

GOVERNMENT NOTICE No. 129

TRINIDAD AND TOBAGO

THE INCOME TAX ORDINANCE, CH. 33. No. 1

ORDER

MADE BY THE GOVERNOR IN COUNCIL UNDER SECTION 50 (1) OF THE
INCOME TAX ORDINANCE

THE INCOME TAX (DOUBLE TAXATION RELIEF) (SOUTH AFRICA)
ORDER, 1961

WHEREAS it is provided by subsection (1) of section 50 of the Income Tax Ordinance that if the Governor in Council by Order declares that arrangements specified in the Order have been made with the Government of any territory outside Trinidad and Tobago 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 in any enactment:

And whereas by an Agreement dated the 14th day of October, 1946, between the Government of the United Kingdom and the Government of the Union of South Africa as amended by a supplementary Protocol dated the 5th November, 1954, arrangements were made, among other things, for the avoidance of double taxation:

And whereas provision is made in the said Agreement as amended by the said Protocol for the application by means of a notification of extension given to the other Government by either of the said Governments of the said Agreement as amended, subject to such modifications, if any, as may be specified in the notification, to all or any of its colonies, overseas territories, protectorates or territories in respect of which it exercises a mandate or trusteeship, which impose taxes substantially similar in character to those which are the subject of the said Agreement:

And whereas by notification dated the 6th day of August, 1960 the said Agreement as amended, with certain modifications, was applied to Trinidad and Tobago.

Now therefore, the Governor in Council, in exercise of the powers conferred by the said section 50 of the Income Tax Ordinance and every other power thereunto enabling hereby makes the following Order:—

1. This Order may be cited as the Income Tax (Double Taxation Relief) (South Africa) Order, 1961.

2. 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 the Union of South Africa;

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

FIRST SCHEDULE

[The United Kingdom/South African Double Taxation Agreement dated 14th October, 1946, and the Supplementary Protocol dated 5th November, 1954 in full.]

SECOND SCHEDULE

1. Application—

(a) The provision of the Agreement and Protocol incorporated in the First Schedule to this Order shall apply as modified below—

- (i) as if the contracting parties were the Government of Trinidad and Tobago and the Government of the Union of South Africa; and as if the tax concerned in the case of Trinidad and Tobago were the income tax;
- (ii) as if references to the date of signature were references to the 6th day of August, 1960; and
- (iii) as if references to the 6th day of April were references to the 1st day of January.

(b) The extension shall have effect in Trinidad and Tobago in respect to Article V (as amended) from the 1st day of January, 1948 and in respect to the remaining Articles from the 1st day of January, 1951 from the commencement of the year of assessment ended 30th June, 1949 in respect to Article V (as amended) and from the commencement of the year of assessment ended 30th June, 1952 in regard to the remaining Articles and for subsequent years of assessment in each case.

2. Modifications—

(a) In Article III of the Agreement after paragraph (4) the following additional paragraph shall be inserted—

“(5) Where a company which is a resident of one of the territories derives profits from sources within or deemed to be within the other territory the Government of that other territory shall not impose any form of taxation on dividends declared payable by that company in favour of persons not resident in that other territory, nor shall the Government of that other territory impose any tax in the nature of a special tax on non-residents on the profits derived by that company directly as the result of the carrying on of business through a permanent establishment in that other territory.”;

and

(b) Articles VI and VII shall be excluded.

Made by the Governor in Council this 21st day of September, 1961.

KENNETH F. SEALEY

Acting Secretary to the Cabinet