



**THE DOUBLE TAXATION RELIEF (DENMARK) ORDER 1981,
AMENDMENT NO. 1**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 10th day of June 1985

Present:

THE RIGHT HON. DAVID LANGE 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.

ORDER

1. Title and commencement—(1) This order may be cited as the Double Taxation Relief (Denmark) Order 1981, Amendment No. 1, and shall be read together with and deemed part of the Double Taxation Relief (Denmark) Order 1981* (hereinafter referred to as the principal order).

(2) This order shall come into force in terms of Article 2 of the Second Protocol set out in the Schedule to this order.

2. Giving effect to Second Protocol to Convention—(1) Clause 2 of the principal order is hereby amended by omitting the word “Schedule”, and substituting the words “First Schedule and Second Schedule”.

(2) The principal order is hereby further amended—

(a) By omitting the word “SCHEDULE” preceding the copy of the Convention, and substituting the words:

“SCHEDULES
FIRST SCHEDULE”:

(b) By adding the Second Schedule set out in the Schedule to this order.

SCHEDULE

“SECOND SCHEDULE

SECOND PROTOCOL

TO THE CONVENTION BETWEEN THE GOVERNMENT OF NEW ZEALAND 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

The Government of New Zealand and the Government of the Kingdom of Denmark,

Desiring to conclude a second Protocol to the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at Copenhagen on 10 October 1980,

Have agreed as follows:

ARTICLE 1

The following new Article 22A (Non-Discrimination) shall be inserted after Article 22 (Methods of Elimination of Double Taxation):

ARTICLE 22A

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. For the purposes of this Article the term “nationals” means:

(a) all individuals possessing the citizenship of a Contracting State;

(b) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

4. Except where the provisions of paragraph 1 of Article 9 (Associated Enterprises), paragraph 6 of Article 11 (Interest), or paragraph 6 of Article 12 (Royalties) apply, interest, royalties and other disbursements paid by a resident of a Contracting State to a resident of the other Contracting State shall, for the purposes of determining the taxable profits of the first-mentioned resident, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is

SECOND SCHEDULE—*continued*

other or more burdensome than the taxation and connected requirements to which enterprises of the first-mentioned State carrying on the same activities, the capital of which is owned or controlled by residents of the first-mentioned State, are or may be subjected.

6. This Article shall not apply to any provision of the taxation laws of a Contracting State which:

- (a) is reasonably designed to prevent or defeat the avoidance or evasion of taxes; or
- (b) is in force on the date of signature of this Protocol, or is substantially similar in general purpose or intent to any such provision but is enacted after that date;

provided that any such provision (except where that provision is in an international agreement) does not allow for different treatment of residents or nationals of the other Contracting State as compared with the treatment of residents or nationals of any third State.

7. Nothing in this Article shall be construed as preventing a Contracting State from distinguishing in its taxation laws between residents and non-residents solely on the basis of their residence and to levy taxes or grant exemption, relief, reduction or allowance for tax purposes accordingly.

8. In this Article the terms “taxation” and “taxes” mean the taxes to which this Convention applies.

ARTICLE 2

1. The Contracting States shall notify each other through diplomatic channels that the constitutional requirements for the entry into force of this Protocol have been complied with.

2. This Protocol, which shall form an integral part of the Convention, shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

- (a) in New Zealand:

for any income year beginning on or after 1 April in the calendar year next following the date on which this Protocol enters into force;

- (b) in Denmark:

in respect of income arising on or after 1 January in the calendar year next following the date on which this Protocol enters into force.

DONE at Copenhagen this 12th day of March 1985 in the English language.

For the Government
of New Zealand

T. C. OBRIEN

For the Government of
the Kingdom of Denmark

PETER DYVIG”

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 the Second Protocol to the Convention between the Government of New Zealand 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.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 13 June 1985.

This order is administered in the Inland Revenue Department.