

1942.

NEW ZEALAND.

LAND AND INCOME TAX DEPARTMENT.

AGREEMENT DATED THE 10TH DAY OF MARCH, 1942, BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND HIS MAJESTY'S GOVERNMENT IN NEW ZEALAND FOR THE RECIPROCAL EXEMPTION FROM INCOME-TAX ON CERTAIN PROFITS OR GAINS ARISING THROUGH AN AGENCY.

Presented to both Houses of the General Assembly by Command of His Excellency.

His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as "the United Kingdom") and His Majesty's Government in New Zealand, being desirous of concluding an agreement for reciprocal exemption from income-tax in certain cases of profits or gains arising through an agency, have agreed and declared as follows:—

ARTICLE 1.

His Majesty's Government in the United Kingdom undertake that the profits or gains to which this Article relates shall, so long as the exemption specified in Article 2 hereof remains effective, be exempted from income-tax (including surtax) chargeable in the United Kingdom for the year of assessment commencing on the sixth day of April, nineteen hundred and thirty-seven, and for every subsequent year of assessment, and will take the necessary action under section seventeen of the Act of Parliament of the United Kingdom known as the Finance Act, 1930, with a view to giving the force of law to the exemption aforesaid.

The profits or gains to which this Article relates are any profits or gains arising, whether directly or indirectly, through an agency in the United Kingdom to a person who is resident in New Zealand and is not resident in the United Kingdom, unless the profits or gains either—

- (1) arise from the sale of goods from a stock in the United Kingdom, or
- (2) accrue directly or indirectly through any branch or management in the United Kingdom or through an agency in the United Kingdom where the agent has and habitually exercises a general authority to negotiate and conclude contracts.

ARTICLE 2.

His Majesty's Government in New Zealand undertake that the profits or gains to which this Article relates shall, so long as the exemption specified in Article 1 hereof remains effective, be exempted from income-tax chargeable in New Zealand for the year of assessment commencing on the first day of April, nineteen hundred and thirty-seven, and for every subsequent year of assessment, and will take the necessary action under section eleven of the Act of Parliament of New Zealand, known as the Land and Income Tax Amendment Act, 1935, with a view to giving the force of law to the exemption aforesaid.

The profits or gains to which this Article relates are any profits or gains arising, whether directly or indirectly, through an agency in New Zealand to a person who is resident in the United Kingdom and is not resident in New Zealand, unless the profits or gains either—

- (1) arise from the sale of goods from a stock in New Zealand, or
- (2) accrue directly or indirectly through any branch or management in New Zealand or through an agency in New Zealand where the agent has and habitually exercises a general authority to negotiate and conclude contracts.

ARTICLE 3.

Furthermore, His Majesty's Government in the United Kingdom hereby declare that, under the law in force in the United Kingdom relating to income-tax, an agent in the United Kingdom through whom sales or transactions are carried out on behalf of a person who is not resident in the United Kingdom is not chargeable, on behalf of that person, to income-tax (including surtax) in respect of profits or gains arising to that person from those sales or transactions if such agent—

- (a) is not an authorized person carrying on the regular agency of that non-resident person, or
- (b) is a broker or general commission agent who, notwithstanding that he acts regularly for that non-resident person as broker or general commission agent, is a person who carries on *bona fide* the business of a broker or general commission agent in Great Britain or Northern Ireland and carries out the said sales or transactions on behalf of that non-resident person in the ordinary course of his business as broker or general commission agent for remuneration at a rate not less than that customary in the class of business in question.

ARTICLE 4.

His Majesty's Government in New Zealand further undertake that, so long as the position under the law in force in the United Kingdom relating to income-tax remains as declared in Article 3 hereof, an agent in New Zealand through whom sales or transactions are carried out on behalf of a person resident in the United Kingdom and not resident in New Zealand shall not be chargeable, on behalf of that person, to income-tax in New Zealand for the year of assessment commencing on the first day of April, nineteen hundred and thirty-seven, or for any subsequent year of assessment, in respect of profits or gains arising to that person from those sales or transactions if such agent—

- (a) is not an authorized person carrying on the regular agency of that non-resident person, or
 (b) is a broker or general commission agent who, notwithstanding that he acts regularly for that non-resident person as broker or general commission agent, is a person who carries on *bona fide* the business of a broker or general commission agent in New Zealand and carries out the said sales or transactions on behalf of that non-resident person in the ordinary course of his business as broker or general commission agent for remuneration at a rate not less than that customary in the class of business in question,

and His Majesty's Government in New Zealand will take the necessary action under section eleven aforementioned with a view to giving the force of law to their undertaking aforesaid.

ARTICLE 5.

His Majesty's Government in New Zealand further undertake that, for the year of assessment commencing on the first day of April, nineteen hundred and thirty-seven, and for every subsequent year of assessment, so long as the position under the law in force in the United Kingdom relating to income-tax continues to be as stated in the assurance given by His Majesty's Government in the United Kingdom in the Note which is in Annex I to this Agreement, profits or gains accruing to a person resident in the United Kingdom and not resident in New Zealand from sales under contracts entered into in the United Kingdom (that is to say, where the acceptance of the offer of purchase is effected in the United Kingdom) of goods stocked in a warehouse in New Zealand for convenience of delivery and not for purposes of display, shall be exempted from income-tax in New Zealand, even though the offers of purchase have been obtained by an agent in New Zealand of the principal in the United Kingdom and transmitted by him to the principal for acceptance, and His Majesty's Government in New Zealand will take the necessary action under section eleven aforementioned with a view to giving the force of law to the exemption aforesaid.

ARTICLE 6.

For the purposes of this Agreement the word "person" includes any body of persons, corporate or not corporate, and a body corporate shall be regarded as resident in the United Kingdom and not resident in New Zealand if its business is managed and controlled in the United Kingdom, and shall be regarded as resident in New Zealand and not resident in the United Kingdom if its business is managed and controlled in New Zealand.

ARTICLE 7.

This Agreement may be denounced at any time upon six months' notice being given by one Government to the other.

In witness whereof the undersigned, duly authorized thereto, have signed the present Agreement and affixed thereto their seals.

Done at Wellington, New Zealand, on the tenth day of March, nineteen hundred and forty-two.

[L.S.]

P. FRASER,
 Prime Minister for the Dominion of New Zealand.

[L.S.]

HARRY F. BATTERBEE,
 High Commissioner for the United Kingdom in New Zealand.

NOTE TO FORM ANNEX I TO THE AGREEMENT.

SIR,—

With reference to the Agreement signed this day, for reciprocal exemption from taxes in certain cases, I have the honour to give you an assurance that, under the law in force in the United Kingdom relating to income-tax, profits or gains accruing to a person resident in New Zealand and not resident in the United Kingdom from sales under contracts entered into in New Zealand (that is to say, where the acceptance of the offer of purchase is effected in New Zealand) of goods stocked in a warehouse in the United Kingdom for convenience of delivery and not for purposes of display are not liable to United Kingdom income-tax (including surtax), even though the offers of purchase have been obtained by an agent in the United Kingdom of the New Zealand principal and transmitted by him to the principal for acceptance.

I have the honour to be,

Sir,

Your obedient servant,

HARRY F. BATTERBEE,
 High Commissioner for the United Kingdom in New Zealand.

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