No. 9458

AUSTRALIA
and
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains. Signed at Canberra on 7 December 1967

Authentic text: English.

Registered by Australia on 6 March 1969.

AUSTRALIE
et
ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur les gains de capital. Signée à Canberra le 7 décembre 1967

Texte authentique: anglais.

Enregistré par l'Australie le 6 mars 1969.

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the Commonwealth of Australia and the Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains,

Have agreed as follows :

Article 1

(1) The taxes which are the subject of this Agreement are :

(*a*) In the United Kingdom of Great Britain and Northern Ireland :
the income tax (including surtax), the corporation tax and the capital gains tax;

(*b*) In Australia :
the Commonwealth income tax, including the additional tax upon the undistributed amount of the distributable income of a private company.

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes by either Government or by the Government of any territory to which the present Agreement is extended under Article 22.

Article 2

(1) In this Agreement, unless the context otherwise requires :

(*a*) The term " United Kingdom " means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom

[1] Came into force on 8 May 1968, the date when the last of all such things had been done in the United Kingdom and Australia as where necessary to give the Agreement the force of law in the United Kingdom and Australia, respectively, in accordance with article 23 (1).

which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea-bed and sub-soil and their natural resources may be exercised;

(*b*) The term " the Commonwealth " means the Commonwealth of Australia;

(*c*) The term " Australia " means the whole of the Commonwealth and includes :

(i) the Territory of Norfolk Island;

(ii) the Territory of Christmas Island;

(iii) the Territory of Cocos (Keeling) Islands;

(iv) the Territory of Ashmore and Cartier Islands; and

(v) any area outside the territorial limits of the Commonwealth and the said Territories in respect of which there is for the time being in force a law of the Commonwealth or of a State or part of the Commonwealth or of a Territory aforesaid dealing with the exploitation of any of the natural resources of the sea-bed and sub-soil of the Continental Shelf;

(*d*) The terms " territory ", " one of the territories " and " the other territory " mean the United Kingdom or Australia as the context requires;

(*e*) The term " taxation authority " means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of Australia, the Commissioner of Taxation or his authorised representative;

(*f*) The term " United Kingdom tax " means tax imposed by the United Kingdom being tax to which this Agreement applies by virtue of Article 1; the term " Australian tax " means tax imposed by the Commonwealth being tax to which this Agreement applies by virtue of Article 1;

(*g*) The term " tax " means United Kingdom tax or Australian tax as the context requires;

(*h*) The term " person " includes any body of persons corporate or not corporate;

(*i*) The term " company " means any body corporate;

(*j*) The term" " resident in the United Kingdom " has the meaning which it has under the laws of the United Kingdom relating to United Kingdom tax;

(*k*) The term " resident of Australia " has the meaning which it has under the laws of Australia relating to Australian tax;

(*l*) Words in the singular include the plural, and words in the plural include the singular.

(2) The terms " Australian tax " and " United Kingdom tax " do not include any amount which represents a penalty or interest imposed under the law of either territory relating to the taxes which are the subject of the present Agreement.

(3) Where under this Agreement income is relieved from tax in one of the territories and, under the law in force in the other territory an individual, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other territory and not by reference to the full amount thereof, then the relief to be allowed under this Agreement in the first-mentioned territory shall apply only to so much of the income as is remitted to or received in the other territory.

(4) In the application of the provisions of this Agreement by one of the Contracting Governments any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Government relating to the taxes which are the subject of this Agreement.

Article 3

(1) For the purposes of this Agreement:

(*a*) The term " Australian company " means any company which being a resident of Australia:

(i) is incorporated in Australia and has its centre of administrative or practical management in Australia whether or not any person outside Australia exercises or is capable of exercising any overriding control or direction of the company or of its policy or affairs in any way whatsoever; or

(ii) is managed and controlled in Australia;

(*b*) The term " United Kingdom company " means any company which is managed and controlled in the United Kingdom and which is not an Australian company;

(*c*) The term " United Kingdom resident " means any United Kingdom company and any person (other than a company) who is resident in the United Kingdom but the term does not include any individual, not being ordinarily resident in the United Kingdom, who is liable to tax in the United Kingdom only if he derives income from sources therein; and

(*d*) The term " Australian resident " means any Australian company and any other person (other than a United Kingdom company) who is a resident of Australia but the term does not include any individual, not being ordinarily resident in Australia, who is liable to tax in Australia only if he derives income from sources therein.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is both a United Kingdom resident and an Australian resident :

(*a*) He shall be treated solely as a United Kingdom resident :

(i) if he has a permanent home available to him in the United Kingdom and has not a permanent home available to him in Australia;

(ii) if sub-paragraph (*a*) (i) of this paragraph is not applicable but he has an habitual abode in the United Kingdom and has not an habitual abode in Australia;

(iii) if neither sub-paragraph (*a*) (i) nor sub-paragraph (*a*) (ii) of this paragraph is applicable but the territory with which his personal and economic relations are closest is the United Kingdom;

(*b*) He shall be treated solely as an Australian resident :

(i) if he has a permanent home available to him in Australia and has not a permanent home available to him in the United Kingdom;

(ii) if sub-paragraph (*b*) (i) of this paragraph is not applicable but he has an habitual abode in Australia and has not an habitual abode in the United Kingdom;

(iii) if neither sub-paragraph (*b*) (i) nor sub-paragraph (*b*) (ii) of this paragraph is applicable but the territory with which his personal and economic relations are closest is Australia.

(3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is both a United Kingdom resident and an Australian resident :

(*a*) It shall be treated solely as a United Kingdom resident if it is managed and controlled in the United Kingdom;

(*b*) It shall be treated solely as an Australian resident if it is managed and controlled in Australia.

(4) The terms " resident of one of the territories " and resident of the other territory " mean a person who is a United Kingdom resident or a person who is an Australian resident as the context requires.

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