
STATUTORY INSTRUMENTS

2013 No. 3145

**CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX**

**The Double Taxation Relief and International
Tax Enforcement (Albania) Order 2013**

Made - - - - 11th December 2013

A draft of this Order was laid before the House of Commons in accordance with section 5(2) of the Taxation (International and Other Provisions) Act 2010⁽¹⁾ and section 173(7) of the Finance Act 2006⁽²⁾ and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 2 of the Taxation (International and Other Provisions) Act 2010 and section 173(1) to (3) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief and International Tax Enforcement (Albania) Order 2013.

Double taxation and international tax enforcement arrangements to have effect

2. It is declared that—
- (a) the arrangements specified in the Agreement and Protocol set out in the Schedule to this Order have been made with the Council of Ministers of the Republic of Albania;
 - (b) the arrangements have been made with a view to affording relief from double taxation in relation to capital gains tax, corporation tax, income tax and taxes of a similar character imposed by the laws of the Republic of Albania and for the purposes of assisting international tax enforcement; and
 - (c) it is expedient that those arrangements should have effect.

(1) 2010 c. 8.
(2) 2006 c. 25.

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Richard Tilbrook
Clerk of the Privy Council

SCHEDULE

Article 2

PART 1

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE COUNCIL OF MINISTERS OF THE REPUBLIC OF ALBANIA ON THE AVOIDANCE OF DOUBLE TAXATION AND FISCAL EVASION WITH RESPECT TO INCOME AND CAPITAL

The Government of the United Kingdom of Great Britain and Northern Ireland and the Council of Ministers of the Republic of Albania;

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

Have agreed as follows:

ARTICLE 1

Persons covered

This Agreement shall apply to persons who are residents

ARTICLE 2

b) in the United Kingdom:

i) the income tax;

ii) the corporation tax; and

iii) the capital gains tax;

(hereinafter referred to as “United Kingdom tax

4. The Agreement shall apply also to any identical taxes imposed after the date of signature of the Agreement in a Contracting State. The competent authorities of the Contracting States shall take account of significant changes that have been made in their taxation laws.

ARTICLE 3

General definitions

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

a) the term “United Kingdom” means Great Britain, Northern Ireland and the territorial sea of the United Kingdom, the Continental Shelf and in accordance with international law any other maritime space over which the rights of the United Kingdom with respect to the resources may be exercised;

b) the term “Albania” means the Republic of Albania and in accordance with international law any maritime space over them as well as any area beyond the

- j) the term “national” means:
 - (i) in relation to the United Kingdom, not possessing the citizenship of any territory, provided he has the right to be a legal person, partnership, association or such from the laws in force in the U
 - (ii) in relation to Albania, any individual and any juridical person, partnership or such from the laws in force in Albania;
- k) the term “business” includes the performance of activities of an independent character.

2. As regards the application of the Agreement at a time not defined therein shall, unless the context otherwise requires, be the time under the law of that State for the purposes of the tax law having that meaning under the applicable tax laws of that State prevailing over any other laws under other laws of that State.

ARTICLE 4

Resident

1. For the purposes of this Agreement, the term “resident person” means any person who, under the laws of that State, is liable to tax in that State on his residence, place of management, place of incorporation or such from the laws in force in that State and also includes that State and any political subdivision thereof, however, does not include any person who is liable to tax in that State on his residence, place of management, place of incorporation or such from the laws in force in that State.

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make an appropriate adjustment to the amount of the tax determining such adjustment, due regard shall be had to and the competent authorities of the Contracting States s

ARTICLE 1

Dividends

1. Dividends paid by a company which is a resident of the other Contracting State may be taxed in that other State

2. However, such dividends may also be taxed in the Contracting State in which the company paying the dividends is a resident and according to the law of that State if the beneficial owner of the dividends is a resident of the other Contracting State, but the total tax shall not exceed:

- a) 5 per cent of the gross amount of the dividends if the company which holds directly at least 25 per cent of the capital of the company paying the dividends or is a pension scheme;
- b) subject to subparagraph a), 15 per cent of the gross amount of the dividends if the dividends are paid out of income (including gain from the disposal of immovable property within the meaning of Article 6) derived from immovable property situated in the other Contracting State, the company distributes most of this income annually and where the immovable property is exempted from tax;
- c) 10 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in the Contracting State in which it is a resident.

1. Interest arising in a Contracting State and paid to a resident of another State may be taxed in that other State.

2. However, such interest may also be taxed in the other State according to the laws of that State, but if the beneficial owner is a resident of another Contracting State, the tax so charged shall not exceed the tax on the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be taxable only in the Contracting State of which the recipient is a resident if the interest is a resident of that State, and:

- a) is that State or the Central Bank, a political subdivision of that State;
- b) if the interest is paid by the State in which the interest is payable or local authority thereof;
- c) if the interest is paid in respect of a loan, debt claim or other financial instrument provided, guaranteed or insured by that State or a financial institution or export financing agency thereof;
- d) is a financial institution;
- e) if the interest is paid with respect to indebtedness arising from the credit of any equipment, merchandise or services;
- f) is a pension scheme.

4. The term "interest" as used in this Article means interest on a loan, whether or not secured by mortgage and whether or not

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ARTICLE 1

Pensions

Pensions and other similar remuneration arising in a Contracting State or in another Contracting State, shall be taxable only in the first-

ARTICLE 1

Government services

1. a) Salaries, wages and other similar remuneration received by an individual from a political subdivision or a local authority for services rendered to that State or subdivision of that State.
- b) However, such salaries, wages and other remuneration shall be taxable in the other Contracting State if the services are rendered to that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State for the purpose of rendering services;and is subject to tax in that State on such remuneration.

In such case the provisions of Article 7 shall apply.

3. Where, by reason of a special relationship between and some other person, or between both of them and some other person referred to in that paragraph exceeds the amount (if any) between them in the absence of such a relationship, the payment shall be limited to the last-mentioned amount. In such a case, the excess shall be taxed according to the laws of each Contracting State, due regard being given to the provisions of this Agreement.

4. No relief shall be available under this Article if the main purposes of any person concerned with the creation of the arrangement which the income is paid to take advantage of this Article.

ARTICLE 2

Capital

1. Capital represented by immovable property referred to in Article 6 of a Contracting State and situated in the other Contracting State shall be taxable only in that other State.

2. Capital represented by movable property forming part of a permanent establishment which an enterprise of a Contracting State may be taxed in that other State.

3. Capital represented by ships and aircraft operated by an enterprise of a Contracting State, and by movable property pertaining to such ships and aircraft shall be taxable only in that Contracting State.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that Contracting State.

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Article 4.

ARTICLE 2

Exchange of information

1. The competent authorities of the Contracting States, where necessary, shall exchange information foreseeably relevant for carrying out the provisions of the Convention and for the enforcement of the domestic laws of the Contracting States, in so far as such exchange is necessary to prevent fraud and to facilitate the administration of statutes of the Contracting States. The exchange of information is not restricted by Articles

2. Any information received under paragraph 1 by a Contracting State shall be secret in the same manner as information obtained under the laws of that State and shall be disclosed only to persons or authorities (including courts) competent with the assessment or collection of, the enforcement or determination of appeals in relation to, the taxes referred to in paragraph 1 above. Such persons or authorities shall use the information received only for the purposes for which it was disclosed in public court proceedings or in the course of the proceedings referred to in the foregoing, information received by a Contracting State under paragraph 1 above may be used for such other purposes under the authority of the supplying State as authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed as imposing on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws, regulations, decrees or administrative practice of that or of the other Contracting State;

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- a) to carry out administrative measures at variance of that or of the other Contracting State;
- b) to carry out measures which would be contrary to
- c) to provide assistance if the other Contracting State measures of collection or conservancy, as the case may be, administrative practice;
- d) to provide assistance in those cases where the assistance is clearly disproportionate to the benefit to be derived;
- e) to provide assistance if that State considers that the measures requested are imposed contrary to generally accepted

ARTICLE 2

Members of diplomatic mission

Nothing in this Agreement shall affect the fiscal privileges of consular posts under the general rules of international law and agreements.

ARTICLE 2

Entry into force

1. Each of the Contracting States shall notify the other of the completion of the procedures required by its law for the entry into force of this Agreement. This Agreement shall enter into force on the date of the

- a) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, beginning on or after 6th April next following the date on which the text is given;
 - (ii) in respect of corporation tax, for an accounting period beginning on or after 1st April next following the date on which the text is given;
- b) in Albania in respect of income derived or of capital gains, for a calendar year next following the date on which the text is given;

In witness whereof the undersigned, duly authorised thereto, have signed the text.

Done in duplicate at Tirana this 26th day of March 2013, the two texts being equally authoritative.

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

Nicholas Cannon

For the Government of
Albania:

Ridvan

PART 2

PROTOCOL

At the moment of signing the Agreement for the avoidance of fiscal evasion with respect to taxes on income and on the United Kingdom of Great Britain and Northern Ireland and the undersigned have agreed that the following provisions shall apply to the Agreement.

1. With reference to Articles 10 and 11:

It is understood that the term “pension scheme” includes substantially similar schemes which are established pursuant to the date of signature of the Agreement:

- a) in the case of Albania, pension schemes (other than those established in accordance with Albanian legislation in force)
- b) in the case of the United Kingdom, pension schemes registered under Part 4 of the Finance Act 2004, through insurance companies and unit trusts which are pension schemes.

2. With reference to Article 4:

It is understood that the term “resident of a Contracting State”

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EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order contains an agreement and a protocol (“the Arrangements”) between the Government of the United Kingdom of Great Britain and Northern Ireland and the Council of Ministers of the Republic of Albania dealing with the avoidance of double taxation and the prevention of fiscal evasion. This Order brings the Arrangements into effect.

The Arrangements aim to eliminate the double taxation of income and gains arising in one country and paid to residents of the other country. This is done by allocating the taxing rights that each country has under its domestic law over the same income and gains, and/or by providing relief from double taxation. There are also specific measures which combat discriminatory tax treatment and provide for assistance in international tax enforcement.

Article 1 provides for citation.

Article 2 makes a declaration as to the effect and content of the Arrangements.

The Arrangements will enter into force on the date of the later of the notifications by each country of the completion of its legislative procedures. They will take effect as follows:

- (a) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date of entry into force;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date of entry into force; and
- (b) in Albania in respect of income derived or of capital owned, on or after 1st January next following the date of entry into force.

The date of entry into force will, in due course, be published in the *London, Edinburgh and Belfast Gazettes*.

A Tax Information and Impact Note has not been produced for this Order as it gives effect to a previously announced policy to enact a double taxation agreement.