Reprint
as at 25 March 1983

Double Taxation Relief (Norway) Order 1983

(SR 1983/46)

David Beattie, Governor-General

Order in Council

At the Government Buildings at Wellington this 21st day of March 1983

Present:
The Right Hon D MacIntyre presiding in Council

Pursuant to section 294 of the Income Tax Act 1976, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This order is administered by the Inland Revenue Department.

Schedule 3

Convention between New Zealand and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Certain other Taxes

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Order

1 Title

This order may be cited as the Double Taxation Relief (Norway) Order 1983.

2 Giving effect to Convention

It is hereby declared that the arrangements specified in the Convention set out in the Schedule, being arrangements that have been made with the Government of the Kingdom of Norway with a view to affording relief from double taxation in relation to income tax and excess retention tax imposed under the Income Tax Act 1976 and the taxes on income and capital imposed by the laws of the Kingdom of Norway, shall, in relation to income tax and excess retention tax imposed under that Act, and notwithstanding anything in that Act or any other enactment, have effect according to the tenor of the Convention.

Schedule
Convention between New Zealand and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Certain other Taxes

The Government of New Zealand and the Government of the Kingdom 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 and certain other taxes,

Have agreed as follows:

Article 1
Personal scope

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2
Taxes covered

1. The existing taxes to which the Convention shall apply are:
   - (a) in the case of New Zealand:

     the income tax and the excess retention tax, (hereinafter referred to as "New Zealand tax");
   - (b) in he case of Norway:
     - (i) the national tax on income (inntektsskatt til staten);
     - (ii) the county municipal tax on income (inntektsskatt til fylkeskommunen);
     - (iii) the municipal tax on income (inntektsskatt til kommunen);
     - (iv) the national contributions to the Tax Equalisation Fund (fellesskatt til Skattefordelingsfondet);
     - (v) the national tax on capital (formuesskatt til staten);
     - (vi) the municipal tax on capital (formuesskatt til kommunen);

Article 2—*continued*

(vii) the national tax relating to income and capital from the exploration for and the exploitation of submarine petroleum resources and activities and work relating thereto, including pipeline transport of petroleum produced (skatt til staten vedrørende inntekt og formue i forbindelse med undersøkelse etter og utnyttelse av undersjøiske petroleumsforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum);

(viii) the national dues on remuneration to non-resident artistes (avgift til staten av honorarer som tilfaller kunstnere bosatt i utlandet);

(ix) the seamen's tax (sjømannsskatt);

(hereinafter referred to as "Norwegian tax").

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

3. For the purposes of sub-paragraph (a) of paragraph 1 of this Article, the income tax does not include the bonus issue tax.

Article 3
General definitions

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

Article 3—*continued*

(a) (i) the term "New Zealand" means the territory of New Zealand (including the outlying islands) but does not include the Cook Islands, Niue or Tokelau; it also includes areas adjacent to the territorial sea of the territory of New Zealand (including the outlying islands) which by New Zealand legislation and in accordance with international law have been, or may hereafter be, designated as areas over which New Zealand has sovereign rights for the purposes of exploring, exploiting, conserving and managing the natural resources, whether living or non-living, of the sea-bed and subsoil and the superjacent waters.

(ii) the term "Norway" means the Kingdom of Norway, including any area outside the territorial waters of the Kingdom of Norway where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the sea-bed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland");

(b) the terms "a Contracting State" and "the other Contracting State" mean New Zealand or Norway as the context requires;

(c) the term "person" includes an individual, a company and any other body of persons;

(d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

Article 3—*continued*

(f) the term "national" means any individual possessing the citizenship of a Contracting State;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(h) the term "competent authority" means:

(i) in the case of New Zealand, the Commissioner of Inland Revenue or his authorised representative;

(ii) in the case of Norway, the Minister of Finance and Customs or his authorised representative.

2. In determining for the purposes of Articles 10, 11 or 12, whether dividends, interest or royalties are beneficially owned by a resident of New Zealand, dividends, interest or royalties in respect of which a trustee is subject to tax in New Zealand shall be treated as being beneficially owned by that trustee.

3. In the convention, the terms "New Zealand tax" and "Norwegian tax" do not include any charge imposed as a penalty under the law of either Contracting State relating to the taxes to which the convention applies.

4. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Convention applies.

Article 4
Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

Article 4—*continued*

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
   (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
   (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
   (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
   (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5
Permanent establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
   (a) a place of management;
   (b) a branch;
   (c) an office;
   (d) a factory;
   (e) a workshop, and

Article 5—*continued*

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 6 months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if:

(a) it carries on supervisory activities in that other State for more than 6 months in connection with a building site or construction or installation project which is being undertaken in that other State; or

(b) it carries on for a period of more than 6 months land based activities in that other State which are directly related to the exploration or exploitation of the sea-bed

Article 5—*continued*

and subsoil and their natural resources situated in that other State.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 7 applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6
Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case

Article 6—*continued*

include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7
Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for

Article 7—*continued*

the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
Shipping and air transport

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

3. The provisions of paragraphs 1 and 2 shall apply to profits derived by the joint Norwegian, Danish and Swedish air transport consortium Scandinavian Airlines System (SAS), but only in-

Article 8—*continued*

sofar as profits derived by Det Norske Luftfartsselskap A/S (DNL), the Norwegian partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

Article 9
Associated enterprises

Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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 10
Dividends

1. Dividends paid by a company which is a resident of a Contracting State to 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 of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15 percent of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares and other income assimilated to income from

Article 10—*continued*

shares by the taxation law of the Contracting State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11
Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

Article 11—*continued*

(a) the payer of the interest is the Government of that Contracting State or a local authority thereof; or

(b) the interest is paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other Contracting State or local authority thereof; or

(c) the interest is paid to any other agency or instrumentality (including a financial institution), in relation to loans made in application of an agreement concluded between the Governments of the Contracting States.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, this term does not include income dealt with in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then

Article 11—*continued*

such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12
Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 percent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Con-

Article 12—*continued*

tracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13
Alienation of property

1. Income or gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

Article 13—*continued*

2. Income or gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such income or gains from the alienation of such a permanent establishment (alone or with the whole enterprise or of such fixed base, may be taxed in that other State.

3. Income or gains of an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Income or gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of Norway to levy according to its own law a tax on capital gains derived from the alienation of a substantial part of the shares in a company resident of Norway by a resident of New Zealand but only if:

   (a) the recipient of the gain owns within the 12 month period preceding such sale, exchange or other disposition more than 25 percent of the shares in that company; and

   (b) more than 50 percent of the fair market value of the gross assets of that company used in its trade or business are physically located in Norway on the last day of each of the three taxable years preceding the sale, exchange or other disposition (or, if the company has been in existence for less than 3 years, on the last day of each preceding taxable year of the company).

Article 14
Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character, shall be taxable only in that State unless:
   (a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State, but only so much of it as is attributable to that fixed base, or
   (b) the recipient of the income is present in the other State for a period or periods in any fiscal year which together with a period or periods in the preceding or succeeding fiscal year exceed in the aggregate 183 days. In such a case, the income may be taxed in that other State. However, to the extent the abovementioned remuneration is not taxed in the State where the recipient is a resident, the remuneration may be taxed in the other State.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15
Dependent personal services

1. Subject to the provisions of Articles 16, 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the firstmentioned State if:
   (a) the recipient is present in the other State for a period or periods in any fiscal year which together with a period

Article 15—*continued*

or periods in the preceding or succeeding fiscal year do not exceed in the aggregate 183 days; and

(b) the remuneration is paid by, or on behalf of, an employer, where that employer and the recipient are residents of the same State; and

(c) the remuneration is not connected with the activities of a permanent establishment or a fixed base which the employer has in the other State.

However, to the extent the abovementioned remuneration is not taxed in the State where the recipient is a resident, the remuneration may be taxed in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

4. Remuneration in respect of an employment exercised aboard an aircraft operated by the air transport consortium Scandinavian Airlines System (SAS), derived by a resident of Norway, shall be taxable only in Norway.

Article 16
Directors' fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or of any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17
Artistes and athletes

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as

Article 17—*continued*

such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from such activities as defined in paragraph 1 performed within the framework of governmental cultural exchanges between the two Contracting States, shall be taxable only in the State of which the entertainer or athlete is a resident.

In this paragraph the term "governmental" includes statutory bodies, political subdivisions, local authorities and municipalities.

Article 18
Pensions and annuities

1. Pensions (including Government pensions and payments under a Social Security system) and annuities paid to a resident of one of the Contracting States shall be taxable only in that State.

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 return for adequate and full consideration in money or money's worth.

3. Any alimony or other maintenance payment arising in one of the Contracting States and paid to a resident of the other Contracting State, shall, if it is not an allowable deduction for the payer, be taxable only in the first-mentioned State.

Article 19
Government service

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

   (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in 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 solely for the purpose of rendering the services.

2. The provisions of Articles 15 and 16 shall apply to remuneration other than pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20
Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21
Other income

1. Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable only in that State except that, if such income is derived from sources within the other Contracting State, it may also be taxed in that other State.

Article 21—*continued*

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22
Offshore activities

Notwithstanding any other provision of this Convention:

1. A person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the sea-bed and subsoil and their natural resources situated in that other Contracting State shall, subject to paragraphs 2 and 3 of this Article, be deemed to be carrying on a trade in that other Contracting State through a permanent establishment or fixed base situated therein.
2. The provisions of paragraph 1 shall not apply where the activities are carried on for a period not exceeding 30 days in aggregate in any 12 month period. However, for the purposes of this paragraph:
   (a) activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise;
   (b) two enterprises shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or persons.

Article 22—*continued*

3. Notwithstanding the provisions of paragraph 1, transportation of supplies or personnel to a location where activities in connection with the exploration or exploitation of the sea-bed and subsoil and their natural resources are being carried on in a Contracting State, or operation of tugboats and similar vessels in connection with such activities, shall be deemed to be carried on through a permanent establishment situated in that State, but only if the activities are continued for more than 90 days in the aggregate in any 12 month period. The provisions of sub-paragraphs (a) and (b) of paragraph 2 of this Article shall apply accordingly.

4. (a) Subject to sub-paragraph (b) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the sea-bed and subsoil and their natural resources situated in the other Contracting State shall, to the extent that the duties are performed offshore in that other Contracting State, be taxable only in that other Contracting State provided that the employment offshore is carried on for a period exceeding 30 days in aggregate in any 12 month period.

(b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location where activities connected with the exploration or exploitation of the sea-bed and subsoil and their natural resources are being carried on in a Contracting State, or in respect of an employment exercised aboard a tugboat or similar vessel in connection with such activities, shall be taxable in accordance with Article 15.

Article 23
Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or by movable property pertaining to a fixed base available to a resident of a Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Convention.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24
Methods of elimination of double taxation

1. In the case of New Zealand, double taxation shall be avoided as follows:
   (a) Subject to any provisions of the law of New Zealand which may from time to time be in force and which relate to the allowance of a credit against New Zealand tax of tax paid in a country outside New Zealand (which shall not affect the general principle hereof), Norwegian tax paid under the law of Norway and consistently with this Convention, whether directly or by deduction, in respect of income derived by a New Zealand resident from sources in Norway (excluding, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against New Zealand tax payable in respect of that income;
   (b) For the purposes of this Article, income of a resident of New Zealand which in accordance with the provisions

Article 24—*continued*

of this Convention may be taxed in Norway shall be deemed to arise from sources in Norway.

2. In the case of Norway, double taxation shall be avoided as follows:

(a) Where a resident of Norway derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in New Zealand, Norway shall, subject to the provisions of sub-paragraphs (b) and (c), exempt such income or capital from tax.

(b) Where a resident of Norway derives items of income which, in accordance with the provisions of Articles 10, 11, 12, paragraph 1 of Article 21, and Article 22, may be taxed in New Zealand, Norway shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in New Zealand. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from New Zealand.

(c) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Norway is exempt from tax in Norway, Norway may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

Article 25
Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with the provisions of the Convention.

Article 25—*continued*

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the Convention.

Article 26
Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

Article 26—*continued*

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
   (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
   (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
   (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27
Diplomatic and consular officers

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officers under the general rules of international law or under the provisions of special agreements.

Article 28
Territorial extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any territory for whose international relations either Contracting State is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. 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 States in notes to be exchanged through diplomatic channels or in any manner in accordance with their constitutional procedures.
2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention to any territory to which it has been extended under this Article.

Article 29
Entry into force

1. The Contracting States shall notify each other that the constitutional requirements for the entry into force of this Convention have been complied with.
2. This Convention shall enter into force on the date of the latter of the notifications referred to in paragraph 1 and its provisions shall have effect:
   (a) in New Zealand:
   in respect of income assessable for the income year beginning on 1 April 1982 and subsequent years;
   (b) in Norway:
   in respect of taxes on income or on capital relating to the income year (including accounting periods closed in that year) beginning on 1 January 1982 and subsequent years.

Article 30
Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the year 1987. In such event, the Convention shall cease to have effect:

(a) in New Zealand:
in respect of income assessable for the income year beginning on 1 April in the calendar year next following that in which the notice is given;
(b) in Norway:
in respect of taxes on income or on capital for the income year beginning on 1 January in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed the present Convention.

DONE in Duplicate at Oslo this 20th day of April 1982 in the English language.

For the Government of
New Zealand
William Gray Thorp

For the Government of
the Kingdom of Norway
Sven Stray

Protocol

To the Convention between New Zealand and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and certain other taxes.

At the signing of the Convention concluded today between the Government of New Zealand and the Government of the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and certain other taxes, the undersigned have agreed upon the following additional provisions which shall form an integral part of the said Convention.

It is agreed that:

(a) nothing in Articles 7 and 21 shall apply to either Contracting State to prevent the operation in the Contracting State of any provisions of its law at any time in force relating to the taxation of any income from the business of any form of insurance. Provided that if the law in force in either Contracting State at the date of signature of this Convention relating to the taxation of that income is varied (otherwise than in minor respects so as not to affect its general character), the Contracting States shall consult each other with a view to agreeing to such amendment of this paragraph as may be appropriate;

(b) if, in a Convention for the avoidance of double taxation that is subsequently made between New Zealand and a third State being a State that at the date of signature of this Protocol is a

Protocol—*continued*

member of the Organisation for Economic Co-operation and Development, New Zealand shall agree to limit the rate of its taxation—

(i) on dividends paid by a company which is resident of New Zealand to which a resident of that third State is entitled, to a rate less than that provided in paragraph 2 of Article 10; or

(ii) on interest arising in New Zealand to which a resident of that third State is entitled, to a rate less than that provided in paragraph 2 of Article 11; or

(iii) on royalties arising in New Zealand to which a resident of that third State is entitled, to a rate less than that provided in paragraph 2 of Article 12, the Government of New Zealand shall without undue delay inform the Government of the Kingdom of Norway in writing through diplomatic channels and shall enter into negotiations with the Government of Norway to review the provisions specified in sub-paragraphs (i), (ii), and (iii) above with a view to providing the same treatment for Norway as that provided for that third State;

(c) the Contracting States agree that paragraph 2 of Article 24 shall, at the request of Norway, which shall be forwarded by note through diplomatic channels, be replaced by the following text, which shall enter into force on the 30th day upon the confirmation through diplomatic channels of the receipt of that note, and shall apply for the first time in respect of taxes on income or capital relating to the income year (including accounting periods closed in such year) next following that in which the exchange of notes is made:

"2. In the case of Norway double taxation shall be avoided as follows:

Where a resident of Norway derives income or owns capital which in accordance with the provisions of this Convention may be taxed in New Zealand, Norway shall allow as a deduction from the income tax or capital tax of that person an amount equal to the tax paid in New Zealand. Such deduction shall not, however, ex-

Protocol—*continued*

ceed that part of the Norwegian tax, as computed before the deduction is given, which is appropriate to the income derived from or capital owned in New Zealand.";

(d) if, at any time after the date of signature of this Protocol, New Zealand shall include a non-discrimination Article in any of its double tax conventions, the Government of New Zealand shall without undue delay inform the Government of the Kingdom of Norway in writing through diplomatic channels and shall enter into negotiations with the Government of the Kingdom of Norway with a view to including a non-discrimination Article in the present Convention.

DONE in Duplicate at Oslo this 20th day of April 1982 in the English language.

For the Government of
New Zealand
William Gray Thorp

For the Government of
the Kingdom of Norway
Sven Stray

P G Millen,
Clerk of the Executive Council.

Explanatory Note

This note is not part of the order, but is intended to indicate its general effect.

This order gives effect to a Convention to avoid double taxation and fiscal evasion entered into between New Zealand and Norway on 20 March 1982 and a Protocol to the Convention entered into on 29 March 1982.

The Convention applies in New Zealand in respect of the income year commencing with 1 April 1982 and in Norway in respect of the income year commencing on 1 January 1982. It continues in force until at least 1987, and after that may be terminated by either country.

Norway has notified New Zealand in accordance with Article 29(1) of the Convention that its constitutional requirements for the entry into force of the Convention have been complied with.

Paragraph (c) of the Protocol refers to the substitution of a new paragraph 2 to Article 24 of the Convention at the request of Norway. At the time of the making of this order no such request had been received.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 24 March 1983.

Contents

1 General
2 Status of reprints
3 How reprints are prepared
4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
5 List of amendments incorporated in this reprint (most recent first)

Notes

1 General

This is a reprint of the Double Taxation Relief (Norway) Order 1983. The reprint incorporates all the amendments to the order as at 25 March 1983, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as "of this section" and "of this Act")
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Wellington, New Zealand:
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