, in respect of income from sources within New Zealand shall be allowed as a credit against any Antigua and Barbuda tax payable in respect of that income. Where such income is an ordinary dividend paid by a company resident in New Zealand, the credit shall take into account the New Zealand tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a

dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the New Zealand tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

For the purposes of this paragraph any amount which is included in a person's taxable income under any provision of the law of New Zealand regarding the taxation of income from the business of insurance shall be deemed to be derived from sources in New Zealand.

(2) Where New Zealand tax is payable in respect of income derived from sources in Antigua and Barbuda by a person who is a resident of New Zealand, being income in respect of which Antigua and Barbuda tax is payable, whether directly or by deduction, the Antigua and Barbuda tax so payable (reduced by the amount of any relief or repayment attributable to that income to which that person is entitled under the law of Antigua and Barbuda) shall, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in New Zealand, be allowed as a credit against the New Zealand tax (other than the social security charge) payable in respect of that income:

Provided that where the income is a dividend paid by a company resident in Antigua and Barbuda the credit shall be allowed only if the recipient elects for the purposes of this sub-paragraph to have the amount of such dividend together with the Antigua and Barbuda tax (as so reduced) included in his assessable income for the purposes of New Zealand tax.

Where such income is an ordinary dividend paid by a company resident in Antigua and Barbuda; the credit shall take into account (in addition to any Antigua and Barbuda income tax appropriate to the dividend) the Antigua and Barbuda profits tax payable by the company in respect of its profits, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the profits tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(3) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

15. (1) The taxation authorities of New Zealand and Antigua and Barbuda shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court) concerned with the assessment or collection of, or the determination of appeals in relation to the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this paragraph, the term "taxation authorities" means in the case of New Zealand the Commissioner of Taxes or his authorized representative; and in the case of Antigua and Barbuda the Commissioner of Inland Revenue or his authorized representative.

16. This Arrangement shall come into force on the 11th day of August, 1951 and shall thereupon have effect—

(a) in New Zealand, as respects income tax for the year of assessment beginning on the first day of April, 1951, and subsequent years; as respects social security charge on salaries and wages as from the first day of April, 1951; and as regards social security charge on income other than salaries and wages as from the first day of April, 1950, and subsequent years;

(b) in Antigua and Barbuda, as respects income tax for the year of assessment beginning on the first day of January, 1951, and subsequent years.

THE INCOME TAX (DOUBLE TAXATION RELIEF)
(CANADA) ORDER

Arrangement of Sections
Section

1. Short title.
 2. Declaration.
- SCHEDULE.

S.R.O. 8/1952.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (CANADA)
ORDER, 1952, DATED THE 4th DAY OF MARCH, 1952 MADE
UNDER SECTION 43 OF THE INCOME TAX ACT.

1. **SHORT TITLE.** This Order may be cited as the Income Tax (Double Taxation Relief) (Canada) Order.

2. **DECLARATION.** In is hereby declared—

(a) that the arrangements specified in the Arrangement set out in the Schedule have been made with the Government of Canada with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of Canada; and

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

SCHEDULE

r.2

Arrangement between the Government of Canada and the Government of Antigua and Barbuda for the avoidance of Double Taxation and the prevention of Fiscal Evasion with respect to taxes on income.

1. (1) The Taxes which are the subject of this Arrangement are—

(a) In Canada:

The income taxes, including surtaxes, and excess profits tax imposed by Canada (hereinafter referred to as “Canadian tax”).

(b) In Antigua and Barbuda:

The Income Tax (hereinafter referred to as “Antigua and Barbuda tax”).

(2) This Arrangement shall also apply to any other taxes of a substantially similar character imposed in Canada or in Antigua and Barbuda after this Arrangement has come into force.

2. (1) In this Arrangement, unless the context otherwise requires—

(a) The terms “one of the territories” and “the other territory” mean Antigua and Barbuda or Canada as the context requires.

(b) The term “tax” means Antigua and Barbuda tax or Canadian tax, as the context requires.

(c) The term “person” includes any body of persons, corporate or not corporate.

(d) The term “company” includes any body corporate.

(e) The terms “resident of Antigua and Barbuda” and “resident of Canada” mean respectively any person who is resident in Antigua and

Barbuda for the purposes of Antigua and Barbuda tax and not resident in Canada for the purposes of Canadian tax and any person who is resident in Canada for the purposes of Canadian tax and not resident in Antigua and Barbuda for the purposes of Antigua and Barbuda tax; and a company shall be regarded as resident in Antigua and Barbuda if its business is managed and controlled in Antigua and Barbuda and as resident in Canada if its business is managed and controlled in Canada.

(f) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of Antigua and Barbuda or a person who is a resident of Canada, as the context requires.

(g) The terms "Antigua and Barbuda enterprise" and "Canadian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Antigua and Barbuda and an industrial or commercial enterprise or undertaking carried on by a resident of Canada; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean an Antigua and Barbuda enterprise or a Canadian enterprise, as the context requires.

(h) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bonâ fide* broker or general commission agent acting in the ordinary course of his business as such.

The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise.

The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade of business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) The term "industrial or commercial profits" as used in the present Arrangement, does not include income in the form of dividends, interest, rents or royalties, management charges, or remuneration for labour or personal services.

(3) In the application of the provisions of this Arrangement by Antigua and Barbuda or Canada, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of Antigua and Barbuda

or Canada, as the case may be, relating to the taxes which are the subject of this Arrangement.

3. (1) The industrial or commercial profits of an Antigua and Barbuda enterprise shall not be subject to Canadian tax unless the enterprise is engaged in trade or business in Canada through a permanent address situated therein. If it is so engaged, tax may be imposed on those profits by Canada but only on so much of them as is attributable to that permanent establishment:

(2) The industrial or commercial profits of a Canadian enterprise shall not be subject to Antigua and Barbuda tax unless the enterprise is engaged in trade or business in Antigua and Barbuda through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Antigua and Barbuda, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be deemed to arise in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

(5) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

4. Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

(c) in either case conditions are operative between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises,

then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

5. Notwithstanding the provisions of paragraphs 3 and 4, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

6. (1) The rate of Canadian tax on income (other than earned income) derived from sources within Canada by a resident of Antigua and Barbuda who is subject to Antigua and Barbuda tax in respect thereof and not engaged in trade or business in Canada through a permanent establishment situated therein, shall not exceed 15 per cent.

(2) Notwithstanding the provisions of the foregoing paragraph, dividends paid to a company which is a resident of Antigua and Barbuda by a Canadian company, all of whose shares (less director's qualifying shares) which have under all circumstances full voting rights are beneficially owned by the former company shall be exempt from Canadian tax:

Provided that exemption shall not be allowed if ordinarily more than one-quarter of the gross income of the Canadian company is derived from interest and dividends other than interest and dividends from any wholly-owned subsidiary company.

(3) Income (other than earned income) derived from sources within Antigua and Barbuda by an individual who is a resident of Canada, subject to Canadian tax in respect of the income, and not engaged in trade or business in Antigua and Barbuda through a permanent establishment situated therein, shall not be liable to tax in Antigua and Barbuda at a rate in excess of the rate applicable to a company.

7. Copyright royalties and other like payments made in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including rents or royalties in respect of motion picture films) and derived from sources within one of the territories by a resident of the other territory who is liable to tax in that other territory in respect thereof and not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

8. (1) Remuneration (other than pensions) paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the Government of the other territory if the individual is not ordinarily resident in that other territory or is ordinarily resident in that other territory solely for the purpose of rendering those services.

(2) Any pension paid by the Government of one of the territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the Government of the other territory if immediately prior to the cessation of those services the remuneration therefor was exempt from tax in that territory, whether under sub-paragraph (1) of this paragraph or otherwise, or would have been exempt under that sub-paragraph if the present Arrangement had been in force at the time when the remuneration was paid.

(3) The provisions of this paragraph shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for purposes of profit.

9. (1) An individual who is a resident of Antigua and Barbuda shall be exempt from Canadian tax on profits or remuneration in respect of personal (including professional) services performed within Canada in any taxation year if—

(a) he is present within Canada for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Antigua and Barbuda, and

(c) the profits or remuneration are subject to Antigua and Barbuda tax.

(2) An individual who is a resident of Canada shall be exempt from Antigua and Barbuda tax on profits or remuneration in respect of personal (including professional) services performed within Antigua and Barbuda in any year of assessment if—

(a) he is present within Antigua and Barbuda for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Canada, and

(c) the profits or remuneration are subject to Canadian tax.

(3) The provisions of this paragraph shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artistes, musicians and athletes.

10. (1) Any pension (other than a pension paid by the Government of Canada for services rendered to it in the discharge of governmental functions) and any annuity, derived from sources within Canada by an individual who is a resident of Antigua and Barbuda and subject to Antigua and Barbuda tax in respect thereof, shall be exempt from Canadian tax.

(2) Any pension (other than a pension paid by the Government of Antigua and Barbuda for services rendered to it in the discharge of governmental functions)

and any annuity, derived from sources within the Antigua and Barbuda by an individual who is a resident of Canada and subject to Canadian tax in respect thereof, shall be exempt from Antigua and Barbuda tax.

(3) The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in consideration of money paid.

11. A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

12. A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

13. (1) Subject to the provisions of the law of Antigua and Barbuda regarding the allowance as a credit against Antigua and Barbuda tax of tax payable in a territory outside Antigua and Barbuda, Canadian tax payable, in respect of income from sources within Canada shall be allowed as a credit against any Antigua and Barbuda tax payable in respect of that income. Where such income is an ordinary dividend paid by a Canadian debtor, the credit shall take into account (in addition to any Canadian income tax chargeable directly or by deduction in respect of the dividend) the Canadian income tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate to which the shares are entitled and an additional participation in profits, the Canadian income tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(2) For the purposes of the foregoing sub-paragraph and of the aforesaid provisions of the law of Antigua and Barbuda, so much of the tax chargeable under the law of Canada relating to excess profits tax as is chargeable otherwise than by reference to excess profits shall be treated as income tax and not as excess profits tax.

(3) Subject to the provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada, Antigua and Barbuda tax payable in respect of income from sources within Antigua and Barbuda shall be deducted from any Canadian tax payable in respect of that income.

(4) For the purposes of this paragraph profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual

whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

14. (1) The taxation authorities of Antigua and Barbuda and Canada shall exchange such information (being information available under their respective taxation laws) as is necessary for carrying out the provisions of this Arrangement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Arrangement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons concerned with the assessment and collection of the taxes which are the subject of this Arrangement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) The taxation authorities of Antigua and Barbuda and Canada may consult together as may be necessary for the purpose of carrying out the provisions of the present Arrangement, and in particular, the provisions of paragraphs 3 and 4.

(3) As used in this paragraph, the term "taxation authorities" means in the case of Canada the Minister of National Revenue or his authorized representatives; and in the case of Antigua and Barbuda the Commissioner of Inland Revenue or his authorized representative.

15. This Arrangement shall be deemed to have had effect as on the 26th day of September, 1951, and shall as from such date have effect—

(a) in Canada, as respects income taxes, including surtaxes, for the taxation year 1951, and subsequent years;

(b) in Antigua and Barbuda, as respects income tax for the year of assessment beginning on the first day of January, 1951, and subsequent years.

THE INCOME TAX (DOUBLE TAXATION RELIEF)
(SWEDEN) ORDER

Arrangement of Sections
Section

Recitals.

1. Short title.
2. Declaration.

FIRST SCHEDULE.

ARTICLE I

ARTICLE II

ARTICLE III

ARTICLE IV

ARTICLE V

ARTICLE VI

ARTICLE VII

ARTICLE VIII

ARTICLE IX

ARTICLE X

ARTICLE XI

ARTICLE XII

ARTICLE XIII

ARTICLE XIV

ARTICLE XV

ARTICLE XVI

ARTICLE XVII

ARTICLE XVIII

ARTICLE XIX

ARTICLE XX

ARTICLE XXI

ARTICLE XXII

ARTICLE XXIII

ARTICLE XXIV

ARTICLE XXV

SECOND SCHEDULE.

S.R.O. 32/1954.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (SWEDEN)
ORDER, 1954, DATED DECEMBER 29, 1954, MADE UNDER
SECTION 43 OF THE INCOME TAX ACT.

WHEREAS it is provided by section 43 of the Income Tax Act, that if the Cabinet by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Antigua and Barbuda with a view to affording relief from Double Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that these arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything to the contrary contained in any enactment:

AND WHEREAS by a Convention dated the 30th day of March, 1949, between His Majesty in respect of the United Kingdom and His Majesty the King of Sweden, arrangements were made among other things for the avoidance of Double Taxation:

AND WHEREAS provision is made in the said Convention for the extension by means of an exchange of notes between the High Contracting Parties of the said Convention, subject to such modifications and conditions (including conditions as to termination) as may be specified in the exchange of notes, to any territory, for whose foreign relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by a notification dated the 18th day of December, 1953, the said Convention with certain modifications was applied to Antigua and Barbuda.

NOW, THEREFORE, the Cabinet doth hereby order as follows—

1. SHORT TITLE. This Order may be cited as the Income Tax (Double Taxation Relief) (Sweden) Order.

2. DECLARATION. It is hereby declared—

(a) that the arrangements specified in the First Schedule as modified by the provisions of the Second Schedule have been made with the Government of Sweden;

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

FIRST SCHEDULE

Convention between Her Majesty in respect of the United Kingdom of Great Britain and Northern Ireland and His Majesty the King of Sweden for the avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income.

ARTICLE I

1. The taxes which are the subject of the present Convention are—

(a) In Sweden: The State income tax (including coupon tax) and the tax on the undistributed profits of companies (*Ersattningskatt*), and for the purposes of Articles XXII, paragraph 3, and XXIII to XXV inclusive, the State capital tax (hereinafter referred to as “Swedish tax”).

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax) and the profits tax (hereinafter referred to as “United Kingdom tax”).

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Sweden subsequently to the date of signature of the present Convention.

ARTICLE II

1. In the present Convention, unless the context otherwise requires—

(a) The term “United Kingdom” means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(b) The terms “one of the territories” and “the other territory” mean the United Kingdom or Sweden, as the context requires;

(c) The term “tax” means United Kingdom tax or Swedish tax, as the context requires;

(d) The term “person” includes any body of persons, corporate or not corporate;

(e) The term "company" means any body corporate;

(f) The terms "resident of the United Kingdom" and "resident of Sweden" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Sweden for the purposes of Swedish tax, and any person who is resident in Sweden for the purposes of Swedish tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Sweden if it is incorporated under the laws of Sweden and its business is not managed and controlled in the United Kingdom, or if it is not so incorporated but its business is managed and controlled in Sweden;

(g) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Sweden, as the context requires;

(h) The terms "United Kingdom enterprise" and "Swedish enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Sweden, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Swedish enterprise, as the context requires;

(i) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;

(j) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, a mine, quarry or any other place of natural resources subject to exploitation. It also includes a place where building construction is carried on by contract for a period of at least one year, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection—

- (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bonâ fide* broker or general commission agent acting in the ordinary course of his business as such;
- (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;

- (iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. Where under this Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

3. In the application of the provisions of the present Convention by one of the High Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

ARTICLE III

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Swedish tax unless the enterprise carries on a trade or business in Sweden through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Sweden, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Swedish enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

4. Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV

Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory;

and in either case, conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

1. The industrial and commercial profits of a Swedish enterprise shall, so long as undistributed profits of United Kingdom enterprises are effectively charged to United Kingdom profits tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom profits tax only at that lower rate.

2. Where a company which is a resident of Sweden controls, directly or indirectly, not less than 50 per cent of the entire voting power of a company which is a resident of the United Kingdom, distribution by the latter company to the former company shall be left out of account in computing United Kingdom profits tax effectively chargeable on the latter company at the rate appropriate to distributed profits.

ARTICLE VI

Notwithstanding the provisions of Articles III, IV and V, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

ARTICLE VII

1. (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Sweden, who is subject to tax in Sweden in respect thereof and does not carry on a trade or business in the United Kingdom

through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(b) The Swedish coupon tax on dividends paid by a company which is a resident of Sweden to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on a trade or business in Sweden through a permanent establishment situated therein, shall not exceed 5 per cent:

Provided that where the resident of the United Kingdom is a company which controls, directly or indirectly, not less than 50 per cent of the entire voting power of the company paying the dividends, the dividends shall be exempt from coupon tax.

2. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VIII

1. Any interest derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this Article, the term "interest" includes interest on bonds, securities, notes, debentures or any other form of indebtedness.

3. Where any interest exceeds a fair and reasonable consideration in respect of the indebtedness for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest as represents such fair and reasonable consideration.

ARTICLE IX

1. Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this Article the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any extraction of natural resources.

3. Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE X

1. Income of whatever nature derived from real property within the territory of the United Kingdom (other than income from mortgages or bonds secured by real property) by a resident of Sweden who is subject to tax in the United Kingdom in respect thereof shall be exempt from tax in Sweden.

2. Any royalty or other amount paid in respect of the operation of a mine or quarry or of any extraction of natural resources within the territory of the United Kingdom to a resident of Sweden who is subject to tax in the United Kingdom in respect thereof, shall be exempt from tax in Sweden.

3. Swedish tax payable in respect of income of the kind referred to in the preceding paragraphs, derived from sources within Sweden by a resident of the United Kingdom who is liable to tax in the United Kingdom in respect thereof, shall in accordance with Article XIX be allowed as a credit against the United Kingdom tax payable in respect of that income.

ARTICLE XI

1. Where under the provisions of this Convention a resident of the United Kingdom is exempt or entitled to relief from Swedish tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the United Kingdom.

2. Swedish tax on the undivided estate of a deceased person shall, in so far as the income accrues to a beneficiary who is resident in the United Kingdom, be allowed as a credit under Article XIX.

ARTICLE XII

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt in that other territory from any tax on gains from the sale, transfer, or exchange of capital assets.

ARTICLE XIII

1. Remuneration or pensions paid by, or out of funds created by, one of the High Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other High Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

2. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the High Contracting Parties for purposes of profits.

ARTICLE XIV

1. An individual who is a resident of the United Kingdom shall be exempt from Swedish tax on profits or remuneration in respect of personal (including professional) services performed within Sweden in any year of assessment if—

(a) he is present within Sweden for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of Sweden shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Sweden, and

(c) the profits or remuneration are subject to Swedish tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLE XV

1. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XIII) and any annuity, derived from sources within Sweden by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Swedish tax.

2. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XIII) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Sweden and subject to Swedish tax in respect thereof, shall be exempt from United Kingdom tax.

3. The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XVI

A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college or other establishment for further education in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XVII

A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

ARTICLE XVIII

1. Individuals who are residents of Sweden shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Swedish tax as those to which Swedish nationals not resident in Sweden may be entitled.

ARTICLE XIX

1. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Swedish tax payable under the laws of Sweden and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Sweden shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a company which is a resident of Sweden the credit shall take into account (in addition to any Swedish tax appropriate to the dividend) the Swedish tax payable by the company in respect of its profit; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional

participation in profits, the Swedish tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

2. Income from sources within the United Kingdom which under the laws of the United Kingdom and in accordance with this Convention is subject to tax in the United Kingdom either directly or by deduction shall be exempt from Swedish tax:

Provided that where such income is a dividend paid by a company being a resident of the United Kingdom to a person resident in Sweden, not being a company, whether or not he is also resident in the United Kingdom, Swedish tax may be charged on the amount of the dividend after deduction of United Kingdom income tax, but the amount of Swedish tax chargeable shall be reduced by a sum equal to 20 per cent. of the amount of the dividend so charged.

3. Where income is derived from sources outside both the United Kingdom and Sweden by a person who is resident in the United Kingdom for the purposes of United Kingdom tax and also resident in Sweden for the purposes of Swedish tax, the income may be taxed in both countries (subject to any Convention which may exist between either of the High Contracting Parties and the territory or territories from which the income is derived), but the Swedish tax on that income shall be limited to tax on the proportion of such income represented by the proportion which such person's income from sources in Sweden bears to the sum of his income from sources in Sweden and of his income from sources in the United Kingdom, and the United Kingdom tax on that income shall be reduced by a credit, in accordance with paragraph 1 of this Article, for the Swedish tax on the proportion of that income so computed.

4. The special tax payable in Sweden by public entertainers such as theatre and radio artistes, musicians and athletes (bevillningsavgift for vissa offentliga forestallningar) shall be regarded, for the purposes of this Article, as Swedish tax.

5. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

6. The graduated rate of Swedish tax to be imposed on residents of Sweden may be calculated as though income exempted under this Convention were included in the amount of the total income.

ARTICLE XX

1. The taxation authorities of the High Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or

for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue; in the case of Sweden, the Finance Ministry; and, in the case of any territory to which the present Convention is extended under Article XXIII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE XXI

The following agreements between the United Kingdom and Sweden shall not have effect for any period for which the present Convention has effect, that is to say—

(a) the agreement dated 19th December, 1924, for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping;

(b) the agreement dated 6th July, 1931, for the reciprocal exemption from taxes in certain cases of profits arising through agencies.

ARTICLE XXII

1. The nationals of one of the High Contracting Parties shall not be subjected in the territory of the other High Contracting Party to any taxation or any requirement connected therewith which is other, higher, or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory are or may be subjected in respect of the like profits.

3. An individual or company being a resident of one of the territories shall not be subject to any tax on capital in the other territory which is other, higher, or more burdensome than the tax on capital to which an individual or, as the case may be, a company, being a resident of that other territory is or may be subjected.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one of the High Contracting Parties to grant to nationals of the other High Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.

5. In this Article the term "nationals" means—

(a) in relation to Sweden, all Swedish subjects and all legal persons, partnerships and associations deriving their status as such from the law in force in Sweden;

(b) in relation to the United Kingdom, all British subjects and British-protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XXIII and all legal persons, partnerships and associations deriving their status as such from the law in force in any British territory to which the present Convention applies.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XXIII

1. The present Convention may be extended, either in its entirety or with modifications, to any territory for whose foreign relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the High Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of Sweden or the United Kingdom of the present Convention under Article XXV shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

ARTICLE XXIV

1. The present Convention shall be ratified by the High Contracting Parties. Ratification by His Majesty the King of Sweden shall be subject to the consent of the Riksdag.

2. The instruments of ratification shall be exchanged at Stockholm as soon as possible.

3. Upon exchange of ratifications the present Convention shall have effect—

(a) in Sweden:

as respects tax on income which is assessed in or after the calendar year beginning on 1st January, 1950, being income for which preliminary tax is payable during the period 1st March, 1949, to 28th February, 1950; or any succeeding period;

as respects coupon tax payable on or after 1st January, 1949;

as respects capital tax which is assessed in or after the calendar year beginning on 1st January, 1950.

(b) in the United Kingdom:

as respects income tax for any year of assessment beginning on or after 6th April, 1949;

as respects surtax for any year of assessment beginning on or after 6th April, 1948; and

as respects profits tax in respect of the following profits—

- (i) profits arising in any chargeable accounting period beginning on or after 1st April, 1949;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
- (iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after 6th April, 1949.

ARTICLE XXV

The present Convention shall continue in effect indefinitely but either of the High Contracting Parties may, on or before 30th June in any calendar year not earlier than the year 1953, give to the other High Contracting Party, through diplomatic channels, written notice of termination and, in such event, the present Convention shall cease to be effective—

(a) in Sweden:

as respects tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which the notice is given;

as respects coupon tax payable on or after 1st January in the calendar year next following that in which the notice is given;

as respects capital tax assessed in or after the second calendar year following that in which the notice is given.

(b) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;

as respects surtax for any year of assessment beginning on or after 6th April in the calendar year in which the notice is given; and

as respects profits tax in respect of the following profits—

- (i) profits arising in any chargeable accounting period beginning on or after 1st April in the calendar year next following that in which the notice is given;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
- (iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after 6th April in the next following calendar year.

SECOND SCHEDULE

1. APPLICATION. (a) The provisions of the Convention incorporated in the First Schedule to this Order shall apply as modified below—

- (i) as if the contracting parties were Antigua and Barbuda and the Government of Sweden; and as if the tax concerned in the case of Antigua and Barbuda were the tax on income imposed by the Income Tax Act;
- (ii) as if references to the date of signatures were references to the 18th day of December, 1953;

(b) The extension shall have effect in Antigua and Barbuda as respects tax for the year of assessment beginning in the calendar year next following the date of this Order and for subsequent years of assessment, and will have effect in Sweden—

as respects Swedish tax on income for which preliminary tax is payable after the last day of February in the calendar year next following the date of this Order;

as respects Swedish coupon tax payable on or after 1st January in the calendar year next following the date of this Order;

as respects Swedish capital tax assessed in or after the second calendar year next following that date;

(c) The extension shall continue in effect indefinitely but may be terminated as respects Antigua and Barbuda by written notice of termination given on or before the 30th June in any calendar year by either of the High Contracting Parties to the Convention to the other High Contracting Party through the diplomatic channel and in such event the extension shall cease

to have effect in Antigua and Barbuda as respects tax for the year of assessment beginning in the calendar year next following the date of such notice and for subsequent years of assessment, and will cease to have effect in Sweden as respects Swedish tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which the notice is given, as respects Swedish coupon tax payable on or after 1st January in the calendar year next following that in which the notice is given, and as respects Swedish capital tax assessed in or after the second calendar year next following that in which the notice is given.

2. MODIFICATIONS. (a) In Article VII (1) of the Convention the words "exempt from United Kingdom surtax" shall be understood for the purposes of this extension as though they read "shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company".

(b) Article VIII shall be deemed to be deleted.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (DENMARK) ORDER

Arrangement of Sections Section

Recitals.

1. Short title.
2. Declaration.

FIRST SCHEDULE

ARTICLE I

ARTICLE II

ARTICLE III

ARTICLE IV

ARTICLE V

ARTICLE VI

ARTICLE VII

ARTICLE VIII

ARTICLE IX

ARTICLE X

ARTICLE XI

ARTICLE XII

ARTICLE XIII

Section

ARTICLE XIV
ARTICLE XV
ARTICLE XVI
ARTICLE XVII
ARTICLE XVIII
ARTICLE XIX
ARTICLE XX
ARTICLE XXI
ARTICLE XXII
SECOND SCHEDULE.

S.R.O. 11/1956.
S.R.O. 72/1956.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (DENMARK)
ORDER, 1956, DATED APRIL 24, 1956, MADE UNDER
SECTION 43 OF THE INCOME TAX ACT.

WHEREAS it is provided by section 43 of the Income Tax Act, that if the Cabinet by Order declares that arrangements specified in the Order have been made with the government of any territory outside Antigua and Barbuda with a view to affording relief from Double Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything to the contrary contained in any enactment:

AND WHEREAS by a Convention dated the 27th day of March, 1950, between the Government of the United Kingdom and the Government of Denmark arrangements were made among other things for the avoidance of Double Taxation:

AND WHEREAS provision is made in the said Convention for the extension by means of an exchange of notes between the High Contracting Parties of the said Convention, subject to such modifications and conditions (including conditions as to termination) as may be specified in the exchange

of notes, to any territory, for whose international relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by an Exchange of Notes dated respectively the 18th November, and the 22nd December, 1954 the said Convention with certain modifications was applied to Antigua and Barbuda.

NOW, THEREFORE, the Cabinet doth hereby order as follows—

1. SHORT TITLE. This Order may be cited as the Income Tax (Double Taxation Relief) (Denmark) Order.

2. DECLARATION. It is hereby declared—

(a) that the arrangements specified in the First Schedule as modified by the provisions of the Second Schedule, have been made with the Government of Denmark;

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

FIRST SCHEDULE

r.2.

Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Denmark for the avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income.

ARTICLE I

1. The taxes which are the subject of the present Convention are—

(a) In Denmark: The national income tax (including the extraordinary company tax) (hereinafter referred to as “Danish tax”).

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax) and the profits tax (hereinafter referred to as “United Kingdom tax”).

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in Denmark or the United Kingdom subsequently to the date of signature of the present Convention.

ARTICLE II

1. In the present Convention, unless the context otherwise requires—

(a) The term “United Kingdom” means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(b) The term “Denmark” means the Kingdom of Denmark, excluding the Faroe Islands and Greenland;

(c) The terms “one of the territories” and “the other territory” mean the United Kingdom or Denmark, as the context requires;

(d) The term “tax” means United Kingdom tax or Danish tax, as the context requires;

(e) The term “person” includes any body of persons, corporate or not corporate;

(f) The term “company” means any body corporate;

(g) The terms “resident of the United Kingdom” and “resident of Denmark” mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Denmark for the purposes of Danish tax, and any person who is resident in Denmark for the purposes of Danish tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Denmark if its business is managed and controlled in Denmark;

(h) The terms “resident of one of the territories” and “resident of the other territory” mean a person who is a resident of the United Kingdom or a person who is a resident of Denmark, as the context requires;

(i) The terms “United Kingdom enterprise” and “Danish enterprise” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Denmark, and the terms “enterprise of one of the territories” and “enterprise of the other territory” mean a United Kingdom enterprise or a Danish enterprise, as the context requires;

(j) The term “industrial or commercial profits” includes rents or royalties in respect of cinematograph films;

(k) The term “permanent establishment”, when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connexion—

-
- (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bonâ fide* broker or general commission agent acting in the ordinary course of his business as such;
 - (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
 - (iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. Where under this Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference only to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

3. In the application of the provisions of the present Convention by one of the High Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

ARTICLE III

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Danish tax unless the enterprise carries on a trade or business in Denmark through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Denmark, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Danish enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial

profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

4. Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV

Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case, conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

1. The industrial and commercial profits of a company which is a resident of Denmark shall, so long as undistributed profits of United Kingdom enterprises are effectively charged to United Kingdom Profits Tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom Profits Tax only at that lower rate.

2. Where a company which is a resident of Denmark controls, directly or indirectly, not less than 50 per cent. of the entire voting power of a company which is a resident of the United Kingdom, distributions by the latter company to the former company shall be left out of account in computing United Kingdom Profits Tax effectively chargeable on the latter company at the rate appropriate to distributed profits.

3. If the industrial and commercial profits of a company which is a resident of the United Kingdom become chargeable to a form of Danish tax under which, in the case of companies which are residents of Denmark, the undistributed or undistributable income is charged to tax at a lower rate than the distributed or distributable income of such companies, these industrial and commercial profits shall be charged to Danish tax only at the lower rate.

4. Where a company which is a resident of the United Kingdom beneficially owns not less than 50 per cent. of the entire ordinary share capital of a company which is a resident of Denmark, distributed or distributable income payable by the latter company to the former company shall be left out of account in computing the liability of the latter company to Danish tax at any higher rate appropriate to distributed or distributable income, and this shall apply, in particular, in computing the liability of the latter company to that part of the Danish extraordinary tax on companies known as *Udbytterate*.

ARTICLE VI

1. Notwithstanding the provisions of Articles III, IV and V, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

2. The Agreement dated 18th December, 1924 (*b*), between the United Kingdom and Denmark for the reciprocal exemption from Income Tax in certain cases of profits accruing from the business of shipping shall not have effect for any year or period for which the present Convention has effect.

ARTICLE VII

1. (*a*) Dividends paid by a company which is a resident of the United Kingdom to a resident of Denmark, who is subject to tax in Denmark in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(*b*) Dividends paid by a company which is a resident of Denmark to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on a trade or business in Denmark through a permanent establishment situated therein, shall not be chargeable to tax in addition to the tax on the profits out of which the dividends are paid at a rate exceeding 5 per cent.:

Provided that where the resident of the United Kingdom is a company which beneficially owns not less than 50 per cent. of the entire ordinary share capital of the company paying the dividends, the dividends shall be exempt from any such tax on dividends.

(*b*) S.R. & O. 1925 (No. 102) p. 595.

2. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VIII

1. Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory; but no exemption shall be allowed in respect of interest paid by a company which is a resident of one of the territories to a company which is a resident of the other territory where the latter company controls, either directly or indirectly, more than 50 per cent. of the entire voting power or the former company.

2. In this Article—

(a) the term “interest” includes interest on bonds, securities, notes, debentures or on any other form of indebtedness;

(b) the term “royalty” means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

3. Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE IX

Income of whatever nature derived from real property within one of the territories (except interest on mortgages secured on real property) shall be chargeable to tax in accordance with the laws of that territory. Where the said income is also chargeable to tax in the other territory, credit for the tax payable in the first-mentioned territory shall be given against the tax payable on that income in the other territory in accordance with Article XVII.

ARTICLE X

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt in that other territory from any tax on gains from the sale, transfer, or exchange of capital assets.

ARTICLE XI

1. Remuneration, including pensions, paid by, or out of funds created by, one of the High Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other High Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

2. The provisions of this Article shall not apply to payments in respect of services rendered in connexion with any trade or business carried on by either of the High Contracting Parties for purposes of profit.

ARTICLE XII

1. An individual who is a resident of the United Kingdom shall be exempt from Danish tax on profits or remuneration in respect of personal (including professional) services performed within Denmark in any year of assessment if—

(a) he is present within Denmark for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of Denmark shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Denmark, and

(c) the profits or remuneration are subject to Danish tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLES XIII

1. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XI) and any annuity, derived from sources within Denmark by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Danish tax.

2. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XI) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Denmark and subject to Danish tax in respect thereof, shall be exempt from United Kingdom tax.

3. The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XIV

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XV

A student or business apprentice from one of the territories, who is receiving full time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

ARTICLE XVI

1. Individuals who are residents of Denmark shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom income tax as British subjects not resident in the United Kingdom.

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances and reliefs for the purposes of Danish tax as Danish nationals not resident in Denmark.

ARTICLE XVII

1. The laws of the High Contracting Parties shall continue to govern the taxation of income arising in either of the territories, except where express provision to the contrary is made in this Convention. Where income is subject to tax in both territories, relief from double taxation shall be given in accordance with the following paragraphs.

2. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Danish tax payable, whether directly or by deduction, in respect of income from sources within Denmark shall be allowed as a credit against the United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a company resident in Denmark, the credit shall take into account (in addition to any Danish tax appropriate to the dividend) the Danish tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Danish tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

3. United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom shall be allowed as a deduction from the Danish tax payable in respect of that income:

Provided that the amount of the deduction shall not exceed the proportion of the Danish tax which such income chargeable to Danish tax bears to the total income chargeable to Danish tax. For the purposes of this paragraph only, the expression "Danish tax" shall include the Danish inter-municipal income tax.

4. In the case of a person who is resident in the United Kingdom for the purposes of United Kingdom tax and is also resident in Denmark for the purposes of Danish tax, the provisions of paragraph 2 of this Article shall apply in relation to income which that person derives from sources within Denmark, and the provisions of paragraph 3 of this Article shall apply in relation to income which he derives from sources within the United Kingdom. If such person derives income from sources outside both the United Kingdom and Denmark, tax may be imposed on that income in both the territories (subject to the laws in force in the territories and to any Convention which may exist between either of the High Contracting Parties and the territory from which the income is derived). A credit shall be allowed in accordance with paragraph 2 of this Article against any United Kingdom tax payable in respect of that income, equal to that proportion of the United Kingdom tax or the Danish tax on that income, whichever is the less, which such person's income from sources within the United Kingdom bears to the sum of his income from sources within the United Kingdom and his income from sources within Denmark; and a deduction shall be allowed in accordance with paragraph 3 of this Article against any Danish tax payable in respect of that income equal to that proportion of the United Kingdom tax or the Danish tax on that income, whichever is the less, which such person's income from sources within Denmark bears to the sum of his income from sources within the United Kingdom and his income from sources within Denmark.

5. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual

whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

ARTICLE XVIII

1. The taxation authorities of the High Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorized representatives; in the case of Denmark, the Director-General of Taxation or his authorized representative; and, in the case of any territory to which the present Convention is extended under Article XX, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

ARTICLE XIX

1. The nationals of one of the High Contracting Parties shall not be subjected in the territory of the other High Contracting Party to any taxation or any requirement connected therewith which is other, higher, or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories, whether carried on by a company, a body of persons or by individuals alone or in partnership, shall not be subjected in the other territory, in respect of profits or capital attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory similarly carried on are or may be subjected in respect of the like profits or capital.

3. The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory shall not be subjected in the first-mentioned territory to any taxation which is other, higher or more burdensome than the taxation to which other enterprises of that first-mentioned territory are or may be subjected in respect of the like income, profits and capital.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one of the High Contracting Parties to grant to nationals of the other High Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.

5. In this Article the term "nationals" means—

(a) in relation to Denmark, all Danish citizens and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in Denmark or in any Danish territory to which the present Convention applies by reason of extension made under Article XX;

(b) in relation to the United Kingdom, all British subjects and British-protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XX, and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in any British territory to which the present Convention applies.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XX

1. The present Convention may be extended, either in its entirety or with modifications, to any territory of one of the High Contracting Parties to which this Article applies and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the High Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of Denmark or the United Kingdom of the present Convention under Article XXII shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

3. The territories to which this Article applies are—

(a) in relation to the United Kingdom: any territory other than the United Kingdom for whose international relations the United Kingdom is responsible;

(b) in relation to Denmark: any territory other than Denmark for whose international relations Denmark is responsible.

ARTICLE XXI

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.

2. Upon exchange of ratifications the present Convention shall have effect—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after the 6th April, 1949;

as respects surtax for any year of assessment beginning on or after the 6th April, 1948; and

as respects profits tax in respect of the following profits—

- (i) profits arising in any chargeable accounting period beginning on or after the 1st April, 1949;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
- (iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after the 6th April, 1949.

(b) In Denmark:

as respects Danish tax for any taxation year beginning on or after the 1st April, 1949.

ARTICLE XXII

The present Convention shall continue in effect indefinitely but either of the High Contracting Parties may, on or before the 30th June in any calendar year not earlier than the year 1953, give to the other High Contracting Party, through diplomatic channels, written notice of termination and, in such event, the present Convention shall cease to be effective—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;

as respects surtax for any year of assessment beginning on or after the 6th April in the calendar year in which the notice is given; and

as respects profits tax in respect of the following profits—

- (i) profits arising in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

- (iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the next following calendar year.

(b) In Denmark:

as respects Danish tax for any taxation year beginning on or after the 1st April in the calendar year next following that in which the notice is given.

SECOND SCHEDULE

r.2.

1. APPLICATION.

(a) The provisions of the Convention incorporated in the First Schedule shall apply as modified below—

- (i) as if the contracting parties were Antigua and Barbuda and the Government of Denmark;
- (ii) as if the tax concerned in the case of Antigua and Barbuda were the tax on income imposed by the Income Tax Act;
- (iii) as if the taxes concerned in the case of Denmark included the Defence Tax;
- (iv) as if references to the date of signature were references to the 22nd day of December, 1954;
- (v) as if references to the 6th day of April were references to the 1st day of January.

(b) The extension shall have effect in Antigua and Barbuda as respects tax for the year of assessment 1954 and for subsequent years of assessment, (and will have effect in Denmark — as respects Danish tax for any taxation year beginning on or after the first day of April 1954).

(c) The extension shall continue in effect indefinitely but may be terminated as respects Antigua and Barbuda by written notice of termination given on or before the 30th day of June in any calendar year not earlier than the year 1957 by either of the High Contracting Parties to the Convention to the other High Contracting Party through the diplomatic channel and in such event the extension shall cease to have effect in Antigua and Barbuda as respects tax for the year of assessment beginning in the calendar year next following the date of such notice and for subsequent years of assessment, (and will cease to have effect in Denmark as respects Danish tax for any taxation year beginning on or after the first day of April in the calendar year next following that in which the notice is given).

2. MODIFICATIONS. (a) In Article VII (1) of the Convention the words "exempt from United Kingdom sur-tax" shall be understood for the purposes of this extension as though they read "shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company".

(b) In Articles VIII and IX all references to interest shall be deemed to be deleted.

THE INCOME TAX (DOUBLE TAXATION RELIEF)
(NORWAY) ORDER

Arrangement of Sections
Section

Recitals.

1. Short title.
2. Declaration.

FIRST SCHEDULE.

ARTICLE I
ARTICLE II
ARTICLE II
ARTICLE III
ARTICLE IV
ARTICLE V
ARTICLE VI
ARTICLE VI
ARTICLE VII
ARTICLE VIII
ARTICLE IX
ARTICLE X
ARTICLE XI
ARTICLE XII
ARTICLE XIII
ARTICLE XIV
ARTICLE XV
ARTICLE XVI
ARTICLE XVII
ARTICLE XVIII
ARTICLE XIX
ARTICLE XX

Section

ARTICLE XXI
ARTICLE XXII
SECOND SCHEDULE.

S.R.O. 12/1956.

THE INCOME TAX (DOUBLE TAXATION RELIEF) (NORWAY)
ORDER, 1956, DATED MAY 8th, 1956, MADE UNDER
SECTION 43 OF THE INCOME TAX ACT.

WHEREAS it is provided by section 43 of the Income Tax Act, that if the Cabinet by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Antigua and Barbuda with a view to affording relief from Double Taxation in relation to Income Tax and any tax of a similar character imposed by the laws of that territory and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to Income Tax notwithstanding anything to the contrary contained in any enactment:

AND WHEREAS by a Convention dated the 2nd day of May, 1951 between the Government of the United Kingdom and the Government of Norway, arrangements were made among other things for the avoidance of Double Taxation:

AND WHEREAS provision is made in the said Convention for the extension by means of an exchange of notes between the High Contracting Parties of the said Convention, subject to such modifications and conditions (including conditions as to termination) as may be specified in the exchange of notes, to any territory, for whose international relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by an Exchange of Notes dated the 18th day of May, 1955, the said Convention with certain modifications was applied to Antigua and Barbuda.

NOW, THEREFORE, the Cabinet doth hereby order as follows—

1. SHORT TITLE. This Order may be cited as the Income Tax (Double Taxation Relief) (Norway) Order.

2. DECLARATION. It is hereby declared—

(a) that the arrangements specified in the First Schedule as modified by the provisions of the Second Schedule, have been made with the Government of Norway;

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

FIRST SCHEDULE

r.2.

Agreement between the Government of the United Kingdom and the Norwegian Government for the avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Norway.

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows—

ARTICLE I

1. The taxes which are the subject of the present Convention are—

(a) In Norway:

The national income tax including the national defence tax on income, the communal income tax, the old age pension tax, the war pension tax, and the seamen's tax, and, for the purposes of Article XIX the national property tax, including the national defence tax on property (hereinafter referred to as "Norwegian tax").

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax").

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in Norway or the United Kingdom subsequently to the date of signature of the present Convention.

ARTICLE II

1. In the present Convention, unless the context otherwise requires—

(a) The term “United Kingdom” means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(b) The term “Norway” means the Kingdom of Norway, excluding Spitsbergen and Bear Island and Jan Mayen and the Norwegian dependencies outside Europe;

(c) The terms “one of the territories” and “the other territory” mean the United Kingdom or Norway, as the context requires;

(d) The term “tax” means United Kingdom tax or Norwegian tax, as the context requires;

(e) The term “person” includes any body of persons, corporate or not corporate;

(f) The term “company” means any body corporate;

(g) The terms “resident of the United Kingdom” and “resident of Norway” mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Norway for the purposes of Norwegian tax, and any person who is resident in Norway for the purposes of Norwegian tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Norway if its business is managed and controlled in Norway;

(h) The terms “resident of one of the territories” and “resident of the other territory” mean a person who is a resident of the United Kingdom or a person who is a resident of Norway, as the context requires;

(i) The terms “United Kingdom enterprise” and “Norwegian enterprise” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Norway, and the terms “enterprise of one of the territories” and “enterprise of the other territory” mean a United Kingdom enterprise or a Norwegian enterprise, as the context requires;

(j) The term “industrial or commercial profits” includes rents or royalties in respect of cinematograph films;

(k) The term “permanent establishment”, when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection—

-
- (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bonâ fide* broker or general commission agent acting in the ordinary course of his business as such;
 - (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
 - (iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. Where under the present Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

3. In the application of the provisions of the present Convention by one of the High Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

ARTICLE III

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Norwegian tax unless the enterprise carries on a trade or business in Norway through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Norway, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Norwegian enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial

profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

4. Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV

Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case, conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

ARTICLE VI

1. (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Norway, who is subject to tax in Norway in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(b) Norwegian tax on dividends paid by a company which is a resident of Norway to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on trade or business in Norway through a permanent establishment situated therein, shall not exceed 5 per cent:

Provided that, where the resident of the United Kingdom is a company which controls, directly or indirectly, not less than 50 per cent. of the entire voting power of the company paying the dividends, the dividends shall be exempt from Norwegian tax.

2. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of any undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VII

1. Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this Article—

(a) The term “interest” includes interest on bonds, securities, notes, debentures or on any other form of indebtedness;

(b) The term “royalty” means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

3. Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

ARTICLE VIII

1. Where under the provisions of the present Convention a resident of the United Kingdom is exempt or entitled to relief from Norwegian tax, similar exemption or relief shall be applied to the undivided estates of deceased persons insofar as one or more of the beneficiaries is a resident of the United Kingdom.

2. Norwegian tax on the undivided estate of a deceased person shall, insofar as the income accrues to a beneficiary who is resident in the United Kingdom, be allowed as a credit under article XVI.

ARTICLE IX

1. Remuneration, including pensions, paid by, or out of funds created by, one of the Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

2. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Parties for purposes of profit.

ARTICLE X

1. An individual who is a resident of the United Kingdom shall be exempt from Norwegian tax on profits or remuneration in respect of personal (including professional) services performed within Norway in any year of assessment if—

(a) he is present within Norway for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of the United Kingdom, and

(c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of Norway shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a resident of Norway, and

(c) the profits or remuneration are subject to Norwegian tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artistes, musicians and athletes.

ARTICLES XI

A resident of one of the territories shall be exempt from tax in the other territory in respect of remuneration for services performed on ships or aircraft operating outside the other territory.

ARTICLE XII

1. Any pension (other than a pension of the kind referred to in paragraph 1 of Article IX) and any annuity, derived from sources within Norway by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Norwegian tax.

2. Any pension (other than a pension of the kind referred to in paragraph 1 of Article IX) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Norway and subject to Norwegian tax in respect thereof, shall be exempt from United Kingdom tax.

3. The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE XIII

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

ARTICLE XIV

A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him from abroad for the purposes of his maintenance, education or training.

ARTICLE XV

1. Individuals who are residents of Norway shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Norwegian tax as Norwegian nationals not resident in Norway.

ARTICLE XVI

1. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Norwegian tax payable, whether directly or by deduction, in respect of income from sources within Norway shall be allowed as a credit against any United Kingdom tax payable in respect of that income.

Where such income is an ordinary dividend paid by a company resident in Norway, the credit shall take into account (in addition to any Norwegian tax appropriate to the dividend) the Norwegian tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Norwegian tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate:

Provided that for the purposes of this paragraph of this Article, the credit to be allowed for Norwegian communal income tax shall not exceed one-half of the said communal income tax.

2. Where United Kingdom tax is payable, whether directly or by deduction, in respect of income from sources within the United Kingdom and that income is chargeable also to Norwegian tax, the Norwegian tax payable by the person entitled to such income on his total income chargeable to Norwegian tax shall be reduced by an amount which bears the same proportion to that Norwegian tax as the income from sources within the United Kingdom bears to the said total income:

Provided that the Norwegian Ministry of Finance and Customs may decide that the deduction shall not exceed the amount of the United Kingdom tax.

Where such income is an ordinary dividend paid by a company resident in the United Kingdom, the deduction, in the event that it is restricted to the amount of the United Kingdom tax, shall take into account (in addition to the United Kingdom tax appropriate to the dividend) the United Kingdom profits tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate to which the shares are entitled and an additional participation in profits, the profits tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

3. Where income is derived from sources outside both the United Kingdom and Norway by a person who is resident in the United Kingdom for the purposes of United Kingdom tax and is also resident in Norway for the purposes of Norwegian tax, the income may be taxed in both countries (subject to any Convention which may exist between either of the Contracting Parties and the territory or territories from which the income is derived). A credit shall be allowed in accordance with paragraph 1 of this Article against any United Kingdom tax payable in respect of that income, equal to that proportion of the United Kingdom tax or the Norwegian tax, whichever is the less, which such person's income from sources

within the United Kingdom bears to the sum of his income from sources within the United Kingdom and his income from sources within Norway; and a deduction shall be allowed in accordance with paragraph 2 of this Article against any Norwegian tax payable in respect of that income equal to that proportion of the United Kingdom tax or the Norwegian tax, whichever is less, which such person's income from sources within Norway bears to the sum of his income from sources within the United Kingdom and his income from sources within Norway.

4. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, except that the remuneration of a director of a company, shall be deemed to be income from sources within the territory in which the company is resident, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

ARTICLE XVII

1. The taxation authorities of the Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court) concerned with the assessment, determination and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorized representative; in the case of Norway, the Ministry of Finance and Customs; and, in the case of any territory to which the present Convention is extended under Article XX, the competent authority for the administration in each territory of the taxes to which the present Convention applies.

ARTICLE XVIII

The Agreement of 18th December, 1924 (*), between Great Britain and Norway for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping, and the Agreement of 21st December, 1938 (†), between the United Kingdom and Norway for the reciprocal exemption from taxes in certain cases of profits arising through agencies, shall not have effect—

(*) S.R. & O. 1925 (No. 103) p.600.

(†) S.R. & O. 1939 (No. 1319) II, p.1734.

(a) in Norway, for any period for which the present Convention has effect in that country;

(b) in the United Kingdom, in relation to any tax for any period for which the present Convention has effect as respects that tax.

ARTICLE XIX

1. The nationals of one of the Contracting Parties shall not be subjected in the territory of the other Contracting Party to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits or capital attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory are or may be subjected in respect of the like profits or capital.

3. The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory shall not be subjected in the first-mentioned territory to any taxation which is other, higher or more burdensome than the taxation to which other enterprises of that first-mentioned territory are or may be subjected in respect of the like income, profits and capital.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one of the Contracting Parties to grant to nationals of the other Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.

5. In this Article the term "nationals" means—

(a) in relation to Norway, all Norwegian citizens and all judicial persons domiciled in Norway;

(b) in relation to the United Kingdom, all British subjects and British protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XX, and all legal persons, partnerships, and associations deriving their status as such from the law in force in any British territory to which the present Convention applies.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XX

1. The present Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of Norway or the United Kingdom of the present Convention under Article XXII shall, unless otherwise expressly agreed by both Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

ARTICLE XXI

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Oslo as soon as possible.

2. The present Convention shall enter into force upon the exchange of ratifications and the foregoing provisions thereof shall have effect—

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after 6th April, 1950;

as respects surtax for any year of assessment beginning on or after 6th April, 1949; and

as respects profits tax in respect of the following profits—

- (i) profits arising in any chargeable accounting period beginning on or after 1st April, 1950;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
- (iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after 6th April, 1950;

(b) In Norway:

for the taxable years beginning on or after 1st January, 1950.

ARTICLE XXII

The present Convention shall continue in force indefinitely but either of the Contracting Parties may, on or before 30th June in any calendar year not earlier than the year 1954, give to the other Contracting Party, through diplomatic channels, written notice of termination provided that such notice of termination may be given in any year before 1954 if there should be any important change

in the laws of the other Contracting Party affecting the application of Article XVI. In such event, the present Convention shall cease to be effective—

(a) In the United Kingdom:

as respects income tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given; as respects surtax, for any year of assessment beginning on or after 6th April in the calendar year in which the notice is given; and as respects profits tax in respect of the following profits—

- (i) profits arising in any chargeable accounting period beginning on or after 1st April in the calendar year next following that in which the notice is given;
- (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
- (iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after 6th April in the next following calendar year.

(b) In Norway:

for the taxable years beginning on or after 1st January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed the present Convention and have affixed thereto their seals.

Done at London, in duplicate, in the English and Norwegian languages, both texts being equally authoritative, on the 2nd day of May, 1951.

[L.S.]

HERBERT MORRISON.

[L.S.]

P. PREBENSEN.

SECOND SCHEDULE

1. APPLICATION.

(a) The provisions of the Convention incorporated in the First Schedule shall apply as modified below—

- (i) as if the Contracting Parties were Antigua and Barbuda and the Government of Norway; as if the tax concerned in the case of Antigua and Barbuda were the tax imposed by the Income Tax Act;
- (ii) as if references to the date of signature were references to the 18th day of May, 1955;

(b) The extension shall have effect in Antigua and Barbuda as respects tax for the year of assessment 1955 and for subsequent years of assessment, and will have effect in Norway as respects Norwegian tax for the taxable years beginning on or after 1st January, 1954.

(c) The extension shall continue in effect indefinitely but may be terminated as respects Antigua and Barbuda by written notice of termination given on or before the 30th June in any calendar year not earlier than the year 1957 by either of the Contracting Parties to the Convention to the other Contracting Party through the diplomatic channel and in such event the extension shall cease to have effect in Antigua and Barbuda as respects tax for the year of assessment beginning in the calendar year next following the date of such notice and for subsequent years of assessment, and will cease to have effect in Norway as respects Norwegian tax for the taxable years beginning on or after 1st January in the calendar year in which the notice is given.

2. MODIFICATIONS.

(a) In paragraph 1 of Article VI of the Convention the words "shall be exempt from United Kingdom surtax" shall be understood for the purposes of this extension as though they read "shall not be liable to tax in the territory at a rate in excess of the rate applicable to a company".

(a) (i) In Article VII all references to interest shall be deemed to be deleted; and

- (ii) in paragraph 2 of Article XVI references to income (except in the phrase "total income") shall be deemed not to include interest.
-

THE INCOME TAX (DOUBLE TAXATION RELIEF)
(SWITZERLAND) ORDER

Arrangement of Sections

Section

Recitals

1. Short title.
2. Declaration.

FIRST SCHEDULE.

Article I — Article XXIV

SECOND SCHEDULE.

S.R.O. 10/1964.

THE INCOME TAX (DOUBLE TAXATION RELIEF)
(SWITZERLAND) ORDER, DATED 13th MAY, 1964, MADE
UNDER SECTION 43 OF THE INCOME TAX ACT.

WHEREAS it is provided by subsection (1) of section 43 of the Income Tax Act that if the Cabinet by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Antigua and Barbuda with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect in relation to income tax notwithstanding anything in any enactment:

AND WHEREAS by a Convention dated 30th September, 1954, between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Switzerland arrangements were made for the avoidance of double taxation:

AND WHEREAS provision is made in Article XXI of the said Convention for the extension by means of an exchange of notes between the Contracting Parties of the said Convention subject to such modifications and conditions (including conditions as to termination) as may

be specified in the exchange of notes to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the said Convention:

AND WHEREAS by means of an Exchange of Notes dated respectively the 20th August and the 26th August, 1963, the said Convention, with certain modifications, was applied to Antigua and Barbuda.

NOW, THEREFORE, the Cabinet doth hereby order as follows—

1. SHORT TITLE. This Order may be cited as the Income Tax (Double Taxation Relief) (Switzerland) Order.

2. DECLARATION. It is hereby declared—

(a) that the arrangements specified in the First Schedule to this Order as modified by the provisions of the Second Schedule to this Order have been made with the Government of Switzerland;

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

FIRST SCHEDULE

Convention between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation for the avoidance of Double Taxation with respect to Taxes on Income.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,

Have appointed for that purpose as their respective Plenipotentiaries:

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

ALFRED DOUGLAS DODDS-PARKER, Esquire, Parliamentary Under-secretary of State for Foreign Affairs;

The Swiss Federal Council:

Monsieur ERWIN BERNATH, Swiss Chargé d'Affaires ad interim in London;

Who, having communicated to one another their full powers, found in good and due form, have agreed as follows:

ARTICLE I

(1) The taxes which are the subject of the present Convention are—

(a) In the United Kingdom:

The income tax (including surtax), the profits tax and the excess profits levy (hereinafter referred to as "United Kingdom tax");

(b) In Switzerland:

The federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, &c.), but not including the Federal coupon tax except where expressly mentioned (hereinafter referred to as "Swiss tax").

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Switzerland subsequently to the date of signature of the present Convention.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires—

(a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channels Islands and the Isle of Man;

(b) The term "Switzerland" means the Swiss Confederation;

(c) The terms "one of the territories" and "the other territory" mean the United Kingdom or Switzerland, as the context requires;

(d) The term "tax" means United Kingdom tax or Swiss tax, as the context requires;

(e) The term "person" includes any individual, company, unincorporated body of persons, and any other entity with or without juridical personality;

(f) The term "company" mean in relation to the United Kingdom any body corporate, and in relation to Switzerland any entity with juridical personality;

(g) The term "resident of the United Kingdom" means—

(i) any company or partnership whose business is managed and controlled in the United Kingdom;

-
- (ii) any other person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax;
- (h) The term "resident of Switzerland" means—
- (i) any company or partnership ("societe simple", "societe en non collectif" or "societe en commandite") created or organised under Swiss law, if its business is not managed and controlled in the United Kingdom;
- (ii) any other person who is resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax and not resident in the United Kingdom for the purposes of United Kingdom tax;
- (i) The terms "resident of one of the territories" and "resident of the other territory" mean a resident of the United Kingdom or a resident of Switzerland, as the context requires;
- (j) The terms "United Kingdom enterprise" and "Swiss enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Switzerland, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Swiss enterprise, as the context requires;
- (k) The term "permanent establishment" means a branch, management, office, factory, workshop or other fixed place of business, and a farm, mine, quarry or other place of natural resources subject to exploitation. It also includes a place where building construction is carried on by contract for a period of at least one year, but does not include an agency unless the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of an enterprise of one of the territories. In this connexion—
- (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bonâ fide* broker, general commission agent or other independent agent acting in the ordinary course of his business as such;
- (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
- (iii) The fact that an enterprise of one of the territories has a subsidiary company which is a resident of the other territory on which is engaged in trade or business in that other territory (whether through permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of the enterprise of the former territory;

(l) The term "industrial or commercial profits" includes manufacturing, mercantile, mining, farming, financial and insurance profits, and rents and royalties in respect of cinematograph films, but does not include income in the form of dividends, interest or royalties (other than cinematograph royalties) except any such income which, under the laws of one of the territories and in accordance with Article III of the present Convention, is attributable to a permanent establishment situated therein;

(m) The term "competent authority" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of Switzerland, the Director of the Federal Tax Administration or his authorised representative; and in the case of any territory to which the present Convention is extended under Article XXI, the competent authority for the administration in such territory of the taxes to which the Convention applies.

(2) Where the present Convention provides that income from a source within Switzerland shall be exempt from, or entitled to a reduced rate of, tax in Switzerland if (with or without other conditions) it is subject to tax in the United Kingdom, and under the law in force in the United Kingdom the said income is subject to tax by reference to the amount thereof which is remitted to or received in the United Kingdom and not by reference to the full amount thereof, then the exemption or reduction in rate to be allowed under the Convention in Switzerland shall apply only to so much of the income as is remitted to or received in the United Kingdom.

(3) Where under any provision of the present Convention a partnership is entitled to exemption from United Kingdom tax as a resident of Switzerland on any income, such a provision shall not be construed as restricting the right of the United Kingdom to charge any member of the partnership, being a person who is resident in the United Kingdom for the purposes of United Kingdom tax (whether or not he is also resident in Switzerland for the purposes of Swiss tax), to tax on his share of the income of the partnership; but any such income shall be deemed for the purposes of Article XV to be income from sources within Switzerland.

(4) Where under any provision of the present Convention an estate of a deceased person is entitled to exemption from United Kingdom tax as a resident of Switzerland on any income, such a provision shall not be construed as requiring the United Kingdom to grant exemption from United Kingdom tax in respect of such part of such income as goes to any heir of such estate who is not resident in Switzerland for the purposes of Swiss tax and whose share of such income is not subject to Swiss tax either in his hands or in the hands of the estate.

(5) In the application of the provisions of the present Convention by either Contracting Party any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the Convention.

ARTICLE III

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Swiss tax unless the enterprise is engaged in trade or business in Switzerland through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Switzerland, but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Swiss enterprise shall not be subject to United Kingdom tax unless the enterprise is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(4) Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

(5) No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

(6) In the determination of the industrial or commercial profits of a permanent establishment there shall be allowed as deductions all expenses which are reasonably applicable to the permanent establishment, including executive and general administrative expenses so applicable, whether incurred in the territory in which the permanent establishment is situated or elsewhere.

ARTICLE IV

Where—

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and, in either case, conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

ARTICLE V

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft, including profits of that resident from the sale of tickets for passages by such ships or aircraft, shall be exempt from tax in the other territory.

ARTICLE VI

(1) Dividends (other than dividends which, under the laws of the United Kingdom and in accordance with Article III of this Convention, are attributable to a permanent establishment situated in the United Kingdom) paid by a company which is a resident of the United Kingdom to a resident of Switzerland who is subject to Swiss tax in respect thereof shall be exempt from United Kingdom surtax.

(2) The industrial and commercial profits of a Swiss enterprise engaged in trade or business through a permanent establishment in the United Kingdom shall, so long as undistributed profits of the United Kingdom enterprise are effectively charged to United Kingdom profits tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom profits tax only at that lower rate.

(3) Where not less than 50 per cent of the entire voting power of a company which is a resident of the United Kingdom is controlled, directly, or indirectly, by a company which is a resident of Switzerland, the distributions by the former company to the latter company, and to any other company which is a resident of Switzerland and which beneficially owns not less than 10 per cent of the entire share capital of the company paying the dividends, shall be left out of account in computing United Kingdom profits tax effectively chargeable on that company at the rate appropriate to distributed profits.

(4) (a) The Swiss anticipatory tax may be charged in respect of dividends paid by any company created under Swiss law to a resident of the United Kingdom, but, in the case of any such resident who is subject to United Kingdom tax in respect thereof, the rate of anticipatory tax shall be reduced in accordance with the following provisions of this paragraph (unless the dividends are, under the laws of Switzerland and in accordance with Article III of this Convention, attributable to a permanent establishment situated in Switzerland).

(b) If that resident is an individual whose effective rate of United Kingdom tax does not exceed 5 per cent, the anticipatory tax shall not be charged.

(c) If that resident is an individual whose effective rate of United Kingdom tax exceeds 5 per cent, the anticipatory tax shall be charged only at the rate which, when added to the rate of Federal coupon tax, equals that effective rate.

(d) If that resident is a company which controls, directly or indirectly, not less than 95 per cent of the entire voting power of the company paying the dividends, the anticipatory tax shall be reduced by an amount equal to 20 per cent of the dividend.

(e) If that resident is a company which controls, directly or indirectly, less than 95 per cent but not less than 50 per cent of the entire voting power of the company paying the dividends, the anticipatory tax shall be reduced by an amount equal to 10 per cent of the dividend.

(f) If that resident is a company which beneficially owns not less than 10 per cent of the entire share capital of the company paying the dividends, and the provisions of either sub-paragraph (d) or sub-paragraph (e) of this paragraph apply to some part of the dividends paid by the latter company, the anticipatory tax shall be reduced by an amount equal to 10 per cent of the dividend.

(5) If at any time distributed profits of companies become chargeable to United Kingdom profits tax at a rate other than 20 per cent above the rate at which undistributed profits are effectively chargeable to that tax, the competent authorities of the two Contracting Parties may consult together in order to determine whether it is necessary for this reason to amend sub-paragraphs (d), (e) and (f) of the preceding paragraph. After such consultation has taken place either of the Contracting Parties may give to the other Contracting Party through the diplomatic channel written notice of termination of the provisions of paragraph (3) and sub-paragraphs (d), (e) and (f) of paragraph (4) of this Article, and, in such event, those provisions shall cease to be effective from the date on which the relevant change in the rates of United Kingdom profits tax took effect.

(6) Subject to the provisions of sub-paragraph (a) of paragraph (4) of this Article, where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VII

(1) Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof, shall be exempt from tax in that first territory.

(2) In this Article—

(a) The term “interest” means interest on bonds, securities, notes, debentures or on any other form of indebtedness (including mortgages or bonds secured on real property);

(b) The term “royalty” means any royalty or other amount paid as consideration for the right to use any copyright, artistic or scientific work, patent, model, design, secret process or formula, trade-mark, or other like property or right (including rentals and like payments for the use of industrial or commercial machinery or plant or scientific apparatus), but does not include any royalty or other amount paid in respect of the operation of mines, quarries or other natural resources.

(3) Any capital sum derived from sources within one of the territories from the sale of property or rights mentioned in sub-paragraph (b) of paragraph (2) of this Article by a resident of the other territory shall be exempt from tax in the first territory.

(4) Where there is a special relationship between debtor and creditor or both debtor and creditor have a special relationship with a third person or persons, and in consequence the amount paid is greater than would have been agreed upon if debtor and creditor had been at arm's length the exemption provided by this Article shall not apply to the excess.

(5) Any interest or royalty exempted from United Kingdom tax by this Article shall be allowed as a deduction for profits tax and excess profits levy purposes from the profits or income of the person paying the interest or royalty, whatever the relationship between the person and the person receiving the interest or royalty may be.

(6) The exemptions from tax in one of the territories provided for in this Article shall not apply to interest, royalties or capital sums which, under the laws of that territory and in accordance with Article III of this Convention, are attributable to a permanent establishment situated therein.

ARTICLE VIII

(1) A resident of one of the territories shall be exempt in the other territory from any tax on gains from the sale, transfer or exchange of capital assets (other than gains which, under the laws of that other territory and in accordance with Article III of this Convention, are attributable to a permanent establishment situated therein).

(2) In this Article, the term “capital assets” means any movable property, whether corporeal or incorporeal.

ARTICLE IX

(1) Income derived from real property situated in one of the territories by a resident of the other territory shall be subject to tax in accordance with the laws of the first-mentioned territory. Where the income is also subject to tax in the other territory, relief from double taxation shall be given in accordance with the provisions of Article XV.

(2) In this Article, the term "income from real property" means income of whatever nature derived from real property, including gains derived from the sale or exchange of such property, and it also includes royalties in respect of the operation of mines, quarries or other natural resources. It does not however include interest from mortgages or bonds secured on such property.

ARTICLE X

(1) Remuneration, including pensions, paid by, or out of funds created by, the Government of the United Kingdom to an individual in respect of services rendered to that Government in the discharge of Governmental functions shall be exempt from Swiss tax:

Provided that the exemption shall not apply to remuneration other than a pension, paid, to a Swiss citizen who is not also a British subject.

(2) Remuneration, including pensions, paid by, or out of funds created by, the Swiss Confederation or by any Swiss canton to an individual in respect of services rendered to Switzerland in the discharge of Governmental functions shall be exempt from the United Kingdom tax:

Provided that the exemption shall not apply to remuneration, other than a pension, paid to a British subject who is not also a Swiss citizen.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either Contracting Party or by any Swiss canton for purposes of profit.

(4) The provisions of this Convention shall not be construed as denying or affecting in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to them.

ARTICLE XI

(1) An individual who is a resident of the United Kingdom shall be exempt from Swiss tax on profits or remuneration in respect of personal (including professional) services performed within Switzerland in any year of assessment if—

(a) he is present within Switzerland for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) (i) in the case of a directorship or employment, the services are performed for or on behalf of a resident of the United Kingdom;

(ii) in other cases he has no office or other fixed place of business in Switzerland, and

(c) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of Switzerland shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if—

(a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) (i) in the case of a directorship or employment, the services are performed for or on behalf of a resident of Switzerland;

(ii) in other cases, he has no office or other fixed place of business in the United Kingdom; and

(c) the profits or remuneration are subject to Swiss tax.

(3) The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture, radio and television artistes, musicians and athletes.

ARTICLE XII

(1) Any pension (other than a pension of the kind referred to in Article X) and any annuity, derived from sources within one of the territories by an individual who is a resident of the other territory and subject to tax in that other territory in respect thereof, shall be exempt from tax in the first territory.

(2) In this Article—

(a) The term “Pension” means periodic payments made in consideration of past services or by way of compensation for injuries received;

(b) The term “annuity” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

ARTICLE XIII

(1) A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding

two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

(2) A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons outside that other territory for the purposes of his maintenance, education or training.

ARTICLE XIV

(1) Individuals who are residents of Switzerland shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

(2) Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Swiss tax as Swiss nationals resident in the United Kingdom.

ARTICLE XV

(1) The laws of the Contracting Parties shall continue to govern the taxation of income arising in either of the territories, except where express provision to the contrary is made in the present Convention. Where income is subject to tax in both territories, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

(2) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Swiss tax payable, whether directly or by deduction, in respect of income from sources within Switzerland shall be allowed as a credit against the United Kingdom tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Switzerland to a company which controls, directly or indirectly, not less than 50 per cent of the entire voting power of the former company, the credit shall take into account (in addition to any Swiss tax appropriate to the dividend) the Swiss tax payable by the former company in respect of its profits. For the purpose of this paragraph, the term "Swiss tax" shall include the Federal coupon tax, but shall not include communal taxes.

(3) Income (other than dividends) from sources within the United Kingdom which under the laws of the United Kingdom and in accordance with this Convention is subject to tax in the United Kingdom either directly or by deduction shall be exempt from Swiss tax.

(4) In the case of a person (other than a company or partnership) who is resident in the United Kingdom for the purposes of United Kingdom tax and is also resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax, the provisions of paragraph (2) of this Article shall apply in relation

to income which that person derives from sources within Switzerland, and the provisions of paragraph (3) of this Article shall apply in relation to income which that person derives from sources within the United Kingdom. If such person derives income from sources outside both the United Kingdom and Switzerland, tax may be imposed on that income in both the territories (subject to the laws in force in the territories and to any Convention which may exist between either of the Contracting Parties and the territory from which the income is derived) but the Swiss tax on so much of that income as is subjected to tax in both the territories shall be limited to one-half of the tax on such income and the United Kingdom tax on that income shall be reduced by a credit, in accordance with paragraph (2) of this Article, for the Swiss tax so computed.

(5) For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, except that the remuneration of a director of a company shall be deemed to be income from sources within the territory in which the Company is resident, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

ARTICLE XVI

(1) Where it is provided in this Convention that relief from tax in respect of any kind of income shall be allowed in the territory from which such income is derived, that provision shall not be construed as requiring that income to be paid without deduction of tax at source at the full rate. Where tax has been deducted at source from such income the taxation authorities of the territory in which relief from tax is required to be given shall, when the taxpayer in receipt of the income shows to their satisfaction and within the time limits prescribed in that territory that he is entitled to the relief, arrange for the appropriate repayment of tax.

(2) Where any income is exempted from tax by any provision of this Convention, it may nevertheless be taken into account in computing the tax on other income or in determining the rate of such tax.

(3) For the purpose of calculating the reliefs due under Article VI and XIV, the income of a partnership shall be regarded as that of its individual members.

ARTICLE XVII

(1) The provisions of the present Convention shall not be construed as restricting in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws in force in the territory of one of the Contracting Parties in the determination of the tax imposed in such territory.

(2) The provisions of the present Convention shall not be construed as derogating from any right or privilege conferred upon taxpayers by the Agreement of the 17th October, 1931, between the Government of United Kingdom

and the Swiss Federal Council for reciprocal exemption from taxation on profits or gains arising through an agency.

ARTICLE XVIII

(1) The nationals of one Contracting Party shall not be subjected in the territory of the other Contracting Party to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected in similar circumstances.

(2) The enterprises of one of the territories, whether carried on by a company, a body of persons or by individuals alone or in partnership, shall not be subjected in the other territory, in respect of income, profits or capital attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory similarly carried on are or may be subjected in respect of the like income, profits or capital.

(3) The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory, shall not be subjected in the first territory to any taxation which is other, higher or more burdensome than the taxation to which other like enterprises of that first territory are or may be subjected in similar circumstances in respect of the like income, profits and capital.

(4) Nothing in paragraph (1) or paragraph (2) of this Article shall be construed as obliging one Contracting Party to grant to nationals of the other Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.

(5) In this Article the term "nationals" mean—

(a) in relation to Switzerland, all Swiss citizens wherever residing and all entities with or without juridical personality created under Swiss laws;

(b) in relation to the United Kingdom, all British subjects and British protected persons—

(i) residing in the United Kingdom or any territory to which the present Convention is extended under Article XXI, or

(ii) deriving their status as such from connexion with the United Kingdom or any territory to which the present Convention is extended under Article XXI, and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in the United Kingdom or any territory to which the Convention is extended under Article XXI.

(6) In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

ARTICLE XIX

(1) Where a taxpayer shows to the satisfaction of the competent authority of the Contracting Party of which he is a national or in whose territory he is a resident that he has not received the treatment in the other territory to which he is entitled under any provision of this Convention, that competent authority shall consult with the competent authority of the other Party with a view to the avoidance of the double taxation in question.

(2) The competent authorities of the two Contracting Parties may communicate with each other directly for the purpose of giving effect to the provisions of this Convention (and in particular the provisions of Articles III and IV) and for resolving any difficulty or doubt as to the application or interpretation of the Convention.

ARTICLE XX

(1) The competent authorities of the Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention in relation to the taxes which are the subject of the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with assessment and collection of the taxes which are the subject of the Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) In no case shall the provisions of this Article be construed as imposing upon either of the Contracting Parties the obligation to carry out administrative measures at variance with the regulations and practice of either Contracting Party or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the Party making application.

ARTICLE XXI

(1) The present Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the Convention, and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Parties in notes to be exchanged for this purpose.

(2) The termination in respect of the United Kingdom or Switzerland of the present Convention under Article XXIV shall, unless otherwise expressly agreed

by the Contracting Parties, terminate the application of the Convention to any territory to which it has been extended under this Article.

ARTICLE XXII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

(2) The present Convention shall enter into force upon the exchange of ratifications.

ARTICLE XXIII

(1) Upon the entry into force of the present Convention in accordance with Article XXII, the provisions of the Convention shall have effect—

(a) In the United Kingdom—

as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April, 1953;

as respects profits tax and excess profits levy in respect of the following profits—

- (i) profits by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after the 6th April, 1953;
- (ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after the 1st April, 1953, or are attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(b) In Switzerland—

for any taxable year beginning on or after the 1st January, 1953.

(2) The exemption from tax provided in Article V shall have effect for any year of assessment beginning on or after the 6th April, 1946.

ARTICLE XXIV

The present Convention shall continue in effect indefinitely but either Contracting Party may, on or before the 30th June in any calendar year not earlier than the year 1957, give to the other Contracting Party, through the diplomatic channel, written notice of termination and, in such event, the Convention shall cease to be effective—

(a) In the United Kingdom—

as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;

as respects profits tax in respect of the following profits—

-
- (i) profits by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;
 - (ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given or are attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(b) In Switzerland—

for any taxable year beginning on or after the 1st January of the calendar year next following that in which the notice is given.

In witness whereof the above mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in duplicate at London, the 30th day of September, one thousand nine hundred and fifty-four, in the English and French languages, both texts being equally authoritative.

(L.S.)
(L.S.)

DOUGLAS DODDS-PARKER.
E. BERNATH.

SECOND SCHEDULE

1. APPLICATION.

(a) The provisions of the Convention incorporated in the First Schedule to this Order shall apply as modified below—

- (i) as if the Contracting Parties were Antigua and Barbuda and the Swiss Federal Council;
- (ii) as if the tax concerned in the case of Antigua and Barbuda were the income tax;
- (iii) as if references to “the date of signature of the Convention” were references to the 26th day of August, 1963.

(b) The extension shall have effect in Antigua and Barbuda as respects taxes charged for the year of assessment, or year of income beginning on the 1st day January, 1961, and for subsequent years, years of assessment or years of income, (and will have effect in Switzerland as respects Swiss tax, for any taxable year beginning on or after 1st day of January, 1961).

(c) The extension shall continue in effect in Antigua and Barbuda indefinitely, but either the Government of the United Kingdom or the Swiss Federal Council may, on or before the 30th June in any calendar year not earlier than the year 1966 give to the other through the diplomatic channel written notice of termination and in such event the present extension shall cease to have effect—

- (i) in Switzerland, for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice is given; and
- (ii) in Antigua and Barbuda as respects taxes charged for any year, year of assessment or year of income beginning on or after the 1st day of January 1961 in the calendar year next following that in which the notice is given.

2. MODIFICATIONS.

(a) Article VI shall be deleted.

(b) References to Articles to VII shall be deemed to be deleted and in clause 3 of Article XV the words “other than dividends” in brackets shall be deemed to be replaced by the words “other than dividends and interest”.

THE INCOME TAX (EMPLOYMENTS) RULES

Arrangement of Rules
Rule

GENERAL

1. Short title.
2. Interpretation.
- 3, 4.

DEDUCTION OF TAX

5, 6, 7, 8, 9, 10, 11.

PAYMENT OF TAX DEDUCTED

12.

ACCOUNTING FOR TAX DEDUCTED.

13, 14, 15, 16, 17, 18, 19, 20.

MISCELLANEOUS AND PENALTIES

21, 22, 23, 24, 25, 26, 27, 28, 29, 30.

S.R.O. 48/1959.

THE INCOME TAX ACT

THE INCOME TAX (EMPLOYMENTS) RULES, MADE UNDER
SECTION 83 OF THE INCOME TAX ACT.

(1st March, 1960.)

GENERAL

1. SHORT TITLE. These Rules may be cited as the Income Tax
(Employments) Rules.

2. INTERPRETATION. In these Rules—

the expressions “Commissioner”, “income year” and “tax” have the meanings assigned to them in section 2 of the Income Tax Act; and the expression “emoluments” has the meaning assigned to it in section 66 of the said Act;

“appropriate form” means a form approved by the Commissioner for use in any particular case authorized by these Rules;

“employee” means any person in receipt of emoluments;

“employer” means the Officer in charge of any Government Department and any person paying emoluments whether on his own account or on behalf of another person;

“the Act” means the Income Tax Act.

3. (1) Where an employee works under the general control and management of a person who is not his immediate employer, that person (referred to hereafter in this rule as the principal employer) shall be deemed to be the employer for the purpose of these Rules, and the immediate employer shall furnish the principal employer with such particulars of the employee’s emoluments as may be necessary to enable the principal employer to comply with the provisions of these Rules.

(2) If the employee’s emoluments are actually paid to him by the immediate employer—

(a) the immediate employer shall be notified by the principal employer of the amount of tax to be deducted when the emoluments are paid to the employee and shall deduct the amount so notified to him accordingly; and

(b) the principal employer shall make a corresponding deduction on making to the immediate employer the payment out of which the said emoluments will be paid.

4. It shall be the duty of all employers to register with the Commissioner, in such form as may be approved by the Commissioner, within thirty days after the commencement of the trade, business, profession or vocation of such employer.

DEDUCTION OF TAX

5. (1) Subject to the provisions of rules 6, 7 and 9, on the occasion of any payment of emoluments to an employee, the employer shall deduct as tax the amount appearing in the appropriate column of the table of the tax tables to be used opposite to that amount appearing in the first column of the said table which is the same as or the nearest to the amount of the emoluments due to the employee:

Provided that where—

(a) the pay period for which the emoluments are to be paid is not provided for in the tax tables; or

(b) the emoluments paid per year are greater than any amount provided for in the first column of the table to be used,
the amount to be deducted shall be determined by the Commissioner.

(2) In the event of the amount of the emoluments due to the employee being an amount exactly between two amounts appearing in the first column of the table to be used, the tax to be deducted shall be that amount appearing in the appropriate column of the said table opposite to the larger of the two such amounts.

(3) For the purposes of this rule, the table of the tax tables to be used shall be that table of the tax tables prepared by the Commissioner pursuant to rule 24 which takes into account total allowances and corresponds to the pay period for which the emoluments are to be paid, and the appropriate column shall be the column of the said table appearing under that range of total allowances specified in the table within which the total allowances of the employee or the greater part thereof from whom tax is to be deducted is included:

Provided that in the case of an employee—

(a) who is a married woman whose income pursuant to section 19 of the Act is chargeable in the name of her husband; or

(b) resident abroad;

the table of the tax tables to be used shall be that table prepared by the Commissioner pursuant to rule 23 which corresponds to the pay period for which the emoluments are to be paid, and the appropriate column shall in such cases be the second column of that table.

6. On payment of a bonus or on payment of any sum to meet any retroactive increase of emoluments granted to an employee, the following

deductions of tax shall, subject to the provisions of rules 7 and 9, be made by the employer in accordance with the following provisions—

(a) where the employee is at the date of the payment of the bonus in receipt of emoluments from the employer paying the bonus, then—

- (i) the total amount of bonus shall be divided by the number of pay periods (appropriate to the employee) in the year in which it is paid, and
- (ii) the resulting amount shall be added to the amount of emoluments (before tax was deducted) which were payable to the employee in the pay period immediately preceding the date on which the bonus is paid, and
- (iii) the amount of tax which should have been deducted in the immediately preceding pay period aforesaid in respect of such aggregate sum shall be determined by reference to the appropriate tax table, and
- (iv) the amount of tax to be deducted from the bonus shall be the difference between the tax, determined under item (iii) of this paragraph and the tax, if any, actually deducted in the immediately preceding pay period aforesaid, multiplied by the number of pay periods in the year;

(b) where the employee is at the date of the payment of the bonus no longer in receipt of emoluments from the employer paying the bonus the amount of tax to be deducted shall be the tax for the year in which the bonus is paid shown to be deductible in the appropriate table prepared by the Commissioner under paragraph (3) of rule 23;

(c) in the case of a retroactive payment, the amount of tax to be deducted shall be the difference between the total tax that should have been deducted pursuant to rule 5 if such payment had been spread evenly over those pay periods for which the payment is made and added to the amount of emoluments paid over such pay periods and the amount of tax deducted in respect of those pay periods prior to the making of the retroactive payment.

7. (1) The Commissioner may direct employers as to the amount of tax, if any, to be deducted from—

(a) the emoluments of employees engaged in casual or seasonal employment, or

(b) the emoluments of any other class of case which in the opinion of the Commissioner is a class of case of such a nature that deduction

of tax by reference to the tax tables would be impracticable or would constitute undue hardship.

(2) Without prejudice to the foregoing provisions of this rule, any directions given pursuant to the provisions of this rule, may in particular, include directions as to the manner in which the tax, if any, shall be deducted, the period over which such deduction shall be made and such other matters as the Commissioner may think fit; and any employer to whom any such directions may be so given shall comply with directions so given.

8. If any emoluments are paid by an employer at any time after the date of the death of an employee, the employer by whom the emoluments are paid shall, subject to the provisions of rule 9, on making any such payment, deduct in accordance with the provisions of these rules, the tax on those emoluments as if the deceased employee was still alive at the date of the payment.

9. Tax shall not be deducted by any employer from—

(a) the emoluments of any employee who performs the duties of his employment wholly outside of Antigua and Barbuda; or

(b) emoluments paid outside of Antigua and Barbuda to an employee outside of Antigua and Barbuda; or

(c) a pension benefit or retiring allowance arising out of an employment which was wholly carried on outside of Antigua and Barbuda;

unless the Commissioner, in any particular case, directs the employer to deduct tax in accordance with these rules.

10. The amount of tax to be deducted pursuant to any direction given by the Commissioner in any particular case shall in no event exceed the amount of tax which is deductible or would be deductible by reference to the tax tables.

11. If any question shall arise as to—

(a) the amount of tax to be deducted on payment of any emoluments; or

(b) whether or not any emoluments are of any class of case specified in rule 7; or

(c) whether or not any payment of emoluments is a payment of a bonus or a retroactive payment;
such question shall be determined by the Commissioner.

PAYMENT OF TAX DEDUCTED

12. Within the first fifteen days of every month, every employer shall pay to the Commissioner the total amount of tax deducted by him in accordance with the provisions of these rules during the immediately preceding month:

Provided that where an employer ceases to carry on business all amounts of tax deducted by him pursuant to these rules and not paid to the Commissioner shall be paid by him to the Commissioner within seven days of the day on which the last payment of emoluments was made.

ACCOUNTING FOR TAX DEDUCTED

13. Every payment of tax made pursuant to rule 12 shall be accompanied by a return made out on the appropriate form by or on behalf of the employer.

14. Where the payment of a bonus or of any sum to meet any retroactive increases of emoluments granted to an employee is made at any time in any year and the whole or any part of such payment relates to any pay periods of any year preceding the year in which such payment is made, the employer shall within seven days of such payment being made deliver or send by post to the Commissioner a separate account of such payments made out on the appropriate form and showing the total of such emoluments paid and the total amount of tax deducted therefrom.

15. (1) On or before the last day of February of each year next following a year in which tax was deducted from the emoluments of an employee the employer by whom the tax was deducted shall, unless he has previously delivered or sent to the employee a certificate provided for by rules 16, 17 or 18, deliver personally or send by post to the employee a certificate made out on the appropriate form and containing the following particulars namely—

(a) the name and address of the employee;

(b) any number used to identify the employee;

(c) the total amount of all emoluments paid by him to the employee during the year immediately preceding that in which the certificate is by this rule required to be sent or delivered;

(d) the total amount of tax deducted in accordance with these rules from those emoluments;

(e) the appropriate code number of the tax table, if any, used in making the deductions of tax; and

(f) the date when the employment commenced if subsequent to the first day of January in the year to which the certificate relates.

(2) The employer required by this rule to deliver or send a certificate to the employee shall make on the appropriate forms two copies of the said certificate which he shall deliver personally or send by post to the Commissioner by the said thirty-first day of January.

16. (1) If the employer ceases to employ an employee from whose emoluments tax was deducted by him in accordance with these rules he shall not later than the day on which the last payment of emoluments was made, deliver personally or send by post to the employee a certificate on the appropriate form containing the following particulars namely—

(a) the name and address of the employee;

(b) any number or designation used to identify the employee;

(c) that date on which the employment ceased;

(d) the total amount of all emoluments paid by him to the employee from the first day of January of the year in which the employment ceased up to and including the day on which the last payment of emoluments was made to the employee;

(e) the total amount of tax deducted in accordance with these rules from those emoluments; and

(f) the appropriate code number of the tax table, if any, used in making the deductions of tax.

(2) The employer shall make on the appropriate form two copies of the said certificate which he shall deliver personally or send by post to the Commissioner on the day on which the last payment of emoluments was made.

(3) Retirement on pension shall not be treated as a cessation of employment for the purposes of this rule if the emoluments are paid by the same person both before and after the retirement.

17. (1) If an employer ceases to carry on business he shall with respect to each employee from whose emoluments any tax was deducted during the year in which the business ceased, personally deliver or send by post not later than the last day on which a payment of emoluments was made to that employee a certificate made out on the appropriate form and containing the particulars specified in rule 15 for or in respect of a period beginning with the first day of the year in which business ceased to be carried on and terminating on the day of cessation of that business:

Provided that in the case of a business commenced to be carried on in the year in which it ceased on a day other than the first day of January in that year, the date of commencement of the period for or in respect of which the particulars of the certificate shall relate shall be the date on which the business commenced to be carried on in that year.

(2) The employer shall make on the appropriate forms two copies of the said certificate which he shall deliver personally or send by post to the Commissioner within one month of the day of cessation of the business.

18. (1) On the death of an employee the employer shall not later than the fifteenth day of the month next following that in which the death occurred deliver personally or send by post to the personal representative or next of kin of the deceased employee, if known to him, the certificate mentioned in rule 16.

(2) The employer shall at the same time deliver personally or send by post to the Commissioner two copies of the said certificate made on the appropriate forms and shall insert thereon the name of the personal representative of the deceased employee, if known to him.

19. Every employer on making any payment of emoluments to an employee from whom tax is deducted pursuant to these rules, shall furnish to the employee particulars of the payment including particulars of the gross emoluments for the pay period and of the amount of tax deducted therefrom, in such form as may be approved by the Commissioner:

Provided that the Commissioner may in his discretion exempt from the provisions of this rule all or any employers in respect of such classes of employees as he shall think fit. Any such exemption may at any time be revoked by the Commissioner.

20. Every employer on making any payment of emoluments to an employee from whose emoluments tax is deducted pursuant to these rules, shall keep to the satisfaction of the Commissioner a record of the emoluments

paid to each such employee and the tax deducted therefrom on each payment thereof.

MISCELLANEOUS AND PENALTIES

21. If any employer dies, anything which he would have been liable to do under these rules shall be done by his personal representative, or, in the case of an employer who paid emoluments on behalf of another person, by the person succeeding him or, if no person succeeds him, the person on whose behalf he paid the emoluments.

22. (1) This rule applies where there has been a change in the employer from whom an employee received emoluments in respect of his employment in any trade, business concern or undertaking or in connection with any property, or from whom an employee receives any annuity or pension or allowance in respect of past service.

(2) Where this rule applies the change shall not be treated as a cessation of employment for the purposes of rule 16, but, in relation to any matter arising after the change, the employer after the change shall be liable to do anything which the employer before the change would have been liable to do under these rules if the change had not taken place;

Provided that the employer after the change shall not be liable for the payment of any tax which was deductible from emoluments paid to the employee before the change took place.

23. (1) The tax tables shall be constructed with a view to securing that so far as practicable the tax to be deducted pursuant to these rules from the emoluments of any employee may be readily ascertained and with a view to securing that so far as practicable the total tax payable in respect of any emoluments is deducted from the emoluments paid during the year.

(2) Separate tables shall be prepared for daily, weekly, monthly and annual pay periods. Such tables shall make provision for such ranges of total allowances and for such amounts of emoluments as the Commissioner shall think fit.

(3) In addition to the tables required by paragraph (2), tables shall be prepared relating to such of the pay periods referred to in that paragraph as the Commissioner shall think fit and providing for such amounts of emoluments as the Commissioner shall think fit.

(4) For the purposes of this rule, references to the total tax payable shall, in relation to the tables referred to in paragraph (2), be construed

as references to the total tax estimated to be payable having regard only to the allowances provided for by these rules and without aggregating emoluments from two or more sources or other income; and in relation to the tables referred to in paragraph (3), shall be construed as references to the total tax estimated to be payable without having regard to any allowances whatever and without aggregating emoluments from two or more sources or other income.

24. Every employer, when called upon to do so by the Commissioner or any person authorized in writing by him, shall produce to the Commissioner or such authorized person for inspection, at the employer's premises, all wages sheets and other documents and records whatsoever relating to the calculation or payment of the emoluments of his employees or the deduction of tax therefrom or the accounting of any tax deducted therefrom.

25. If any employee considers that any tax deducted by his employer is less than or in excess of the amount of tax that ought properly to be deducted in accordance with these rules from his emoluments, he may in writing give notice of complaint, stating the grounds of his complaint, to the Commissioner.

26. In the event of the Commissioner being satisfied on the complaint of any employee made under rule 25 that any tax in excess of the amount that ought properly to have been deducted in accordance with these rules from the emoluments of the employee was deducted by the employer, he shall as soon as practicable cause the excess to be refunded to the employee.

27. (1) Notwithstanding the provisions of any law to the contrary, proceedings on complaint may be brought under the Act or any other law for the recovery of the total amount of tax which an employer is liable to pay to the Commissioner within the times specified in rule 12 without the complaint distinguishing the amount which the employer is liable to pay in respect of each employee and without the complaint specifying the employees in question; and for the purposes of such proceedings, the said total amount shall be one matter of complaint; but nothing in this rule shall prevent the bringing of separate complaints for the recovery of each of the several amounts which the employer is liable to pay within the first fifteen days of every month in respect of his several employees.

(2) A certificate of the Commissioner that any amount of tax as mentioned in paragraph (1) has not been paid to him, or to the best of his knowledge and belief, to any person acting on his behalf, shall be sufficient evidence that the sum mentioned in the certificate is due and

unpaid; and any document purporting to be such a certificate as aforesaid shall be deemed to be such a certificate until the contrary is proved.

28. If any employer shall wilfully fail or neglect to deduct tax in accordance with these rules or any direction given thereunder by the Commissioner he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen hundred dollars, and in default of payment to imprisonment with or without hard labour for a term not exceeding three months for each such act of failure on his part.

29. If any person shall hinder, prevent or obstruct the Commissioner or any person authorized in writing by him from inspecting any wages sheets or other documents or records mentioned in rule 24 after being called upon to produce the same, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding one month.

30. Any employer who fails to register with the Commissioner in compliance with the provisions of rule 4 shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars and in default of payment to imprisonment with or without hard labour for a term not exceeding one month.
