

The Laws of Zambia

REPUBLIC OF ZAMBIA

**THE INCOME TAX ACT**

**CHAPTER 323 OF THE LAWS OF ZAMBIA**

**CHAPTER 323 THE INCOME TAX ACT**

THE INCOME TAX ACT

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**CHAPTER 323**

**INCOME TAX**

**An Act to provide for the taxation of incomes and matters connected therewith.**

*Act No.*  
32 of 1967  
23 of 1968  
11 of 1969  
26 of 1970  
27 of 1970  
17 of 1971  
16 of 1972  
11 of 1973  
14 of 1973  
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9 of 1978  
10 of 1979  
19 of 1979  
6 of 1980  
10 of 1981  
13 of 1981  
12 of 1982  
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11 of 1984  
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17 of 1988  
28 of 1988  
33 of 1989  
15 of 1990  
29 of 1990  
12 of 1991  
11 of 1992  
4 of 1993  
13 of 1994  
14 of 1994  
2 of 1995  
27 of 1995  
7 of 1996  
3 of 1997

**PART I**

**PRELIMINARY AND INTERPRETATION**

**1.** This Act may be cited as the Income Tax Act.\***(1)**

Short title

2. (1) In this Act, unless the context otherwise requires-

Interpretation  
Cap. 321  
Cap. 321  
Cap. 281  
Cap. 392  
Cap. 281

"approved annuity contract" means a contract providing for the payment to an individual of a life annuity which has been approved by the Commissioner-General under the Fourth Schedule;

"approved fund" means-

- (a) an approved pension fund;
- (b) an approved annuity contract;
- (c) any superannuation, pension, provident, widows' or orphans' fund established by law in the Republic;
- (d) a pension fund approved before the enactment of this Act under either subsection (1) or (2) of section *eleven* of the former Act;

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\* This Act came into operation on the 1st April, 1966.

"approved pension fund" means a pension fund or scheme which has been approved by the Commissioner-General under the Fourth Schedule;

"assessable income" means the amount of a person's income liable to tax which may be included in an assessment and which remains after allowing the deductions, to which that person is entitled under the provisions of this Act;

"assessment" means the determination of an amount of tax which a person shall be liable to pay under the provisions of this Act;

"Authority" means the Zambia Revenue Authority established under the Zambia Revenue Authority Act;

"bankrupt's estate" means the property of a bankrupt vested by law in and under the control of the trustee in bankruptcy;

"basic salary" means the gross amount payable to an employee without any allowances;

"beneficiary", in relation to a terminal benefit, means the individual to whom such benefit is payable;

"business" includes-

- (a) any profession, vocation or trade;
- (b) any adventure or concern in the nature of trade whether singular or otherwise;
- (c) manufacturing; and
- (d) farming;

"charge year" means the year for which tax is charged, that is, the period of twelve months ending on the 31st March, and each succeeding such year;

"Charging Schedule" means the last Schedule to this Act, by which personal allowances, tax credits and rates of tax are fixed;

"child" includes a step-child, a lawfully adopted child, an illegitimate child and any child to whom an individual stands in place of a parent;

"Commissioner-General" means the Commissioner-General appointed under the Zambia Revenue Authority Act;

"company" means any company incorporated or registered under any law in force in the Republic or elsewhere;

"date of enactment of this Act" means the 20th May, 1967, and "enactment of this Act" shall be construed accordingly;

"deceased's estate" means the estate of a deceased individual;

"dividend" means any amount distributed or credited (as construed in subsection  
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(2) For the purposes of this Act, a beneficiary who was employed outside the Republic by the Government, or the Government of the former Federation, or a local authority or statutory corporation, during any period in which ordinary contributions were made, is, if he was resident outside the Republic only for the purpose of that employment, deemed to have been employed within the Republic during that period.

(3) The reference in the definition of "dividend" to "amount distributed or credited" shall be read and construed-

- (a) so as to include-
- (i) in relation to a company that is being wound up or liquidated, any profits distributed, whether in cash or otherwise, other than those of a capital nature, earned before or during the winding up or liquidation;
  - (ii) in relation to a company that is not being wound up or liquidated, any profits distributed, whether in cash or otherwise, other than those of a capital nature, including the value of that element of any shares awarded to its shareholders which is redeemable or capable of redemption by conversion and any debentures or securities awarded to its shareholders by a company;
  - (iii) in the event of the partial reduction of the capital of a company, any cash or the value of any asset which is given to the shareholder in excess of the cash equivalent of the nominal value by which the shares of that shareholder are reduced; and
  - (iv) in the event of the reconstruction of a company, any cash or the value of any asset which is given to the shareholder in excess of the nominal value of the shares held by him before reconstruction;
- (b) so as not to include any cash or the value of any asset given to a shareholder, to the extent to which the cash or the value of the said asset represents a reduction of the share premium account of the company.

(4) Any reference in this Act to bankruptcy shall be construed in accordance with the provisions of the Bankruptcy Act, and "bankruptcy" shall be construed accordingly. Cap. 82

*(As amended by Acts No. 23 of 1968, No. 11 of 1969, No. 26 of 1970, No. 17 of 1971, No. 16 of 1972, No. 11 of 1973, No. 11 of 1975, No. 14 of 1976, No. 9 of 1977, No. 10 of 1979, No. 10 of 1981, No. 12 of 1982, No. 11 of 1984, No. 11 of 1985, No. 8 of 1986, No. 14 of 1987, No. 15 of 1990, No. 12 of 1991, No. 11 of 1992, No. 4 of 1993, No. 12 of 1994, No. 2 of 1995, No. 7 of 1996 and No. 3 of 1977)*

**3.** *Repealed by Act No. 7 of 1996.*

4. (1) An individual is, for the purposes of this Act, not treated as a resident in the Republic who is in the Republic for some temporary purpose only and not with any view or intent of establishing his residence therein, and who has not actually resided in the Republic at one time or several times for a period equal in the whole to one hundred and eighty-three days in any charge year, but if any such individual resides in the Republic for the aforesaid period he shall be treated as resident for that year.

Resident

(2) For the purposes of determining residence under this section, a husband and wife shall be treated as separate individuals.

(3) In this Act, a person other than an individual is resident in the Republic for any charge year if the control and management of the person's business or affairs are exercised in the Republic for that year.

(As amended by Act No. 11 of 1969)

5. (1) In this Act, income is received by a person when, in money or money's worth, or in the form of any advantage, whether or not that advantage is capable of being turned into money or money's worth, it is paid, given or granted to him, or it accrues to him or in his favour, or it is in any way due to him or held to his order or on his behalf, or it is in any way disposed of according to his order or in his favour, and the word "recipient" is construed accordingly.

Receipt of income

(2) For the purposes of this Act-

- (a) a dividend shall be deemed to accrue to share or stock holders, in the case of a dividend paid by a company which is being wound up or liquidated, on the day the dividend is received as provided in subsection (1), and in the case of a dividend paid by a company which is not being wound up or liquidated, on the day of the resolution declaring the dividend:

Provided that where the resolution states that the dividend is to be paid to share or stock holders registered on a day in the future; and

- (i) the company paying the dividend is a company to which the provisions of section *ninety-five* may not apply; or
- (ii) the company paying the dividend is a company to which the provisions of section *ninety-five* may apply and the day of the resolution was prior to the 26th January, 1973; the dividend shall be deemed to accrue to the share or stock holders on that day in the future; and
- (b) a dividend accruing to a person which is deemed by virtue of any provision of this Act to be income of some other person shall be deemed to accrue to that other person on the day the dividend is by virtue of the provisions of paragraph (a) deemed to accrue.

(As amended by Acts No. 23 of 1968, No. 11 of 1973,  
and No. 10 of 1979)

PART II

ADMINISTRATION

6. (1) The Commissioner-General shall be responsible for carrying out the provisions of this Act. Appointment of staff

(2) The Commissioner-General shall appoint staff of the Direct Taxes Division of the Authority.

*(As amended by Act No. 7 of 1996)*

7. (1) The Commissioner-General may delegate to any officer in the Direct Taxes Division any power or duty by this Act conferred or imposed upon him, other than those conferred on him by section *one hundred and four* and this power of delegation, and, save as especially provided by this Act, any decision made or any notice or communication issued or signed by any such officer may be amended or withdrawn by the Commissioner-General, or by the officer concerned, and shall, for the purposes of this Act, until it has been so withdrawn, be treated as having been made, issued or signed by the Commissioner-General. officers and delegation of functions

(2) Every officer appointed for the purposes of carrying out the provisions of this Act is under the Commissioner-General's direction and control, and shall perform such duties as may be required by the Commissioner-General.

*(As amended by Acts No. 2 of 1995 and No. 7 of 1996)*

8. (1) Any individual who-

Secrecy

- (a) is, or at any time has been, an officer appointed for the purpose of carrying out the provisions of this Act; or
- (b) has at any time been given official access to documents or matters arising under this Act; or
- (c) *Repealed by Act No. 7 of 1996;*
- (d) is, or at any time has been, the Chairman, Deputy Chairman, Special Chairman, or an employee of the Tax Appeal Court;

shall preserve and aid in preserving secrecy concerning the affairs of any person under this Act, save as the duty under this Act of that individual requires:

Provided that-

- (i) the Commissioner-General may disclose any information, record or document to the Minister or to any public officer authorised by the Minister in writing and to the Director of Public Prosecutions when acting in exercise of his powers under the Anti-Corruption Commission Act; Cap. 91
- (ii) any individual appointed for carrying out the provisions of this Act may disclose any information, record or document to the Auditor-General and any officer authorised by the Auditor-General;
- (iii) no individual who is, or at any time has been, an officer appointed for the purpose of carrying out the provisions of this Act shall be required to produce in any court any document or to communicate to any court any information which has come into his possession or to his knowledge in the performance of his duties under this Act, except as may be necessary for the purpose of carrying out the provisions of this Act.

(2) Any individual who is in contravention of subsection (1) who uses or reveals any information, record or document disclosed to him in accordance with the proviso to subsection (1) save as his official duties require shall be guilty of an offence punishable with imprisonment for a term not exceeding two years or with a fine not exceeding two hundred penalty units, or to both.

*(Amended by Acts No. 17 of 1971, No. 14 of 1973, No. 14 of 1976, No. 8 of 1986, No. 13 of 1994, No. 14 of 1994 and No. 7 of 1996)*

**9.** The Minister may make regulations by statutory instrument in furtherance of and incidental to the provisions of this Act. Regulations

**10.** The Commissioner-General shall cause a record to be kept of every assessment made under this Act. Record of assessment

**11.** (1) All forms required for the administration of this Act shall be as prescribed by the Commissioner-General from time to time. Forms and notices

(2) Notices, forms, demands or other documents issued or given by the Commissioner-General under this Act may be signed by any officer authorised by the Commissioner-General in that behalf, and any such notice, form, demand or other document purporting to be signed by order of the Commissioner-General shall be as valid as if signed by the Commissioner-General.

*(As amended by Acts No. 26 of 1970 and No. 7 of 1996)*

**12.** (1) References in this section to the giving of notice include any service of process under this Act. Notices and service

(2) Notice to any individual under this Act is given to him-

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- (a) at the time it is served on him personally; or
- (b) at the time it is left with some adult individual apparently living or occupying or employed at his last known abode, office or place of business; or
- (c) unless the addressee proves to the contrary, ten days after it has been sent by post to his last known abode, or office, or to his postal address as notified by him to the Commissioner-General, or in care of his last known employer.

(3) Notice is given to any company at the time it is given to that company's taxpaying agent (as determined in section *sixty-six*) in the manner provided by subsection (2), or at the time it is sent, in the case of a company incorporated in the Republic, to the registered office of the company, and in the case of a company incorporated outside the Republic, either to the individual authorised to accept service of process under the Companies Act at the address filed with the Registrar of Companies, or to the registered office of the company wherever it may be situated, or, in either case, to any premises in the Republic where the company is carrying on business.

Cap. 388

(4) Notice is given to any body corporate, other than a company, at the time it is given to the principal officer, secretary, accountant or manager in the Republic of such body corporate in a manner provided by subsection (2), or at the time it is sent to the registered address, if any, of the said body corporate, or to any premises in the Republic where the said body corporate exercises any of its functions or powers.

(5) Notice to the Commissioner-General under this Act is given to him-

- (a) at the time it is served upon him personally or upon any officer of the Direct Taxes Division duly authorised by the Commissioner-General to receive such notice; or
- (b) unless the Commissioner-General proves to the contrary, ten days after it has been sent by post addressed to the Commissioner-General or any officer of the Direct Taxes Division duly authorised by the Commissioner-General to receive such notice.

*(As amended by Acts No. 11 of 1975 and No. 7 of 1996)*

(6) In this section, the term "post" means registered or unregistered post.

(7) Notice of any change in the place of abode or the postal address of any person receiving income assessable to tax shall be delivered in writing by that person to the Commissioner-General within thirty days of such change.

*(As amended by Acts No. 26 of 1970 and No. 11 of 1975)*

13. *Repealed by Act No. 7 of 1996.*

PART III

CHARGE OF TAX

14. (1) Subject to the provisions of this Act, tax shall be charged at the rates set out in Part III of the Charging Schedule for each charge year on the income received in that charge year- Charge of tax

- (a) by every person from a source within or deemed to be within the Republic; and
- (b) by every person ordinarily resident within the Republic by way of interest and dividends from a source outside the Republic.

(2) In the case of an individual, any income received as specified in subsection (1), other than income received by way of a lump sum payment and income which the Commissioner-General is prohibited from including in any assessment under the provisos to subsection (1) of section *sixty-three*, shall, before the charge of tax, be abated, pursuant to the Charging Schedule, by such tax credits as, under paragraphs 8A and 9 of the Charging Schedule, he is entitled to, and claims, in respect of the charge year in which the said income is received by him:

Provided that for the purposes of this subsection, "lump sum payment" excludes such payments as are referred to in paragraph (c) of the definition of "lump sum payment" contained in section *two*.

(3) In the case of any individual, the charge of tax on any income referred to in subsection (2) shall be abated by the amount of a tax credit, pursuant to the Charging Schedule.

(4) The provisions of this Part, and of the First Schedule, relating to particular forms of income, are without prejudice to the generality of the charge of subsection (1).

*(As amended by Acts No. 11 of 1969, No. 17 of 1971,  
No. 12 of 1982, No. 11 of 1992 and No. 4 of 1993)*

15. (1) There shall be exempt from tax the persons, funds, charities and income declared to be exempt in the Second Schedule to the extent specified therein. Exemptions from tax

(2) The Minister may, by statutory order, approve, for the purposes of exemption from tax, any person, agency, organisation or foundation, which may be so approved by him by order in the *Gazette* pursuant to the Second Schedule, and may, by like order, exempt from tax the income or emoluments of any person, agency, organisation or foundation which may be so exempted by him by order in the *Gazette* pursuant to the said Schedule, and may, at any time, by like order, revoke any such order:

Provided that the Minister shall have the power to make or revoke such orders retrospectively.

*(As amended by Acts No. 11 of 1969 and No. 11 of 1973)*

**15A.** (1) The Minister may by regulation-

Suspension and  
rebate of income tax

- (a) suspend or provide for the suspension of the whole or part of any income tax due and payable under this Act;
- (b) grant or provide for the grant of a refund of the whole or any part of income tax payable under this act;

in such circumstances, subject to such conditions and to such extent, as may be provided by or determined under the regulation.

(2) Regulations under this section suspending any payment of income tax or granting a rebate or refund may, if the Minister considers it expedient, be made with retrospective effect.

*(As amended by Act No. 12 of 1991)*

**16.** Where the Commissioner-General is satisfied that any income cannot be remitted to the Republic in the charge year in which it accrues, then he may, if the person chargeable to tax in respect of that income so requests, determine that income shall not be chargeable to tax in the charge year in which it accrues but that it shall be chargeable to tax in the charge year in which it may first be remitted to the Republic:

Chargeability of  
income that cannot be  
remitted on accrual

Provided that the tax chargeable on such income shall not exceed the tax that would have been charged on the income if it had been charged to tax in the charge year or years in which it accrued.

*(As amended by Act No. 26 of 1970)*

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- 17.** For the purposes of this Act, income includes, for any charge year-
- Classification of income
- (a) gains or profits from any business for whatever period of time carried on;
  - (b) emoluments;
  - (c) annuities;
  - (d) dividends;
  - (e) interest, charges and discounts;
  - (f) royalties, premiums or any like consideration for the use or occupation of any property;
  - (g) income from the letting of property; and
  - (h) the income as further classified in the First Schedule.

*(As amended by Acts No. 23 of 1968, No. 12 of 1982 and No. 14 of 1987)*

- 18.** (1) Income is deemed to be from a source within the Republic if that income-
- Income deemed within the Republic
- (a) arises under any agreement made in the Republic for the sale of goods, irrespective of whether those goods have been or are to be delivered in the Republic;
  - (b) is remuneration from employment exercised or office held in the Republic or if it is received by virtue of any service rendered or work or labour done by a person or partnership in the carrying on in the Republic of any business, irrespective of whether payment is made outside the Republic, or by a person resident outside the Republic;
  - (c) is remuneration for services rendered outside the Republic to the Government or any statutory corporation if the person rendering the services is resident outside the Republic solely for that purpose;
  - (d) is a pension granted by a person wherever resident, irrespective of where the funds from which it is paid are situated, or where payment is made, except where the employment or office for which the pension is granted was wholly outside the Republic, and the emoluments were never charged to tax in the Republic;
  - (e) arises from interest incurred in the production of income or in the carrying on of a business in the Republic or paid directly or indirectly out of funds derived from within the Republic;
  - (f) arises from a royalty incurred in the production of income or in the carrying on of a business in the Republic or paid directly or indirectly out of funds derived from within the Republic;



- (g) arises from the carriage, by a person who is not resident in the Republic, of passengers, mails, livestock or goods embarked, shipped or loaded in the Republic other than passengers embarking in transit through the Republic or mails, livestock or goods shipped or loaded on transshipment through the Republic; or
- (h) arises from a management or consultant fee incurred in the production of income or in the carrying on of a business in the Republic and is received by a person or persons in partnership for a service other than such part thereof as is rendered by the person or persons in partnership in the carrying on of a business in the Republic.

(2) Where a business is carried on partly within and partly outside the Republic by a person ordinarily resident in the Republic, or where a person ordinarily resident in the Republic receives a share of the profits of a business carried on in partnership partly within and partly outside the Republic, the whole of the person's share of the profits of the business or partnership is deemed to have been received from a source within the Republic.

*(As amended by Acts No. 23 of 1968, No. 26 of 1970, No. 17 of 1971, No. 16 of 1972 and No. 3 of 1997)*

**19.** (1) Where under the terms of any settlement and during the life of the settlor any income, or assets representing it, will or may become payable or applicable to or for the benefit of any child of the settlor and at the commencement of the charge year the child is unmarried and has not attained the age of twenty-one years, the income or assets representing it shall be deemed to be income of the settlor and, subject to the provisions of subsection (1), not income of any other person.

Income deemed received

(2) If and so long as the terms of any settlement are such that-

- (a) any person has or may have power, whether immediately or in the future, and whether with or without the consent of any other person, to revoke or otherwise determine the settlement or any provision thereof; and
- (b) in the event of the exercise of the power, the settlor or the wife or husband of the settlor will or may become beneficially entitled to the whole or any part of the property then comprised in the settlement, or of the income arising from the whole or any part of the property so comprised;

all income arising under the settlement from the property comprised in the settlement shall be deemed to be income of the settlor and, subject to the provisions of subsection (1), not income of any other person:

Provided that this subsection shall not apply by reason only that the settlor or the wife or husband of the settlor will or may become beneficially entitled to any income or property relating to the interest of any beneficiary under the settlement in the event that such beneficiary should pre-decease him.

(3) Where in any charge year the settlor or any relative of the settlor or any person under the direct or indirect control of the settlor or of any of his relatives, whether by borrowing or otherwise, makes use of any income arising or of any accumulated income which has arisen under a settlement to which he is not entitled thereunder, then the amount of such income or accumulated income so made use of shall be deemed to be income of the settlor for the charge year and not income of any other person.

(4) Where under the terms of any settlement to which this section applies any tax is charged on and paid by the person by whom the settlement is made, that person shall be entitled to recover from any trustee or other person to whom income is paid under the settlement the amount of the tax so paid, and for that purpose to require the Commissioner-General to furnish a certificate specifying the amount of tax so paid, and any certificate so furnished shall be conclusive evidence of the facts appearing therein.

(5) If any question arises as to the amount of any payment of income or as to any apportionment of income under this section, that question shall be decided by the Commissioner-General, whose direction thereon shall be final.

(6) This section applies to every settlement wheresoever it was made or entered into and whether it was made or entered into before or after the commencement of this Act and shall (where there is more than one settlor or more than one person who made the settlement) have effect in relation to each settlor as if he were the only settlor.

(7) In this section-

"settlement" includes any disposition, trust, covenant, agreement, whether reciprocal or collateral, arrangement or transfer of assets or income, but does not include-

- (i) a settlement which in the opinion of the Commissioner-General is made for valuable and adequate consideration;
- (ii) a settlement resulting from an order of a court;
- (iii) any agreement made by an employer to pay to an employee or to the widow or any relative or dependant of such employee after his death such remuneration or pension or lump sum as the Commissioner-General may determine;

"settlor", in relation to a settlement, includes any person by whom the settlement was made or entered into directly or indirectly, and any person who has provided or undertaken to provide funds or credit directly or indirectly for the purposes of the settlement, or has made with any other person a reciprocal arrangement for that other person to make or enter into the settlement.

*(As amended by Acts No. 11 of 1969 and No. 7 of 1996)*

**20.** *Repealed by Act No. 7 of 1996.*

**21.** (1) Where, upon the termination of a written contract of employment after minimum period of two years completed service thereunder or such lesser period as the Commissioner-General may, in his discretion, deem reasonable, income is received under the terms of the contract by any individual by way of gratuity, then such income shall be charged in the charge year in which it is received at the appropriate rates applicable thereto pursuant to Part III of the Charging Schedule:

Apportionment of gratuities and compensation for loss of office

Provided however that-

- (i) any income received by way of gratuity in excess of twenty-five per centum of the basic salary earned during the period of employment to which such gratuity is related, shall, to the extent of such excess, be regarded and dealt with, for the purposes of this Act, as income received other than by way of gratuity;
- (ii) any emoluments paid by way of gratuity by any company to any individual who is, or was at any time during the period of employment to which such gratuity is related, an effective shareholder of such company or who is, or was at any time a director of such company during the period of employment to which such gratuity is related, other than a whole time service director thereof, shall, for the purposes of this Act, be regarded and dealt with as income received by such individual other than by way of gratuity;
- (iii) any emoluments paid by way of gratuity by an employer to an individual where the spouse of the individual, either alone or in partnership, is the employer of the individual shall, for the purposes of this Act, be regarded and dealt with as income received other than by way of gratuity;
- (iv) any emoluments paid by way of gratuity by a company to an individual who or whose spouse is carrying on a business alone or in partnership and the services of the individual are provided to such a business by such company, shall for the purposes of this Act, be regarded and dealt with as income received other than by way of gratuity; and
- (v) where the conditions of this subsection are not complied with in respect of any emoluments paid to any individual by way of gratuity, such emoluments shall for the purposes of this Act, be regarded and dealt with as income received by such individual other than by way of gratuity.

(2) Where, upon the termination of a contract of employment, income is received by an individual by way of compensation for leave due but not taken, such income, if the individual irrevocably so elects, shall be regarded as accruing, and as being paid, proportionately on the last day of each month over the period during which the leave would have been taken, commencing with the first day after the date of termination of contract.

(3) Where, during the continuance of any employment, income by way of payment in advance for a leave period, is received by an individual proceeding on leave with the intention of resuming his employment at the termination of such leave period, such income shall be regarded as accruing and being paid proportionately on the last day of each month during the continuance of the period of leave.

(4) Where, as the result of any law, judicial order or judgement or the acceptance by an employer of any independent award or of representations by recognised association of employees, income is received by an individual by way of arrears of income in respect of present or past employment, such income shall be regarded as having accrued and as having been paid during the years to which such arrears relate, whether charge years under this Act or years of assessment under any previous law.

(5) Where, upon the termination of the services of any individual in any office or employment, income is received by such individual by way of compensation for loss of office or employment, including termination for reason of redundancy or early retirement, normal retirement or death, the first two million kwacha of such income shall be exempt from income tax.

*(As amended by Acts No. 11 of 1969, No. 16 of 1972, No. 14 of 1974, No. 14 of 1976, No. 14 of 1987, No. 29 of 1990, No. 11 of 1992, No. 4 of 1993, No. 14 of 1994 and No. 7 of 1996)*

**22.** Where in the case of any business it is necessary in order to arrive at the income of the business for any charge year or other period to divide and apportion to specific periods the income for any period for which accounts have been made up or to aggregate such income or any apportioned parts thereof, it shall be lawful to make such a division and apportionment or aggregation, and any apportionment under this section shall be made in proportion to the number of days in the respective period, unless the Commissioner-General, having regard to any special circumstances, otherwise determines.

Apportionment of income

**23.** (1) Where in computing gains or profits for any charge year any expenditure or loss has been deducted or a deduction in respect of any reserve or provision to meet any liability has been made, and in a later charge year the whole or part of the expenditure or loss is recovered, or the whole or part of the liability is released, or the retention in whole or in part of the reserve or provision has become unnecessary, then any amount so recovered or released or no longer required as a reserve or provision shall be deemed to be gains or profits of the charge year in which it is recovered or released or no longer required:

Provisions relating to income from business

Provided that any amount received by way of refund of mineral tax under the provisions of section *seven* of the Mineral Royalty Tax Act, shall not be deemed to be gains or profits.

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(2) Any amount received under any insurance against loss of profits, or received by way of damages or compensation for loss of profits, shall be deemed to be gains or profits of the charge year in which it is received.

*(As amended by Act No. 27 of 1970)*

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**24.** Where any amount is received by any person after the cessation of his business which, if it had been received prior to the cessation, would have been included in the gains or profits from the business, then, to the extent to which that amount has not already been included in the gains or profits, that amount shall be income of such person for the charge year in which it is received.

Provisions relating to income after cessation of business

**25.** The gains or profits of an insurance business are ascertained in accordance with the provisions of the Third Schedule.

Insurance business

**26.** Where a business is carried on by two or more persons in partnership, the income of any partner from the partnership for any period is the share to which he was entitled in that period, such income being ascertained in accordance with the provisions of this Act and that share shall be assessed and charged on him accordingly.

Income of partner

**27.** (1) This section applies to the income of a trust or of a deceased's estate.

Special provisions relating to deceased's estate and trusts

(2) For the purposes of this Act, an amount received or forming part of the assets of a deceased's estate which became due and payable before the death of the deceased person and which the deceased person had a right to claim in his lifetime shall be treated as income received by the deceased person on the date the amount became due and payable if the amount would have been income of the deceased person had it been received by him in his lifetime.

(3) An amount received by a deceased's estate which did not become payable before the death of the deceased person shall be income of the deceased's estate for the purposes of this Act if the amount would have been income of the deceased person had it been received or been deemed to have been received by him in his lifetime:

Provided that any income received by way of emoluments earned by the deceased person during his lifetime shall be deemed to be income received by the deceased person on the date of his death.

(4) Where a beneficiary is entitled to the whole or part of the income of a trust or deceased's estate, the Commissioner-General may, instead of assessing and charging the whole or part of the income on the trustees or executor or administrator, determine that the income of the trust or deceased's estate attributable to the beneficiary's interest for any charge year or any amount paid out of the income of the trust or deceased's estate on behalf of the beneficiary in any charge year shall, for the purposes of this Act, be assessed and charged on the beneficiary as if it were his income.

*(As amended by Acts No. 23 of 1968 and No. 14 of 1976)*

**28.** (1) The income that is deemed under paragraph (g) of subsection (1) of section *eighteen* to be from a source within the Republic for any period shall be an amount bearing the same proportion to the amounts received in respect of the carriage of passengers, mails, livestock or goods embarked, shipped or loaded in the Republic as the total gains or profits of such business for the period bear to the total amount received for the period for the carriage of passengers, mails, livestock or goods.

Income of  
non-resident air, sea  
or land transport  
business

(2) The Commissioner-General may accept as evidence of the total gains or profits and total amount mentioned in subsection (1), a certificate of such gains or profits and amount issued by or on behalf of any income tax authority which the Commissioner-General is satisfied computes the gains or profits of the business on a basis not materially different from that provided in this Act.

(3) Where at the time of assessment, the provisions of subsection (1) cannot for any reason be satisfactorily applied, the income from the Republic may be computed at such percentage of the full amount received which is attributable to the carriage of passengers, mails, livestock or goods embarked, shipped or loaded in the Republic as the Commissioner-General may determine.

(4) Any person assessed under the terms of subsection (3) in respect of any charge year may claim at any time within six years after the end of the charge year that his liability to tax be recomputed on the basis provided by subsection (1).

*(As amended by Acts No. 11 of 1975, No. 14 of 1976,  
No. 9 of 1977, No. 10 of 1981 and No. 11 of 1984)*

#### PART IV

#### DEDUCTIONS

**29.** (1) Subject to the provisions of this Part-

Deductions generally

- (a) in ascertaining business gains or profits in any charge year, there shall be deducted the losses and expenditure, other than of a capital nature, incurred in that year wholly and exclusively for the purposes of the business; and
- (b) in ascertaining income from a source other than business, only such expenditure, other than expenditure of a capital nature, is allowed as a deduction for any charge year as was incurred wholly and exclusively in the production of the income from that source.

(2) Only one deduction is allowed under this Act in respect of the same matter in any charge year.

*(As amended by Act No. 26 of 1970)*

**29A.** Notwithstanding the provisions of section *twenty-nine* or any other provisions of this Act, any foreign currency exchange gains or losses, other than those of a capital nature, shall be assessable or deductible, as the case may be, in the charge year in which such gains or losses are realised, that is to say, in the charge year in which the person or partnership concerned is required to pay the additional kwacha or is allowed a rebate or a reduction, as the case may be, in settlement of a foreign debt or liability.

Foreign currency  
exchange gains and  
losses

*(As amended by Act No. 14 of 1987)*

**30.** (1) Subject to the other provisions of this section, any loss incurred in a charge year on a source by a person, shall be deducted only from the income of the person from the same source as that in which the loss was incurred.

Losses

(2) Subject to the other provisions of this section, where a loss referred to in subsection (1) exceeds the income of a person for the charge year in which the loss was incurred, the excess shall, as far as possible, be deducted from the income of the person from the same source as that in which the loss was incurred for the following charge year;

Provided that:

- (i) the loss shall not be carried forward beyond five subsequent years after the charge year in which the loss is incurred; and
- (ii) losses brought forward as at 31st March, 1997, shall be deemed to have been incurred in the Charge year ending 31st March, 1997.

(3) Where on the death of an individual his interest in a business passes to his spouse, any undeducted loss attributable to such interest shall be deducted from the spouse's income from that business in accordance with the provisions of sub-section (2).

(4) *Repealed by Act No. 7 of 1996.*

*(As amended by Acts No. 11 of 1969, No. 11 of 1975,  
No. 14 of 1976, No. 9 of 1977, No. 10 of 1981, No. 11 of 1984,  
No. 7 of 1996 and No. 3 of 1997)*

**30A.** *Repealed by Act No. 27 of 1995.*

**31.** If a company has incurred a loss on a source for the purposes of this Act and that company in this section called the old company)- Transfer of losses

- (a) was incorporated outside the Republic; and
- (b) carried on its principal business within the Republic; and
- (c) is about to be wound up voluntarily in its country of incorporation for the purposes of transferring the whole of its business and property wherever situate, to a company which has been or will be incorporated in the Republic (in this section called the new company) for the purposes of acquiring that trade and property and the only consideration for the transfer will be the issue to the members of the old company of shares in the new company in proportion to their shareholdings in the old company;

the new company after the transfer referred to in paragraph (c) shall be allowed the old company's loss as deduction from income from the same source as that in which the old company's loss was incurred to the extent that the loss has not been allowed as a deduction under this Act for any charge year and such loss shall be allowed in accordance with the provisions of section *thirty*.

Provided that the combined period of loss carried forward for both the old and new companies shall not exceed five years.

*(As amended by Acts No. 14 of 1976, No. 14 of 1987 and No. 3 of 1997)*

**32.** (1) Subject to the provisions of subsection (2), no person may carry forward any loss incurred before he had been adjudged bankrupt. Losses prior to bankruptcy, etc

(2) Where any person has made a conveyance or assignment of his property for the benefit of his creditors, or has made an arrangement with them, or has entered into a composition with them which has been approved by the High Court pursuant to any Bankruptcy Act in force in the Republic, whereby the said person is released from his debts or from any proportion or part thereof, any loss incurred by him prior to his making of such conveyance, or assignment, or arrangement, or his entering into such composition, may be carried forward, reduced, however, *pro tanto*, by the amount of the debts released by or under the said conveyance, assignment, arrangement, or composition, as the case may be, and such loss shall be allowed in accordance with the provisions of section *thirty*.

*(As amended by Acts No. 11 of 1969 and No. 14 of 1976)*

**33.** Capital allowances are deducted in ascertaining the gains or profits of a business and the emoluments of any employment or office for each charge year- Capital allowances

- (a) for buildings, implements, machinery and plant, and premiums, according to the provisions of Parts I to V inclusive of the Fifth Schedule;
- (b) for capital expenditure in relation to mining operations, according to the provisions of Parts I to VI inclusive of the Fifth Schedule; and
- (c) for farm improvements and works, according to the provisions of the Sixth Schedule.

*(As amended by Acts No. 11 of 1969, No. 26 of 1970, No. 46 of 1973, No. 11 of 1975 and No. 3 of 1997)*



**34.** Where a person incurs capital expenditure on the construction of, addition to, or alteration of any industrial building, as defined in paragraph 1 of the Fifth Schedule, to be used by him for the purposes of his business as a manufacturer, an investment allowance of ten per centum of such expenditure shall be deducted in ascertaining the gains or profits of that business for the year in which the said building, addition or alteration is first used for the said purposes.

Investment allowances

*(As amended by Acts No. 11 of 1969, No. 26 of 1970, No. 11 of 1985 and No. 14 of 1987 and No. 4 of 1993)*

**34A.** (1) Where a person incurs expenditure on the growing of tea, coffee, or banana plant or citrus fruit trees, or other similar plants or trees, an allowance (in this Act referred to as a development allowance) of ten per centum of such expenditure shall be deducted in ascertaining the gains or profits of that business for the charge year.

Development allowance

(2) The development allowance referred to in subsection (1) may, in the case of a person growing for the first time plants or trees referred to therein, be carried forward to the following charge years up to the first year of production, but in no case shall the development allowance in respect of more than three years be carried forward.

*(As amended by Act No. 10 of 1981)*

**35.** A deduction is allowed in ascertaining the gains or profits of a business for the charge year in which that business commences, in respect of any expenditure that-

Preliminary business expenses

- (a) was incurred within eighteen months before the commencement of the business; and
- (b) would have been allowed as a deduction in ascertaining the gains or profits of the business after its commencement.

**36.** Where any amount is paid by any person after the cessation of his business which, if it had been paid prior to the cessation, would have been deductible in computing his gains or profits from the business, then, to the extent to which that amount has not already been deducted in computing the gains or profits, it shall be deducted in the same manner and order as a loss within section *thirty* from his income for the charge year in which it is paid or, if he has not income in that charge year, from his income for the charge year in which the business ceased, and such deduction shall be made before deductions under sections *thirty*, *thirty-one* and *thirty-two*.

Amount paid after cessation of business

*(As amended by Act No. 26 of 1970)*

**37.** (1) (a) A deduction shall, subject to the provisions of this subsection and subsection (4), be allowed in ascertaining the income from emoluments of an employee for a charge year of any amount paid by him during that charge year by way of contribution to any approved fund including Zambia National Provident Fund if the fund to which the contribution is made continues to be an approved fund for that charge year:

Approved fund deductions

Provided that no deduction shall be allowed under this paragraph in respect of any contribution other than a contribution-

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- (i) which is not a contribution in arrear (hereinafter in this subsection referred to as a current contribution); or
- (ii) which is a special lump sum contribution allowed to be deducted under and in accordance with paragraph (b).

(b) A contribution paid by an employee-

- (i) in respect of services rendered by him whilst resident in the Republic to his employer prior to the date of the employee becoming a member of the approved fund to which the said contribution is paid; or
- (ii) in respect of a period when the employee was resident and employed in the Republic prior to the date of the employee becoming a member of a fund within paragraph (c) of the definition of approved fund or a fund approved under paragraph 5 of the Fourth Schedule to which the said contribution is paid;

in order that the employee may qualify for benefits under the approved fund to which the contribution is paid in respect of such prior services or period as aforesaid shall be a special lump sum contribution and shall, for the purposes of paragraph (a), be treated as a current contribution for such charge year or as current contributions for such charge years and in such amounts as the Commissioner-General, in his discretion, may direct.

(c) The deduction to be allowed to an employee for a charge year in respect of his current contributions to approved pension funds shall not exceed-

- (i) fifteen per centum of his income from emoluments liable to tax which have been received for that charge year from any employer who established, adhered to or continued the said approved pension fund, the fifteen per centum to be calculated before any deduction under this subsection; or
- (ii) One hundred and twenty thousand kwacha whichever is the less.

(d) The total deductions to be allowed to an employee for a charge year in respect of current contributions to an approved fund within the meaning of paragraph (c) of the definition of approved fund and a fund approved under paragraph 5 of the Fourth Schedule shall not exceed fifteen per centum of the income from emoluments of the employee liable to tax before allowing any deduction under this subsection for that charge year or one hundred and twenty thousand kwacha, whichever is the less.

(e) The total of the deductions to be allowed for a charge year under paragraphs (c) and (d) shall not exceed fifteen per centum of the income from emoluments of the employee liable to tax before allowing any deduction under this subsection for that charge year or one hundred and twenty thousand kwacha, whichever is the less, and in any case shall not exceed the assessable income of the employee for the charge year before allowing the deductions under this subsection, subsection (3) and sections *thirty, thirty-two, thirty-six, forty and forty-one*.

(2) (a) A deduction shall, subject to the provisions of this subsection, be allowed in ascertaining the gains or profits of an employer for a charge year of any amount paid during that charge year by him by way of contribution to an approved fund established for the benefit of his employees (including an approved fund within the meaning of paragraph (c) of the definition of approved fund and a fund approved under paragraph 5 of the Fourth Schedule) if the fund to which the contribution is made continues to be an approved fund for that charge year:

Provided that no deduction shall be allowed under this paragraph in respect of any contribution other than a contribution-

- (i) which is not a contribution in arrear (hereinafter in this subsection referred to as a current contribution); or
- (ii) which is a special lump sum contribution which is allowed to be deducted under and in accordance with paragraph (b).

(b) A contribution paid by an employer-

- (i) in respect of services rendered to him by an employee prior to the date of the employee becoming a member of the approved fund to which the said contribution is paid in order that the employee may qualify for benefits under that approved fund in respect of such prior services; or
- (ii) for any other reason approved by the Commissioner-General;

shall be a special lump sum contribution and shall be treated as a current contribution for such charge year or as current contributions for such charge years and in such amounts as the Commissioner-General, in his discretion, may direct.

(c) The deduction to be allowed for a charge year in respect of current contributions to an approved fund other than a fund approved under subsection (1) of section *eleven* of the former Act shall not exceed twenty per centum of the emoluments liable to tax received from the employer in that charge year by each employee in respect of whom the contributions are paid.

(3) (a) A deduction shall, subject to the provisions of this subsection and subsection (4), be allowed from the income of an individual for a charge year of any amount paid by him during that charge year by way of a premium payable under an approved annuity contract if the pension fund to which the contribution is paid or the annuity contract under which the premium is paid continues to be an approved fund for that charge year and such deduction shall be deducted from the income of an individual before deductions under sections *thirty*, *thirty-two*, *thirty-six*, *forty*, and *forty-one*.

(b) The deduction to be allowed for a charge year under this subsection shall not exceed one hundred and twenty thousand kwacha or the assessable income of the individual for the charge year before allowing the deduction under this subsection and deductions under sections *thirty, thirty-two, thirty-six, forty* and *forty-one*, whichever is the less, except that in the case of an individual who is not resident in the Republic, the deduction shall not exceed an amount equal to the contribution or premium paid as aforesaid multiplied by the fraction of his assessable income as above over his world income as defined in sub-paragraph (3) of paragraph 8 of the Charging Schedule.

(4) The total of all deductions to be allowed to an individual under subsection (1) and (3) for a charge year shall not exceed one hundred and twenty thousand kwacha or the assessable income of that individual for that charge year before allowing the deductions under subsection (1) and (3) and deductions under sections *thirty, thirty-two, thirty-six, forty* and *forty-one*, whichever is the less.

*(As amended by Acts No. 29 of 1970, No.12 of 1982, No. 11 of 1984, No. 14 of 1987, No. 11 of 1992, No.4 of 1993, No. 14 of 1994, No. 2 of 1995 and No. 7 of 1996)*

**38.** A deduction shall be allowed in ascertaining the gains or profits of a business for any payment made for the purposes of technical education relating to that business or for the purposes of obtaining further experience, training or qualifications, relating to that business:

Technical education

Provided that no deduction shall be allowed under this section in respect of any payment made-

- (a) on behalf of an individual who is related by blood or marriage to the person making the payment, or to a person who is able to control directly or indirectly the person making the payment;
- (b) in pursuance of an agreement or undertaking to the effect that the person making the payment will receive any reciprocal benefit for such payment where made on behalf of an individual who is related by blood or marriage to any other party to that agreement or undertaking.

*(As amended by Act No. 26 of 1970)*

**39.** A deduction is allowed in ascertaining the gains or profits of a business or the emoluments of any employment or office for any subscription paid by a person in respect of his membership of a trade, technical or professional association which is related to his business, employment or office.

Subscriptions

**40.** *Repealed by Act No. 3 of 1997.*

**41.** (1) Subject to the provisions of this section, any amount paid by a person during a charge year to an ecclesiastical, charitable, research, educational institution of a public character or to a national amateur sporting association or to any fund of a public character wholly and exclusively established for the use of the Republic or for ecclesiastical, charitable, research, educational or amateur sporting purposes, shall be deducted from the income of that person for that charge year if-

Charities

- (a) the payments are in money or money's worth;
- (b) the payments are made for no consideration whatsoever;
- (c) the Minister approves the institution, association or fund to which payment is made or to be made and the Minister may in like manner withdraw such approval and such withdrawal may be made retrospectively.

(2) The deduction to be allowed in a charge year under this section shall be allowed before deductions under sections *thirty*, *thirty-one*, *thirty-two*, *thirty-six* and *forty*, and in no case shall exceed fifteen per centum of the assessable income of the person for the charge year.

*(As amended by Acts No. 26 of 1970, No. 11 of 1973,  
No. 6 of 1980, No. 12 of 1982, No. 14 of 1987, No. 11 of 1992 and No. 7 of 1996)*

**42.** *Repealed by Act No. 3 of 1997.*

**43.** (1) A deduction is allowed in ascertaining the gains or profits of a business of any expenditure, not being expenditure of a capital nature, incurred by the business during a charge year on experiments or research relating to the business. Deduction for research

(2) A deduction is allowed in ascertaining the gains or profits of a business for any contribution to a scientific or educational society or institution or other like body of a public character approved by the Commissioner-General where a condition of the contribution is that it must be utilised by the society, institution or body, as the case may be, solely for the purposes of industrial research or scientific experimental work connected with the business.

**43A.** A deduction shall be allowed in ascertaining the income from any source for debts to the extent that the debts have been included in the income from that source and to the extent that they are proved to the satisfaction of the Commissioner-General to be bad or likely to become bad and, where there is no income from that source for the charge year for which such deduction is due that deduction shall be deemed to be a loss under section *thirty*. Deduction for bad and doubtful debts

*(As amended by Act No. 27 of 1970)*

**43B.** *Repealed by Act No. 17 of 1988.*

**43C.** (1) Subject to the provisions of this section, any amount paid during a charge year by way of interest on a loan secured by a mortgage on a property- Deduction for mortgage interest

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- (a) by an individual in respect of the period of the charge year for which the property was owned and occupied by the individual as his only or main place of residence in the Republic; or
- (b) by an individual or his wife in respect of the period of the charge year for which his wife was living with him and the property was owned by one of them individually or by both of them jointly and was occupied by them as their only main place of residence in the Republic;

shall be deducted from the income of the individual for that charge year, and before deductions under subsection (3) of section *thirty-seven* and sections *thirty*, *thirty-two*, *thirty-six*, *forty* and *forty-one*:

Provided that-

- (i) a deduction may be allowed at the discretion of the Commissioner-General where he is satisfied that in the case of property which was not occupied during the charge year by an individual otherwise entitled to such deduction that this was due to circumstance beyond the control of the individual;
- (ii) this section shall apply only to interest which is payable on such part of the loan as is used to defray money applied in the purchase, repair or improvement of the property in respect of the period from the date of such use, or for the payment of premium on a mortgage protection insurance policy and the loan has been used within what the Commissioner-General determines is a reasonable period in the circumstances from the date of such application.

(2) The deduction to be allowed in a charge year under subsection (1) shall not exceed-

- (a) the amount which would have been allowable if the interest on the loan, or that part of it which is allowable, had been payable at the highest rate charged on loans to owner-occupiers of property by the building society in a charge year; or
- (b) the assessable income of the individual for that charge year before allowing the deduction under subsection (1) and the deductions under subsection (3) of section *thirty-seven* and sections *thirty*, *thirty-two*, *thirty-six*, *forty* and *forty-one*;

whichever is the less.

(3) Where in any charge year an individual or his wife living with him owns and occupies more than one property for the same period, he shall, by notice in writing to the Commissioner-General before the end of the charge year immediately following that charge year, irrevocably elect which property is his main place of residence and, where no election is made, the Commissioner-General shall, in his discretion, decide which property shall be the main place of residence for the purposes of subsection (1).

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(4) For the purposes of this section, "property" shall mean "residential immovable property".

(5) *Repealed by Act No. 11 of 1992.*

*(As amended by Acts No. 17 of 1971, No. 11 of 1974,  
No. 10 of 1979, No. 8 of 1986, No. 14 of 1987, No. 33 of 1989  
and No. 11 of 1992)*

**43D.** (1) A deduction shall be allowed in ascertaining the gains or profits of a business in respect of each handicapped person who has been employed full-time by such business for the whole or substantial part of the charge year for which the deduction is claimed.

Deduction for  
employing  
handicapped person

(2) The amount of the deduction referred to in subsection (1) shall be two hundred and forty thousand kwacha.

*(As amended by Act No. 11 of 1985, No. 4 of 1993 and  
No. 7 of 1996)*

**43E.** *Repealed by Act No. 7 of 1996.*

**44.** No deduction is made in respect of any of the following matters:

Case of no deduction

- (a) the cost incurred by an individual in the maintenance of himself, his family or establishment, or which is a domestic or personal expense, except such interest as is allowed by section *forty-three C*;
- (b) any loss or expense which is recoverable under any insurance contract or indemnity;
- (c) capital expenditure or loss of capital, other than loss of stock in trade, unless specifically permitted under this Act;
- (d) any payment to a pension or superannuation fund or scheme or premium payable under an annuity contract, except such payments as are allowed under section *thirty-seven*;
- (e) any tax or penalty chargeable under this Act;
- (f) *Repealed by Act No. 1 of 1997*;
- (g) any amount which would be deductible in ascertaining the income from a source or from income which the Commissioner-General is prohibited from including in any assessment under the provisos to subsection (1) of section *sixty-three*;
- (h) any expenditure incurred or capital asset employed, whether directly or indirectly, in the provision of entertainment, hospitality or gifts of any kind:

Provided that this paragraph shall not apply to-

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- (i) any expenditure incurred or capital asset employed in the provision of anything which it is the purpose of a person's business to provide and which is provided in the ordinary course of that business for payment or for the purpose of advertising to the public generally without payment;
- (ii) *Repealed by Act No. 11 of 1992;*
- (iii) any expenditure incurred in the provision of a gift to any person consisting of an article incorporating a conspicuous advertisement for the donor the cost of which to the donor, taken together with the cost to him of any other such articles given by him to that person in the same charge year, does not exceed K20.00;
- (l) *Repealed by Act No. 3 of 1997;*
- (m) *Repealed by Act No. 3 of 1997;*
- (n) *Repealed by Act No. 4 of 1993;*
- (o) the cost of any benefit advantage not capable of being turned into money or money's worth that is provided to employees, subject to such directions as shall be issued by the Commissioner-General.

*(As amended by Acts No. 26 and 27 of 1970, No. 17 of 1971, No. 11 of 1973, No. 11 of 1975, No. 14 of 1976, No. 10 of 1981, No. 14 of 1987, No. 11 of 1992, No. 4 of 1993, No. 2 of 1995, No. 3 of 1997 and No. 1 of 1997)*

PART V

RETURNS AND ASSESSMENTS

**45.** Every person within thirty days from first receiving income liable to tax under this Act shall give written notice accordingly to the Commissioner-General.

Notice to  
Commissioner-General

*(As amended by Act No. 26 of 1970)*

**45A.** (1) Every person shall provide his taxpayer identification number with all forms, notices, certificates, documents, and other communications submitted to the Commissioner-General under this Act.

Duty to provide  
taxpayer identification  
number

(2) Any person carrying on any business in partnership shall provide the taxpayer identification number of every partner with all documents, forms, notices, certificates, and other communications submitted to the Commissioner-General under this Act.



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(3) Every person making payments for which it is required to submit to the Commissioner-General a return, notice, form, certificate, or other such document under sections *fifty, fifty-two, seventy-one, eighty, eighty-one, eighty-one A, eighty-two, or ninety-five D* of this Act shall furnish to the Commissioner-General on or along with that document the taxpayer identification numbers for all persons to whom the payments have been made.

(4) This section shall have effect irrespective of the charge year to which the forms, notices, certificates, documents and other communications referred to in subsection (1) to (3) pertain.

(As amended by Act No. 11 of 1992)

**45B.** (1) The institutions listed in column 1 of this subsection shall require a tax payer identification number from any person, applying for anything listed, or engaged in the types of transactions listed, whichever is applicable, in column 2 of this section.

Tax payer identification number required for certain transactions

<i>Column 1</i>	<i>Column 2</i>
<i>Institution</i>	<i>Type of Transaction</i>
Commissioner of Lands	Registration of titles
Registrar of Motor Vehicles	Registration and transfer of motor vehicles
Ministry of Commerce	Import licensing and trade licensing
Zambia Electricity Supply connection	Payment of deposit for power Corporation

(2) Each institution listed in column 1 of subsection (1) shall avail the Commissioner-General or his authorised agent access to the documents, forms, notices, certificates, and other communications in which a tax-payer identification number is required to be used under subsection (1):

Provided that such access shall be as is necessary to assist in the enforcement of the tax laws.

(3) Any person, including a person carrying on any business in partnership, who is required under subsection (1) to furnish a tax-payer identification number and who furnishes a false number shall be guilty of an offence under this Act.

(As amended by Act No. 4 of 1993)

**46.** (1) Every person liable to tax for any charge year, other than an individual whose income consists entirely of emoluments within the provisions of Part VI (which relates to Pay As You Earn), shall furnish to the Commissioner-General a return of income and such particulars as may be required for the purposes of ascertaining the income chargeable, if any, and the tax liability due, if any under this Act.

Returns generally

(2) The return required under this section shall-

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- (a) contain a statement of the person's income liable to tax, including income deemed under this Act to be the income of the person in respect of whom the return is submitted;
- (b) contain a computation, by or on behalf of the person liable to tax, of the amount of tax due based on rates of tax applicable for such charge year and, in the case of an individual, such personal allowances, deductions, and tax credit to which he is entitled; and
- (c) include a declaration by such person, or by the person in whose name he is assessable, that such return includes a full statement of income liable to tax and a proper computation of tax due for such charge year.

(3) The return referred to in subsection (1) shall be furnished to the Commissioner-General not later than 30th September following the end of the charge year.

(4) Where a person fails to submit a return on, or before, the date provided under subsection (3), there shall be charged a penalty of-

- (a) in the case of an individual, one hundred and seventy penalty units per month or part thereof; or
- (b) in the case of a company, three hundred and forty penalty units per month or part thereof:

Provided that when the Commissioner-General is satisfied that due to the absence from Zambia, illness or any other reasonable cause, that person was prevented from furnishing the return on or before the due date, the Commissioner-General may remit the whole or part of any such penalty.

*(As amended by Acts No. 11 of 1992, No. 13 of 1994,  
No. 2 of 1995 and No. 3 of 1997)*

**46A.** (1) Without prejudice to the requirement under section *forty-six*, every person, other than an individual whose income consists entirely of emoluments within the provisions of Part VI which relates to (Pay As You Earn), shall submit in accordance with this section a return of provisional income for any charge year:

Provisional Income

Provided that an individual who does not expect to receive assessable income (other than emoluments within the provisions of Part VI) in excess of six hundred thousand kwacha for such charge year need not submit such return.

(2) The return of provisional income required under this section shall-

- (a) contain an estimate (based on information reasonably believed to be true) of the person's income liable to tax, including income deemed under this Act to be the income of the person in respect of whom the return is submitted;
- (b) contain a computation of tax based on rates of tax applicable for such charge year and, in the case of an individual, personal allowances, tax credit and which he is entitled; and
- (c) include a declaration by such person or by the person in whose name he is assessable, that such provisional return includes a full and reasonable estimate of his income for such charge year.

(3) The return of provisional income referred to in subsection (2) shall be furnished not later than the 30th June of the charge year to which such return relates:

Provided that-

- (i) where, during the course of the charge year, any person discovers that the return of provisional income furnished under this section is likely to be substantially incorrect because of changed circumstances, such person shall furnish an amended return of revised provisional income and in such case, any alteration in the amount of estimated tax payable shall be taken into account in the next instalment (pursuant to section *seventy-seven*) immediately following the date of such amended return;
- (ii) where, upon the receipt of a return of income pursuant to section *forty-six*, it is discovered that income has been so underestimated that the tax on such estimate has been underpaid by at least one-third, then, in addition to the penalties contained in section *seventy-eight*, such person shall be liable to an additional penalty under this section calculated at the rate of ten per centum of the tax which has been underpaid.

(4) Subject to subsection (1), any person chargeable with tax for any charge year who has not been required to furnish a return of provisional income under subsection (1) shall, within fourteen days of the expiration of the period prescribed under subsection (3), furnish the Commissioner-General with an estimate of his income for such charge year specifying therein the details required by subsection (2).

*(As amended by Acts No. 12 of 1982, No. 17 of 1988, No. 11 of 1992, No. 2 of 1995 and No. 7 of 1996)*

**47.** (1) The Commissioner-General may, by notice in writing require any person to furnish him, within a reasonable time specified in the notice, with further returns or particulars in relation to any matter contained in a return made under this Act or in relation to any transactions or matters appearing to the Commissioner-General to be relevant to the ascertainment of the income of that person.

Further provisions as to returns

(2) The Commissioner-General may determine that any person shall make a return on another person's behalf, and any such return is the return of that other person for the purposes of this Act, save that the operation of this subsection shall not relieve that other person of any liability under this Act.

(3) Any person preparing, signing or rendering any return or statement for the purposes of this Act is deemed to be aware of the contents of that return or statement.

(4) Where the Commissioner-General determines that a person is not able to deliver a return in accordance with this Act, the Commissioner-General may require that person to prepare, sign and deliver an estimated return of his income for any charge year, but such requirement only relieves that person of his liability to deliver a return in accordance with the provisions of this Act for so long as the Commissioner-General determines.

**48.** Every person shall furnish to the Commissioner-General such information, whether relating to the affairs of himself or any other person, as the Commissioner-General determines is necessary for the purposes of this Act, and every provision of this Act relating to the delivery of information to the Commissioner-General is without prejudice to the generality of this section.

Information generally

**49.** The Commissioner-General may give notice in writing to any person requiring him to furnish within the time limited by such notice, not being less than thirty days from the date of service of such notice, a statement in writing containing particulars of-

Statement of bank accounts, assets, etc.

- (a) all banking accounts, whether current or deposit business or private, in his own name or in the name or names of his wife or wives, or in any other name, in which he is or has been interested, or on which he has or has had power to operate, jointly or solely, and which are in existence or which have existed at any time during the period stated in the notice;
- (b) all savings and loan accounts, deposits, building society, and cooperative society accounts, in regard to which he has, or has held, any interest or power to operate jointly or solely during the period aforesaid;
- (c) all assets, other than those referred to in paragraph (a) or (b) which he and his wife or wives possess, or have possessed, during the period aforesaid;
- (d) all sources of income not referred to in paragraph (a), (b) or (c) and the income derived therefrom; and
- (e) all facts bearing upon his liability to income tax to which he is or has been liable.

**50.** The Commissioner-General may by notice in writing require any person whose business is to provide living accommodation to deliver a list of all persons he has so accommodated.

Return of lodgers and inmates

**51.** Whenever so required by the Commissioner-General, and in the prescribed form, everyone carrying on business shall deliver returns showing- Information as to business matters

- (a) particulars of all payments in respect of any share or interest in the business;
- (b) particulars of all moneys received by him on deposit;
- (c) particulars of any interest received or paid by him;  
and
- (d) such other information as may be in his possession relating to the income received by any other person.

**52.** *Repealed by Act No. 3 of 1997.*

**53.** Notwithstanding anything to the contrary in any written law, any officer in the service of the Government, a local authority or public body who has charge of documents which might aid the carrying out of the provisions of this Act shall permit the Commissioner-General or the Commissioner-General's authorised officer to inspect and copy those documents, and have custody of such of them as are necessary for production in proceedings. Public documents

**54.** Every resident company shall deliver to the Commissioner-General a copy of its memorandum and articles of association, and copies of all amendments thereto, and, if the Commissioner-General so determines, all such particulars relating to the company's affairs and shareholders as the Commissioner-General may in writing require. Information as to companies

**55.** (1) Every person carrying on a business shall keep, in the English language, books and accounts of all his transactions, and, unless otherwise authorised by the Commissioner-General, shall retain for six years from the date of the last entry all documents relating to any business carried on by him, or otherwise recording the details from which his returns for the purposes of this Act were prepared. Accounts and records

(2) A person who retains, in accordance with conditions specified by the Commissioner-General, photographic reproductions of the documents referred to in subsection (1) is deemed to retain those documents for the purposes of that subsection.

(3) A person carrying out any mining operations may elect to keep books of accounts in United States Dollars of all transactions relating to, connected with, or incidental to, such operations if the Commissioner-General is satisfied that not less than seventy-five per centum of that person's gross income from mining operations is earned in the form of foreign exchange from outside the Republic.

Provided that such election shall not be reversed without the consent of the Commissioner-General.

*(As amended by Act No. 14 of 1994)*

56. (1) Every return furnished under subsection (1) of section *forty-six* by any person shall be accompanied by such accounts and other documents as are necessary to support the return and they shall be signed by the person furnishing the return.

Documents in support  
of returns

(2) Where such accounts were audited by a person in a professional capacity or where such accounts were not so audited but were prepared by a person in a professional capacity, that auditor or person shall furnish a certificate signed by him stating-

- (a) the nature of the books of account and other documents from which such accounts were prepared;
- (b) the extent of his verification of the books of account and other documents produced to him;
- (c) whether and to what extent, if any, there are included any estimated amounts or balancing adjustments;
- (d) whether and subject to what reservations, if any, he considers that such accounts present a true and fair view of the gains or profits from such business for the period and the state of business at the end of the period; and
- (e) the capacity in which he signs the certificate;

and such certificate shall accompany the return.

(3) Where a person furnishes a return supported by accounts and such accounts were not audited or prepared by a person referred to in subsection (2), then he shall furnish a certificate signed by himself stating-

- (a) the nature of the books from which such accounts were prepared;
- (b) whether and to what extent, if any, there are included any estimated amounts or balancing adjustments;
- (c) whether such accounts include all the transactions of his business and present a true and fair view of the gains or profits from such business for such period.

(4) In this section, "accounts" means a balance sheet or statement of assets and liabilities together with a trading account, profit and loss account or an income and expenditure account or other similar statement, however named.

(5) For the purposes of this section, "person in a professional capacity" shall mean an individual carrying on the profession of accountant or auditor or one who prepares accounts for reward or in the course of his business, either on his own or in partnership or as an employee.

(As amended by Act No. 16 of 1972)

**57.** Where the Commissioner-General determines that any person is able to impart information necessary for the purposes of this Act, the Commissioner-General may, on reasonable notice to that person, require him to attend to be examined at the time and place specified in the notice.

Examination by  
Commissioner-General

**58.** For the purpose of obtaining full information in respect of the income of any person or class of persons, the Commissioner-General may, by notice in writing, require, in the case of the income of any person, that person or any other person, and in the case of any class of persons, any person-

Production and  
preservation of books  
and documents

- (a) to produce for examination by the Commissioner-General, at such time and place as may be specified in such notice, any accounts, books of account and other documents which the Commissioner-General may consider necessary;
- (b) to produce forthwith for retention by the Commissioner-General for such period as may be reasonable for their examination any accounts, books of account and other documents which the Commissioner-General may specify in such notice;
- (c) not to destroy, damage or deface, on or after service of such notice, any of the accounts, books of account and other documents so specified without permission of the Commissioner-General in writing.

**59.** *Repealed by Act No. 7 of 1996.*

**60.** (1) The amount of income received from which tax is deductible under sections *eighty*, *eighty-one*, *eighty-one A*, *eighty-two* or *eighty-two A* or on which tax is payable under section *eightyone* shall be the gross amount before deduction or payment:

Amount of dividends,  
interest or royalties to  
be included in income

Provided that the amount of income received by way of dividends from which tax has been deducted in accordance with the direction of the Commissioner-General made pursuant to the provisions of paragraph (a) of subsection (1) of section *eighty-one* shall be the amount that would have been received if tax had been deducted at the rate that would have been deductible but for the direction.

(2) The amount of income received from a source outside the Republic (in this section called foreign income) shall be the gross amount of that income before the deduction of the amount of the foreign tax.

(3) The amount of the income received by a beneficiary from a trust or deceased's estate on which tax has been paid or is payable by the trust or deceased's estate shall be the gross amount of that income before deduction of tax at the rate paid or payable on that income by the trust or deceased's estate.

(4) In this section, "foreign tax" has the same meaning as in section *seventy-five* or *seventy-six*, as the case may require.

*(As amended by Acts No. 16 of 1972, No. 11 of 1973,  
No. 11 of 1974, No. 9 of 1977 and No. 9 of 1978)*

**61.** Persons carrying on any business in partnership shall furnish a joint return of the income of the partnership for a charge year declaring therein the names and addresses of all the partners and the amount of the share of the income to which each partner is entitled for that year, together with such other particulars as the Commissioner-General may, in writing, require. Partnership returns

**62.** (1) Where the accounts of the business of any person or partnership are made up for a period of twelve months ending on some date other than the last day of the charge year, the Commissioner-General may in his discretion accept such accounts for the purposes of determining the gains or profits of the business in respect of the charge year ending either before or after the closing date of such accounts, and the Commissioner-General may for the purposes of this subsection accept accounts for a period less than twelve months as though the accounts had been made up for a period of twelve months. Business accounts

(2) Where the Commissioner-General accepts the accounts of the business of a person or a partnership pursuant to subsection (1), the accounts of that business shall for the purposes of this Act be made up subject to subsection (3) for all subsequent charge years to the date corresponding in subsequent charge years to the date so accepted.

(3) Where the accounts of the business of a person or partnership are not made up in respect of a subsequent charge year to the date in that year corresponding to the date so accepted, then the income of the business for that subsequent charge year and the preceding year may be computed or adjusted, as the Commissioner-General, in his discretion, may decide.

(4) Where the Commissioner-General has accepted the accounts of the business of a person or partnership pursuant to subsection (1), and the business ceases, that person or partnership shall return for assessment accounts to include all income of the business in the period between the closing date of the last accounts so accepted for the immediately preceding charge year and the date when the business ceased.

(5) Where the period referred to in subsection (4) exceeds twelve months, separate accounts shall be delivered for the period of twelve months ending on the date accepted under subsection (1) as the closing date of the accounts of the business, and for the balance of the period in excess of twelve months.



(6) The income determined on the basis of the accounts referred to in subsections (4) and (5) is charged to tax as follows:

- (a) where the period is in excess of twelve months, the income determined on the basis of the accounts delivered for twelve months, as required under subsection (5), is deemed to be the income for the charge year succeeding that in which the income based on the accounts for the immediately preceding charge year was assessed, and the income for the remaining period is deemed to be income of the following charge year;
- (b) where the period is one of less than twelve months, the income based on the accounts delivered under subsection (4) is deemed to be the income of the charge year succeeding that in which the income based on the accounts for the immediately preceding year was assessed.

(7) Notwithstanding subsection (6), where a person or partnership has delivered accounts for the assessment of his business, and the whole or part of the income determined on those accounts has been charged to tax in more than one charge year, then when the business ceases the income for the last charge year is reduced by an estimate determined by the Commissioner-General of the income which has been so charged to tax in more than one charge year, and if that estimate exceeds the income for the last charge year, then the income for the penultimate charge year shall be reduced by the amount of such excess.

(8) For the purposes of this section, a person may be assessed in respect of his income notwithstanding that he may not have been in existence during any part of the relevant charge year.

*(As amended by Act No. 4 of 1976)*

**62A.** Where a person or partnership carries on in two consecutive charge years a business of fishing or of farming, excluding the letting of property for such purpose, and irrevocably so elects by notice in writing to the Commissioner-General before the end of the charge year immediately following the end of the second such consecutive charge year, the income received from, or loss incurred in, such business in each of the two charge years shall be averaged, and the average income or loss shall be deemed to have been received or incurred in each of the two said charge years:

Averaging of farming and fishing income

Provided that there shall be no right of election under this section where an election has already been made under this section in respect of one or two consecutive charge years in respect of the same income or loss.

*(As amended by Acts No. 17 of 1971 and No. 14 of 1987)*

**63.** (1) Subject to the provisions of sections *seventy-two* and *ninety-three*, the Commissioner-General shall assess every person who is liable to tax under this Act or who claims, or is entitled to, a deduction under section *thirty*, *thirty-one*, *thirty-two* or *thirty-six*:

Commissioner-General's power to assess

Provided that the Commissioner-General shall take into account the provisions of any agreement made under section *seventy-four*, if applicable, and shall not include in any such assessment for any charge year-

- (i) dividends from which tax in respect of that charge year has been deducted under section *eighty-one*;
- (ii) a lump sum payment from which tax in respect of that charge year has been deducted under section *eighty-two*;
- (iii) *Obsolete.*
- (iv) in the case of a person who is not resident in the Republic for any charge year interest or royalties from which tax, in respect of that charge year, has been deducted under section *eighty-two A*.

(2) Subject to the provisions of subsection (1), an assessment shall be made in respect of every person for each charge year, and as many amended assessments may be made in respect of such person for any such charge year as are necessary to give effect to the provisions of this Act, and whereby his liability to tax may be increased, reduced or cancelled, as the circumstances require.

(3) Wherever for the purposes of this Act income is chargeable to tax in any charge year following the charge year in which it is received, the Commissioner-General may assess any person in respect of such income at any time and may make such assessment at the current rate of tax.

(4) The liability of any person to render a return or other information required under this Act for any charge year is not relieved because he is assessed for that charge year before such return or information is rendered.

*(As amended by Acts No. 23 of 1968, No. 26 of 1970, No. 17 of 1971, No. 16 of 1972, No. 11 of 1973, No. 11 of 1974, No. 11 of 1975, No. 14 of 1976, No. 10 of 1979, No. 11 of 1984, No. 11 of 1985 and No. 4 of 1993)*

**64.** An assessment may be made by the Commissioner-General in any amount according to the best of his judgement in respect of any person-

Estimated  
assessments

- (a) who has not delivered a return as required by this Act, or on whose behalf no return has been so delivered; or
- (b) whose return does not satisfy the Commissioner-General; or
- (c) who the Commissioner-General has reason to believe is about to leave the Republic:

Provided that-

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- (i) where the Commissioner-General does not have sufficient information on which to estimate an assessment, the Commissioner-General may assess a base tax of two hundred and sixty-six penalty units in any charge year; and
- (ii) a credit shall be allowed for the amount of any base tax which has been paid in a charge year when establishing the amount of tax which is due and payable resulting from any subsequent assessment which the Commissioner-General may determine for the same charge year.

*(As amended by Act No. 14 of 1994, and No. 3 of 1997)*

**65.** (1) Notice of assessment shall be given to the person charged.

Assessment rules

(2) Save in case of fraud or wilful default or for the purposes of section *twenty-one, eighty-seven, eighty-eight, ninety-one* or *one hundred and thirteen*, or Part VII (which provides for double taxation relief), or paragraph (25) of the Fifth Schedule, or granting tax credits as provided in the Charging Schedule, no assessment shall be made for any charge year after six years from the end of that year.

(3) No assessment shall be made in respect of the income of any deceased person after the expiry of three years after the end of the charge year in which such deceased person died.

(4) An assessment made in accordance with generally prevailing practice is not affected by any change in that practice after the time for objection to the assessment has expired.

*(As amended by Acts No. 26 of 1970, No. 14 of 1976 and No. 7 of 1996)*

**66.** (1) For the purposes of this Act, a taxpaying agent is, in relation to income-

Taxpaying agents

- (a) of a company, any of the individuals mentioned in subsection (1) of section *sixty-nine*;
- (b) managed by an agent, the agent;
- (c) remitted by a person or partnership in the Republic to a person who or partnership which is outside the Republic, the person or partnership remitting the income;
- (d) of a trust, a trustee of the trust;
- (e) of a person who has died, his executor or administrator;

- (f) of a deceased's estate, the executor or administrator of the deceased person's estate;
- (g) of a bankrupt's estate, the trustee in bankruptcy;
- (h) of an incapacitated person, his trustee, guardian, curator, committee or receiver appointed by a court, as the circumstances of the case may require;
- (i) of a company which is being wound up or is under judicial management, the liquidator or judicial manager.

(2) No provision concerning a taxpaying agent shall relieve any other person of any liability under this Act.

(3) Every reference in this Act to a taxpaying agent is to him only as such, save where otherwise provided.

*(As amended by Acts No. 23 of 1968 and No. 14 of 1976)*

**67.** (1) Every taxpaying agent, in respect of the income which he receives as an agent, shall be subject in all respects to the same duties, responsibilities and liabilities as if that income were received by him beneficially and is assessed and charged in his own name in respect of that income, but any such assessment is deemed to be made upon him as an agent.

Assessment of taxpaying agent

(2) Any tax credits or deduction which might have been claimed by a person is allowed in the assessment made upon his taxpaying agent as such an agent.

*(As amended by Acts No. 23 of 1968 and No. 7 of 1996)*

**68.** Every taxpaying agent who pays tax in respect of income assessed on him is entitled to recover the amount or that tax from the person on whose behalf the tax is paid or retain out of any moneys that are or may come into his possession on behalf of that person so much as is necessary to indemnify him for the payment.

Right of taxpaying agent

**69.** (1) Where a company carries on business or has a place of business in the Republic, a director, the secretary or any individual concerned or appearing to be concerned in the management of the company's business, is that company's taxpaying agent (and where a company is being wound up or liquidated, the liquidator, receiver or manager of the company, is that company's taxpaying agent) and with necessary modifications the provisions of this Part relating to taxpaying agents apply accordingly.

Company's taxpaying agent

(2) The Commissioner-General may require a company's taxpaying agent to answer for all such acts and matters as the company might be required to answer for under this Act, and, if the company's taxpaying agent defaults in this requirement, he is liable to such penalties as are provided for by this Act in the case of like default by an individual.

(As amended by Act No. 11 of 1973)

**70.** No assessment, document or proceeding under this Act is invalid-

Errors in form

- (a) for any error in a person's name, if the erroneous name is or may be understood to be that person's name, or the person has at any time been known by the erroneous name, or one like it; or
- (b) for any other error or defect, if the assessment, document or proceeding is in substance in accordance with this Act.

## PART VI

### PAY AS YOU EARN

**71.** (1) On the making of any payment of, or on account of, any emolument, tax shall, subject to and in accordance with regulations made by the Minister, be deducted or repaid by the person or partnership making the payment, notwithstanding that when the payment is made no assessment has been made in respect of the emoluments, and notwithstanding that the emoluments are in whole or in part emoluments for some charge year other than the year during which the payment is made, and, for the purposes of this subsection, payment shall be deemed to be made when the emolument is received as provided in section *five*:

Assessment, charge,  
collection and  
recovery

Provided that with reference to paragraph (1) of section *forty-four* the requirements of this subsection shall not apply to emoluments provided to employees in the form of non-money fringe benefits.

(2) Tax deducted, as reduced by any tax refunded, under subsection (1), shall be payable to the Commissioner-General on the dates prescribed by the regulations made in accordance with subsection (6).

(3) Where the tax payable in accordance with subsection (2) is not paid by the prescribed date, a penalty equal to five per centum of the amount of tax payable but not paid shall be chargeable thereto for each calendar month or part thereof for which, and to the extent that, such tax remains unpaid, and for the purpose of any regulations relating to collection and recovery of tax deducted under subsection (1), such penalty shall be deemed to be tax deducted.

(4) The penalty prescribed in subsection (3) shall become due and payable on the issue by the Commissioner-General of a notice to that effect.

(5) The Commissioner-General may, in his discretion, remit the whole or any part of the penalty due under subsection (3).

(6) The Minister shall make regulations for the administration of this Part, and for the assessment, charge, collection and recovery of tax in respect of emoluments accordingly, and such regulations shall have effect notwithstanding anything in this Act.

(7) The Commissioner-General shall devise tax tables to ensure, so far as possible, that-

- (a) the total tax payable in respect of any emoluments for any charge year is deducted from the emoluments paid during the year; and
- (b) the tax deductible or repayable on the occasion of any payment of, or on account of, emoluments is such that the total net tax deducted since the beginning of the charge year bears to the total tax payable for the year the same proportion that the part of the year which ends with the date of the payment bears to the whole year.

(8) In subsection (6), the references to the total tax payable for the year shall be construed as references to the total tax estimated to be payable for the year in respect of the emoluments, subject to a provisional allowance for personal allowances, deductions and tax credit and subject also, if necessary to an adjustment for amounts overpaid or remaining unpaid on account of tax in respect of emoluments to which this section applies for any previous year.

(9) In estimating the total tax payable, it may be assumed, in relation to any payment of, or on account of, emoluments, that the emoluments paid in the part of the charge year which ends with the making of the payment will bear to the emoluments for the whole of that year the same proportion that part of the year bears to the whole year.

(10) For the purposes of this section emoluments shall include any annuity or part thereof as is not exempt from tax under paragraph 10 of the Second Schedule.

*(As amended by Acts No. 26 of 1979, No. 11 of 1974,  
No. 11 of 1975 and No. 11 of 1992).*

**72.** (1) Subject to the provisions of this section, no assessment need be made on an individual in respect of his emoluments for any charge year if the total net tax deducted in the year in question from his emoluments is the same as it would have been if all the relevant circumstances had been known to all parties throughout the year, and deductions and repayments had, throughout the year, been made accordingly, and had been so made by reference to cumulative tax tables.

Assessments not  
always necessary

(2) In subsection (1)-

- (a) "cumulative tax tables" means tax tables devised under the last preceding section so as to require the tax to be deducted or repaid on each payment in the year to be ascertained by reference to a total of emoluments paid in the year up to the time of making that payment; and
- (b) references to the total net tax deducted shall be construed as references to the total tax deducted during the year by virtue of regulations made under the last preceding section, less any tax repaid by virtue of any such regulations.

(3) Nothing in this section shall be construed as preventing an assessment being made on an individual in respect of his emoluments and, without prejudice to this generality, an assessment shall be made in respect of an individual's emoluments for any charge year if-

- (a) the individual assessable, by notice in writing given to the Commissioner-General within five years from the end of the charge year, so demands; or
- (b) the Commissioner-General so elects.

(4) In any proceedings in regard to an assessment made under subsection (3), that assessment shall be treated as having been made in accordance with the practice generally prevailing at the end of the year to which the assessment relates.

**73.** In the distribution of the property of a bankrupt and in the distribution of the assets of any company being wound up, any sums due on account of tax deducted under this Part shall be paid as if such sums were tax within the meaning of section *three (a)* of the Preferential Claims in Bankruptcy Act, or the corresponding provision of any Act replacing that Act.

Priority on insolvency  
Cap. 83

## PART VII

### DOUBLE TAXATION RELIEF

**74. (1)** The President may enter into an agreement, which may have retrospective effect, with the government of any other country or territory with a view to the prevention, mitigation or discontinuance of the levying, under the laws of the Republic and of such other country or territory, of taxes in respect of the same income, or to the rendering of reciprocal assistance in the administration of and the collection of taxes under the income tax laws of the Republic and of such other country or territory.

Double taxation  
agreements

(2) The Minister shall lay a copy of an agreement referred to in subsection (1) before the Cabinet for ratification.

(3) As soon as may be after the conclusion and ratification of any such agreement, the terms thereof shall be notified by the President by statutory instrument, whereupon, until such statutory instrument is revoked by the President, the agreement shall have effect as if enacted in this Act but only if, and for so long as, the agreement has the effect of law in the other country or territory.

(4) The President may at any time revoke any such statutory instrument by a further statutory instrument and the agreement shall cease to have effect upon the date fixed in such latter statutory instrument, but the revocation of any statutory instrument shall not affect the validity of anything previously done thereunder.

(5) The duty imposed by any law to preserve secrecy with regard to income tax shall not prevent the disclosure to any authorised officer of the country or territory mentioned in any statutory instrument issued, in terms of subsection (3), of the facts, knowledge of which is necessary to enable it to be determined whether immunity, exemption or relief ought to be given or which it is necessary to disclose in order to render or receive assistance in accordance with the arrangements notified in such statutory instrument.

*(As amended by Act No. 26 of 1970)*

**75.** (1) This section applies where, by virtue of any agreement under this Part, tax (in this section called foreign tax) payable to another country in respect of any income (in this section called foreign income) is to be allowed as a credit against Zambian tax in respect of that foreign income.

Double taxation relief

(2) The Zambian tax for any charge year in respect of foreign income is reduced by the amount allowed as a credit in respect of that foreign income under any agreement under this Part, but that reduction shall not exceed the amount of that foreign income included in the income liable to tax under this Act, multiplied by the Zambian tax before the reduction, divided by the sum of the income assessable under this Act and the income which the Commissioner-General is prohibited from including in an assessment under the provisos to subsection (1) of section *sixtythree*.

(3) In this section, "Zambian tax" means income tax chargeable under this Act.

*(As amended by Act No. 16 of 1972)*

**76.** (1) Where a person is liable to pay Zambian tax for any charge year in respect of income received from a source within a country which has not entered into an agreement under this Part (in this section called foreign income) and he has paid tax on that income in the country from which it was received (in this section called foreign tax), then the Zambian tax for that charge year in respect of the foreign income is reduced by the amount of foreign tax, but that reduction shall not exceed the amount of the foreign income included in the income liable to tax under this Act, multiplied by the Zambian tax before the reduction, divided by the sum of the income assessable under this Act and the income which the Commissioner-General is prohibited from including in an assessment under the provisos to subsection (1) of section *sixtythree*.

Unilateral double  
taxation relief



(2) In this section, "Zambian tax" means income tax chargeable under this Act.

(3) This section shall not apply to income which the Commissioner-General is prohibited from including in an assessment under the provisions to subsection (1) of section *sixty-three*.

(As amended by Act No. 16 of 1972)

## PART VIII

### COLLECTION, RECOVERY AND RELIEFS

**77.** (1) The provisional tax under section *forty-six A* shall be due and payable in quarterly instalments as follows: When tax due is payable

1st installment on 30th June;

2nd installment on 30th September;

3rd installment on 30th December;

4th installment on 30th March;

of the charge year to which such return of provisional income relates.

(2) All persons liable to tax and required to submit a return under section *forty-six* shall remit, along with such return, payment equal to the balance of tax liability due, if any, as computed by the taxpayer under subsection (2) of section *forty-six*.

(3) The payment referred to in subsection (2) shall be remitted by every person liable to tax no later than 30th September, following the end of the charge year, and shall be paid by that person in such form as the Commissioner-General may determine.

(4) The tax liable to be paid under any assessments made pursuant to section *sixty-three* or *sixty-four* shall be due and payable by the person assessed within thirty days of the service of notice of assessment, and shall be paid by that person in the manner specified in the notice:

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Provided that the tax liable to be paid under any assessment made pursuant to subsection (3) of section *sixty-three* or to paragraph (c) of section *sixty-four*, shall be due and payable on demand.

(5) The Commissioner-General, in his discretion, may extend the time, limited by subsections (1), (2), (3) or (4), in which taxes shall be paid.

(6) Subsection (4) shall have effect notwithstanding that the person assessed objects to or appeals against that assessment.

(7) Subsections (2) and (3) of this section shall have effect in relation to assessments for the charge year which ends on 31st March, 1992, and in relations to each subsequent charge year.

(As amended by Act No. 11 of 1992)

**78.** (1) Subject to the provisions of subsection (5) any tax assessed under sections *forty-six*, *sixty-three*, *sixty-four* or *seventy-one* shall be overdue if the tax has not been paid on or before the dates prescribed in-

Penalty for non-payment of tax

- (a) section *seventy-one*;
- (b) subsections (1) and (2) or as extended under the provisions of subsection (5) of section *seventy-seven*; or
- (c) subsection (3) of section *seventy-seven* or as extended under the provisions of subsection (5) of section *seventy-seven*;

Provided that the Commissioner-General may apply the date prescribed in subsection (3) of section *seventy-seven* to cases referred to under paragraph (b).

(1A) On any tax deemed overdue by one month, under subsection (1), a sum equal to five per centum of the tax paid shall become chargeable by way of penalty.

(1B) Subsections (1) and (1A) shall have effect in relation to assessment for the charge year which ends on 31st March, 1992, and in relation to each subsequent charge year.

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(2) Subject to the provisions of subsection (5), if any tax or provisional tax remains unpaid for one month after the dates referred to in subsection (1), a further sum equal to five per centum of the tax or provisional tax unpaid shall become chargeable by way of additional penalty and further penalties of five per centum shall become payable in respect of any part of the tax or provisional tax remaining unpaid at the end of each month thereafter:

Provided that in the case of tax or provisional tax which became due and payable prior to the 1st April, 1972, the date on which such tax or provisional tax became due and payable pursuant to the provisions of subsections (1) and (2) of section *seventy-seven* and the Eighth Schedule shall, for the purposes of this subsection only, be deemed to be the 31st March, 1972.

(3) Any penalties imposed under this section shall, for the purposes of this Act relating to collection and recovery, be deemed to be tax.

(4) The penalty prescribed in subsection (1) and subsection (2) shall become due and payable on the date of issue by the Commissioner-General of a notice to that effect.

(5) For the purposes of claiming relief under any of the provisions of this Act, any penalties imposed under this section shall not be deemed to be part of the tax paid.

(6) The Commissioner-General may, in his discretion, remit the whole or part of any penalties due under this section.

(7) In the event of any refund of tax or any part thereof, the penalties imposed under this section shall be reduced to the extent that the tax to which the penalties relate is set off or refunded and the amount of such reduction shall be deemed to be tax paid in excess to which the provisions of section *eighty-seven* shall apply.

(8) For the purposes of this Act, "provisional tax" means the tax as calculated on the return of provisional income required to be furnished under section *forty-six A*.

*(As amended by Acts No. 26 of 1970, No. 16 of 1972,  
No. 11 of 1975, No. 14 of 1976, No. 9 of 1977, No. 12 of 1982,  
No. 11 of 1992 and No. 3 of 1997)*

**78A.** (1) Subject to subsection (3), any payment of tax which is overdue under section *seventy-eight* shall attract interest at the rate prescribed in subsection (2) and shall continue to attract such interest until such time as the payment of the tax has been remitted.

Interest on overdue  
payments

(2) The rate of interest prescribed for the purpose of subsection (1) shall be the discount rate published from time to time by the Bank of Zambia plus two per centum per annum.

(3) The Commissioner-General may remit the whole or part of any interest due under this section.

(As amended by Act No. 14 of 1994)

**79.** (1) Tax is a debt due to the Government and may be recovered by the Commissioner-General either by distress or by suit in any court of competent jurisdiction.

Recovery and proceedings

(As amended by Act No. 17 of 1971)

**79A.** (1) Any officer appointed for the purpose of carrying out the provisions of this Act may, under warrant by the Commissioner-General, levy distress upon the goods and chattels of the person or partnership from whom tax is recoverable.

Recovery by distress

(2) For the purposes of levying any such distress, the officer authorised under warrant by the Commissioner-General, together with such servants or agents as the officers may consider necessary, may break open at any time between sunrise and sunset, any premises; and the officer so authorised may require any police officer to be present while such distress is being levied and any police officer so required shall comply with such requirement.

(3) A distress levied under this section shall be kept for ten days either at the premises at which such distress is levied or at such other place as the person authorised under warrant may consider appropriate at the cost of the person or partnership from whom such tax is recoverable.

(4) If the person or partnership from whom such tax is recoverable does not pay the tax due together with the costs incurred in levying the distress and all other costs incidental thereto within the period of ten days mentioned in subsection (3), the goods and chattels upon which distress has been levied shall be sold by public auction and the proceeds realised from such sale shall be applied towards the payment of the said costs and all further costs incurred in completing such sale and, the surplus, if any, shall be applied in the payment of the tax and, the balance, if any, shall be paid to such person or partnership after deducting any further tax liable to be paid by such person or partnership.

(5) Where the full amount of the tax due and all the costs mentioned in subsection (4) are not recovered, the Commissioner-General may recover the deficiency either in accordance with section *seventy-nine B* or any other provisions contained in this Act.

(6) No civil or criminal proceedings shall be instituted against any officer for any act or omission arising out of the levying of distress.

(7) If the person or partnership upon whose goods or chattels distress is to be levied, or has been levied, fraudulently removes and conveys away such goods or chattels to prevent the Commissioner-General from distraining them or completing the distress so levied, or if any person or partnership wilfully and knowingly aids or assists such person or partnership in such fraudulent conveying away or carrying off any part of such goods or chattels or in concealing the same, every person or partnership so offending-

- (a) shall forfeit to the Commissioner-General a sum equal to double the value of goods or chattels carried off or concealed as aforesaid, to be recovered by action; and
- (b) shall be guilty of an offence and liable on conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both.

*(As amended by Acts No. 17 of 1971, No. 14 of 1974,  
No. 14 of 1976, No. 9 of 1977, No. 11 of 1992 and  
No. 13 of 1994)*

**79B.** (1) Notwithstanding anything to the contrary contained in any law, the Commissioner-General may institute proceedings in any subordinate court of the first or second class for the recovery of any tax or other amount recoverable under this Act. Recovery through court

(2) Any officer appointed for the purposes of carrying out the provisions of this Act may represent the Commissioner-General in the proceedings referred to in subsection (1) and for that purpose may conduct any such proceedings and shall have a right of audience in subordinate courts of the first or second class, notwithstanding any law to the contrary.

(3) Proceedings in any court for the recovery of any tax or other amount are deemed to be proceedings for the recovery of a debt validly acknowledged in writing by the debtor.

(4) In any proceedings for the recovery of tax-

- (a) it is not competent to question any assessment whether or not an objection or appeal has been made against such assessment; and
- (b) the mere production of an assessment or any document under the Commissioner-General's hand or the hand of any officer duly authorised by him is conclusive evidence as to the contents of the assessment or document.

*(As amended by Act No. 17 of 1971)*

**79C.** (1) Notwithstanding anything to the contrary contained in any other law, where a person or partnership from whom tax is due is the owner of land situated in the Republic, the Commissioner-General may give notice to the person or partnership in writing that the amount of tax due shall be a charge on such land and such charge shall, without registration that may be required under any law relating to the registration of charges upon land, be effective from the date of service of the notice for so long as such land remains in the ownership of such person or partnership or until the notice is withdrawn.

Charge on land

(2) For the purposes of this section, "land" includes any vacant piece or parcel of land and also any buildings or improvements on any piece or parcel of land.

*(As amended by Acts No. 17 and No. 14 of 1976)*

**79D.** Where the tax due by a person relates in whole or in part to tax charged on income derived from a partnership, the tax charged on such income shall, where notice in writing to this effect is given by the Commissioner-General to the partnership, be due from such partnership and the provisions of this Act relating to collection and recovery shall apply as if such tax had been charged on the partnership.

Recovery of partner's tax from partnership

*(As amended by Act No. 14 of 1976)*

**80.** (1) The Commissioner-General may give written notice to any person that he is to deduct tax from each payment of interest or royalties, other than interest or royalties from which tax is deductible under section *eighty-two A*, made by him to any other person and he shall thereupon, until otherwise notified by the Commissioner-General, deduct tax at the rate and with effect from the date specified in such notice from all such payments and shall pay the tax to the Commissioner-General.

Deduction of tax from interest and royalties

(2) The rate of tax to be deducted under subsection (1) shall be at any rate mentioned in Part III of the Charging Schedule as the Commissioner-General may specify..

(3) Where a person deducts tax as provided by this section, he shall furnish the person to whom he makes the payment of interest or royalties with a certificate showing the name and address of the person to whom it is made, the gross amount of the interest or royalties, and the amount of tax deducted; and he shall deliver a copy of that certificate to the Commissioner-General.

*(As amended by Act No. 17 of 1971 and No. 9 of 1978)*

**81.** (1) Subject to the provisions of this section, every company incorporated in the Republic shall deduct from every payment of dividend, other than a pioneer industry dividend or a dividend paid to Government, tax at the rate specified in Annexure "H" of Part III of the Charging Schedule, or as the Commissioner-General directs to-

Deduction of tax from dividends

- (a) give effect to the provisions of any agreement made under section *seventy-four*; or

(b) give effect to the provisions of the Second Schedule;

and shall account for such tax as if the payment were subject to Part VI (which relates to Pay As You Earn); and for the purposes of this subsection payment shall be deemed to be made on the day the dividend accrues to the share or stock holders as provided in paragraph (a) of subsection (2) of section *five*.

(2) Subject to the provisions of this section, where, in a charge year a company has received dividends from which tax has been deducted under subsection (1), the total amount which the company is liable to account for under subsection (1) on dividends paid in the charge year shall, as far as possible, be reduced by the amount of the tax so deducted, and the company shall be liable to account only for the balance remaining after such reduction.

(3) Subject to the provisions of this section, where the total amount of tax deducted from dividends in a charge year as referred to in subsection (2) exceeds the amount which a company is liable to account for on dividends paid in the charge year before the operation of subsection (2), the excess shall, as far as possible, be deducted from the total amount which the company is liable to account for on dividends paid, after the operation of subsections (2), in the following charge year and so on from year to year until the excess is extinguished.

(4) Where in any charge year after the operation of subsection (2) and (3) there is an excess available to be deducted in accordance with subsection (3) from the amount which a company is liable to account for in the following or a subsequent charge year and the company was directed by the Commissioner-General to deduct tax from dividends paid in the charge year in accordance with paragraph (a) or (b) of subsection (1), then the difference between what the company would have been liable to account for but for the said direction and the amount the company is liable to account for before the operation of subsections (2) and (3) (not exceeding the amount of excess available), shall be deemed to be tax paid in excess to which the provisions of section *eighty-seven* shall apply and the excess available to be deducted in the following or a subsequent charge year shall be reduced by the amount so treated as tax paid in excess.

(5) Every company, upon payment of a dividend as provided in subsection (1), shall furnish the share or stock holder to whom the dividend is paid with a certificate stating in relation to the dividend-

- (a) the share or stock holder's name and address;
- (b) the date of payment;
- (c) the amount of dividend payable before the deduction of tax;
- (d) the amount of tax deducted;
- (e) the net amount paid; and

- (i) such other particulars as the Commissioner-General may by notice in writing require;

and shall send a copy of the certificate to the Commissioner-General.

(6) The certificate furnished under subsection (5) shall be treated as if it were an assessment for the purpose of Part XI only, and the date of service shall be deemed to be ten days after the date of payment shown thereon.

- (7) For the purposes of this section-

"pioneer industry dividend" means a dividend exempted by sub-paragraph (i) of paragraph (7) of the Second Schedule.

*(As amended by Acts No. 11 of 1974, No. 11 of 1975,  
No. 14 of 1975 and No. 10 of 1979)*

**81A.** (1) *Repealed by Act No. 7 of 1996.*

**81B.** (1) Every person, partnership, institution, authority, organization or association responsible for the issue of any of documents referred to in subsection (6) shall not issue that document to any applicant unless he produces a valid tax clearance certificate.

Tax clearance  
certificate

(2) *Repealed by Act No. 7 of 1996.*

(3) Where any authority or person is empowered by any written law or otherwise to register the transfer of any property, that authority or person shall not register the transfer unless there is produced a tax clearance certificate issue in respect of the person or partnership transferring the property.

(4) The Commissioner-General may by notice in writing cancel a tax clearance certificate and the cancellation shall have effect from the date of service of the notice on the holder of the tax clearance certificate.

(5) The holder of a tax clearance certificate shall, within thirty days after the date of service and of the notice of cancellation of the certificate, return the certificate to the Commissioner-General.

(6) For the purpose of this Act the documents referred to in sub-section (1) include retail and wholesale trade, liquor, bar, restaurant, canteen, manufacturing (including assembly activities), export, taxi, bus or minibus operator licences and permits; professional practitioner certificates and permits and documents of a similar nature.



(7) In this section:

"property" means-

- (a) any land in the Republic;
- (b) any share issued by a company incorporated in the Republic; and

"tax clearance certificate" means a certificate issued by the Commissioner-General, valid for such period as may be specified in it, stating that the person or partnership to whom or to which it is issued fulfilled all obligations imposed upon him or it by this Act and by any other Act for which the Commissioner-General is responsible or has made arrangements satisfactory to the Commissioner-General for doing so.

*(As amended by Acts No. 28 of 1988 and No. 7 of 1996)*

**81C.** (1) Every person or partnership on making a payment to or on behalf of any person, other than a payment to a person who produces a valid certificate of exemption, for the use of any patent, design, trademark, process or other payment of a similar nature, irrespective of whether the payment is made outside the Republic, shall, before making any other deductions whatsoever, deduct tax from such payment at the rate specified in Annexure "J" of Part III of the Charging Schedule and that person or partnership shall account for the tax as if it were a payment subject to Part VI (which relates to Pay As You Earn).

Deduction of tax for use of patent, design, trade mark, etc

(2) *Repealed by Act No. 7 of 1996*

*(As amended by Acts No. 14 of 1994 and No. 7 of 1996)*

**82.** (1) Every person or partnership on making payment from an approved fund of a lump sum payment shall, before making any other deductions, deduct tax from such part of the payment as is liable to tax at the rate specified in Part I of Annexure B of Part III of the Charging Schedule and that person or partnership shall account for such tax as if the payment were subject to Part VI (which relates to Pay As You Earn) and for the purposes of this subsection payment shall be deemed to be made when the income is received by the recipient as provided in section *five*.

Deduction of tax from lump sum payments

(2) Every person or partnership on making a payment referred to in subsection (1) shall furnish the person or partnership to, or on behalf of whom it is made with a certificate stating, in relation to the payment-

- (a) the title of the approved fund;
- (b) the date of approval of the fund;
- (c) the date of the payee's admission to the fund;
- (d) the date of change in contribution rates if increased since 30th June, 1960;

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- (e) the payee's name and address;
- (f) the date of payment;
- (g) the gross amount of the payment;
- (h) the amount of tax deducted under subsection (1);
- (i) the net amount of the payment; and
- (j) such other particulars as the Commissioner-General may, by notice in writing, require;

and shall send a copy to the Commissioner-General.

(As amended by Acts No. 26 of 1970, No. 11 of 1974  
and No. 14 of 1976)

**82A.** (1) Every person or partnership making a payment of-

Deduction of tax from  
certain payment

- (a) a management or consultancy fee deemed under section *eighteen* to be from a source within the Republic; or
- (b) interest and royalties from a source within or deemed, under section *eighteen*, to be within the Republic:

Provided that where the interest payment to an individual during any one month on any single saving account, deposit account or building society account, does not exceed twenty-thousand kwacha, then that interest payment shall be exempt from the requirement of this section; or

- (c) rent from a source within the Republic;

Provided that the Commissioner-General may determine that the provision of this paragraph shall not apply in any particular case and shall, in writing direct the person or partnership concerned in that behalf; and the provisions of this paragraph shall not apply to such person or partnership to the extent and for the period specified in such direction; or

irrespective of whether such payment is made outside the Republic, shall, before making any other deductions, deduct tax from the payment referred to in paragraphs (a), (b), (c) and (d) at the rate specified in Annexures E, F, G and I, respectively, of Part III of the Charging Schedule or as the Commissioner-General directs to give effect to the provisions of any agreement made under section *seventy-four* or the provisions of the Second Schedule and that person or partnership shall account for such tax as if that payment were subject to Part VI (which relates to Pay As You Earn) and for the purposes of this subsection, payment shall be deemed to be made when the income is received by the recipient as provided in section *five*.

Provided that:

- (i) this section shall not apply to interest payable on a bill of exchange drawn for one hundred and eighty days or less; and
- (ii) the payment of any amount in excess of the original issue price for any Treasury Bill or any other similar financial instrument sold at a discount from face value shall be deemed for the purpose of this section to be a payment of interest when any such Treasury Bill or any other similar financial instrument is presented to the Bank of Zambia for redemption or re-discount.

(d) dividends.

(2) Every person or partnership shall, on making the payment referred to in subsection (1), record on the form prescribed by the Commissioner-General the amount of the payment, the amount of tax deducted therefrom and such other particulars as the Commissioner-General may require.

(3) Within fourteen days from the end of each charge year, or such longer period as the Commissioner-General may generally or in any particular case allow, every person who or partnership which has made a payment referred to in subsection (1), shall forward to the Commissioner-General the form referred to in subsection (2) together with a statement and declaration in the form prescribed by the Commissioner-General.

(4) At the end of each charge year, every person who or partnership which has made any payment referred to in subsection (1) shall furnish each person or partnership to or on behalf of whom a payment has been made with a certificate stating in relation to such charge year the total amount of the payments made to or on behalf of such person or partnership, the amount of tax deducted therefrom, the date of issue of the certificate and such other particulars as the Commissioner-General may require.

(5) The certificate issued under subsection (4) shall be treated as if it were an assessment for the purposes of Part XI only, and the date of service shall be deemed to be ten days after the date of payment shown thereon.

(6) For the purposes of this section "rent" means a payment in any form, including a fine, premium or any like amount, made as a consideration for the use or occupation of or the right to use or occupy any real property including personal property directly connected with the use or occupation of, or the right to use or occupy such real property.

(7) Any person who, or partnership which, receives from the Commissioner-General a receipt showing that such person or partnership has deducted tax under this section from any payment of rent shall, within fourteen days from the day of receiving such a receipt, furnish that receipt to the payee of the rent.

*(As amended by Acts No. 11 of 1973, No. 11 of 1974, No. 11 of 1975, No. 14 of 1976, No. 9 of 1977, No. 11 of 1984, No. 11 of 1985, No. 8 of 1986, No. 14 of 1987, No. 17 of 1988, No. 11 of 1992, No. 4 of 1993, No. 14 of 1994, No. 2 of 1995 and No. 7 of 1996)*

**82B.** For the purposes of sections *eighty-three, eighty-four and eighty-six*, "property" shall include moneys, cheques, promissory notes and all other kinds of bills of exchange, and movable and immovable property of whatsoever nature and kind. Definition of property

*(As amended by Act No. 17 of 1971)*

**83.** Any person or partnership who holds or is in possession of any kind of property whatsoever on behalf or on account of another person or partnership shall give the Commissioner-General all such information in relation to that property as the Commissioner-General may require, and, in relation to any tax due by that other person or partnership, the Commissioner-General's rights in regard to any such property are the same and may be exercised in as full and ample a manner as if the property were held or in the possession of that other person or partnership. Property not in possession

*(As amended by Act No. 14 of 1976).*

**84. (1)** Any person or partnership may be declared by the Commissioner-General to be an agent for the payment of tax due by another person or partnership. Agent for payment of tax

(2) Any person or partnership declared to be an agent in pursuance of subsection (1) shall apply to the payment of the tax due so much of any kind of property whatsoever held by him or coming into his hands on behalf of the person or partnership from whom the tax is due as is sufficient to pay such tax, and any such agent is hereby indemnified against any person or partnership whatsoever in respect of all payments so made by him.

(3) Where the Commissioner-General has reasonable grounds to believe that a person or partnership has disposed of any kind of property whatsoever without full consideration in money or money's worth to another person or partnership with the intention of avoiding payment of tax that is or may become due, he may declare such other person or partnership an agent for the payment of tax due from the person or partnership which has disposed of the said property and such property shall, for the purposes of subsection (2), be deemed to be property held by such other person or partnership on behalf of the person or partnership which has disposed of the said property to the extent that the open market value of the said property at the time of the disposal exceeds the consideration given.

(4) Any person or partnership declared by the Commissioner-General to be an agent for the payment of tax due by another person or partnership under the provisions of any previous enactment shall be deemed to have been declared an agent under the provisions of subsection (1).

(5) Notwithstanding the other provisions of this section, where a shareholder of a company is absent from Zambia the company shall be deemed to have been declared an agent for the payment of tax due by the shareholder under subsection (1):

Provided that this subsection shall not apply to a company the ordinary share capital of which may be bought or sold on a stock exchange or which is controlled by any such company or any company controlled directly or indirectly by Government.

(6) Any person who wilfully obstructs or wilfully attempts to obstruct an agent in the execution of the duties imposed upon him by this section shall be guilty of an offence and shall, upon conviction, be liable to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

*(As amended by Acts No.17 of 1971, No. 11 of 1974, No. 14 of 1976, No. 9 of 1977, No. 11 of 1992 and No. 13 of 1994)*

**85.** *Repealed by Act No. 7 of 1996.*

**86.** Every person who or partnership which is an agent in accordance with the provisions of section *sixty-six* or declared to be an agent in accordance with the provisions of section *eighty-four* and who or which alienates or charges any kind of property whatsoever from which tax ought to have been paid by such person or partnership shall be liable for such tax as if it were tax charged on that person or partnership.

Liability where  
property alienated

*(As amended by Act No. 14 of 1976)*

**87.** (1) Where for any charge year any person or partnership claims that tax has been paid or is deemed to have been paid by deduction or otherwise in excess of the amount-

Refunds in general

- (a) liable to be paid by the person or partnership in accordance with the provisions of this Act;
- (b) deductible by the person or partnership in accordance with the provisions of this Act;

- (c) liable to be paid by the person or partnership because relief is due in accordance with the provisions of sections *seventy-eight, eighty-eight, eighty-nine, ninety, ninety A, ninety-one, ninety-five, ninety-five D, or one hundred and thirteen*;

the Commissioner-General shall make such assessments or adjustments as are necessary to determine the amount of such excess and shall give written notice to the person or partnership of the amount so determined as paid or deemed to have been paid in excess.

(2) A claim under subsection (1) shall be made in accordance with the provisions of the section or Schedule under which it is made, or if none, the claim shall be made in writing to the Commissioner-General not later than six years after the end of the charge year to which the claim relates, or if later, six years after the date of service of the notice of assessment or of the notification of an amount of tax deductible under the provisions of this Act in the charge year, to which the claim relates.

(3) Where any tax is due and payable to the Commissioner-General for any charge year under this or any other Act, the amount of the excess shall first be applied towards the satisfaction of the tax so due and payable to the extent of such tax, and the Commissioner-General shall give written notice to the person or partnership of the amount so applied:

Provided that-

- (i) such part of the excess which relates to tax paid by deduction shall be deemed to be available for application on the last day of the charge year to which the excess relates; and
- (ii) subject to the provisions of section *ninety-five D*, such part of the excess which relates to tax paid or deemed to have been paid other than by deduction shall be available for application on the day such part was paid or deemed to have been paid.

(4) Where any person or partnership claims a refund of the amount of the excess adjusted in accordance with the provisions of subsection (3), the Commissioner-General shall refund such adjusted excess.

(5) A claim under subsection (4) shall be made in writing to the Commissioner-General not later than six years after the end of the charge year to which the excess relates or, if later, six years after the date of service of the written notice of the amount of the excess given in accordance with the provisions of subsection (1).

*(As amended by Acts No. 11 of 1975, No. 14 of 1976  
and No. 10 of 1979)*

**88.** (1) Where under any will or settlement, other than a settlement to which section *nineteen* or section *ninety-seven* applies, any income (in this section referred to as the trust income) arising from any fund is accumulated for the benefit of any individual contingently on his attaining some specified age or marrying, then, if such individual claims and the Commissioner-General determines that such contingency has happened, the sum equal to the amount by which the total amount of tax paid on the trust income during the period of accumulation exceeds the total amount of additional tax which would have been paid by him during such period if such trust income and the income from any other fund subject to the like trust for accumulation has been included in his income shall be deemed to be tax paid in excess to which the provisions of section *eighty-seven* shall apply; but in calculating such sum a deduction shall be made in respect of any tax paid by the trust and already repaid to him.

Refunds in cases of accumulated income

(2) Every claim under this section shall be made in writing to the Commissioner-General within six years after the expiry of the charge year in which the contingency happened.

(As amended by Act No. 14 of 1976)

**89.** Where a beneficiary entitled to the whole or part of the income of a trust or deceased's estate is assessed and chargeable to tax for any charge year in respect of that income, any tax paid by a trust or deceased's estate and attributable to the income so assessed and charged on the beneficiary shall be set off against the tax chargeable for that charge year on the beneficiary and the provisions of section *eighty-seven* shall apply to any amount so paid in excess of such tax chargeable.

Refund or set-off of tax chargeable on a beneficiary

(As amended by Act No. 14 of 1976)

**90.** The amount of tax deducted from or paid under sections *eighty*, *eighty-one*, *eighty-one A*, *eighty-two* or *eighty-two A* on income received by a person for any charge year shall be set-off against the tax chargeable on his income for that charge year and the provisions of section *eighty-seven* shall apply to any tax so deducted or paid in excess of the tax so chargeable:

Refund or set-off of tax deducted from dividends, etc.

Provided that-

- (i) in the case of a person who was not resident in the Republic for a charge year ending on or before the 31st March, 1972, and who received a dividend in such charge year, the tax deducted under section *eighty-one* shall not be set off or refunded;
- (ii) in the case of a person who is not resident in the Republic for a charge year and who receives dividends in such charge year, subject to the provisions of any agreement under section *seventy-four*, the tax deducted under section *eighty-one* shall not be set off or refunded;
- (iii) in the case of a person who receives a lump sum payment, the tax deducted under section *eighty-two* shall not be set off or refunded;
- (iv) in the case of a person who is not resident in the Republic for a charge year and who receives interest, royalties, management or consultant fees, or public entertainment fees in such charge year, subject to the provisions of any agreement made under section *seventy-four*, the tax deducted under section *eighty-two A* shall not be set off or refunded.

(As amended by Acts No. 11 of 1975, No. 4 of 1976, No. 9 of 1978 and No. 10 of 1979)

**90A.** The Minister may, by statutory order, provide for the granting of job credits in such amounts, for such periods and for such employees of such businesses as may be prescribed therein:

Job Credits

Provided that any such order may be made with retrospective effect.

*(As amended by Act No. 6 of 1980)*

**90B.** *Repealed by Act No. 9 of 1977.*

**91.** (1) If any person alleges that an assessment is excessive by reason of some error or mistake in the return or statement made by him for the purposes of the assessment, he may, at any time, not later than six years after the end of the charge year in respect of which the assessment was made, make an application in writing to the Commissioner-General for relief.

Error or mistake relief

(2) On receiving any such application, the Commissioner-General shall inquire into and determine the matter and shall, subject to the provisions of this section make any assessment or other adjustment necessary to give effect to such determination and the provisions of section *eighty-seven* shall apply to any tax paid in excess as a result of such determination.

(3) In determining any application under this section, the Commissioner-General shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from the charge to tax of income of the applicant, and for this purpose the Commissioner-General may take into consideration the liability of the applicant and assessments made upon him in respect of the other years.

*(As amended by Acts No. 26 of 1970 and No. 14 of 1976)*

**92.** (1) The Commissioner-General may remit tax if he is satisfied that it is not recoverable; and where the person to be charged with tax is also subject to equity levy under the Equity Levy Act, 1982, and the amount of the equity levy is greater than the amount of tax payable under this Act, the Commissioner-General shall remit such tax.

Remission of tax  
Cap. 338

(2) On the Commissioner-General's recommendation the Minister may remit tax if he is satisfied that it is just to do so.

(3) This section shall not give rise to any appeal or other proceedings.

*(As amended by Act No. 23 of 1968 and No.12 of 1982)*



**93.** Notwithstanding anything contained in this Act, no tax in respect of a charge year shall be payable by a person if the tax with which the person is chargeable in respect of that year is less than three thousand kwacha.

Tax less than K3,000  
not payable

(As amended by Act No. 11 of 1992, No. 2 of 1995  
and No. 7 of 1996)

## PART IX AVOIDANCEPART IX

### AVOIDANCE

**94.** The Commissioner-General shall not allow any set-off or refund of tax deducted under section *eighty-one* where he determines that the object, or one of the objects of a change in the ownership of shares in a company, whether direct or indirect, was to obtain such set-off or refund.

No set-off or refund  
where that is the  
object of change of  
ownership of shares in  
company

**95.** (1) Where the Commissioner-General has reasonable grounds to believe that the main purpose or one of the main purposes for which any transaction was effected (whether before or after the commencement of this Act) was the avoidance or reduction of liability to tax for any charge year, or that the main benefit which might have been expected to accrue from the transaction within the three years immediately following the completion thereof, was the avoidance or reduction of liability to tax, he may, if he determines it to be just and reasonable, direct that such adjustments shall be made as respects liability to tax as he considers appropriate to counteract the avoidance or reduction of liability to tax which would otherwise be effected by the transaction.

Transactions designed  
to avoid tax liability

(2) Without prejudice to the generality of the powers conferred by subsection (1), the powers conferred thereby extend to-

- (a) the charging with tax the income of persons who, but for the adjustments, would not be chargeable with any tax or would not be chargeable to the same extent;
- (b) the charging of a greater amount of tax than would be chargeable but for the adjustments; and
- (c) the giving of a direction under this section by reason of the fact that in the case of a company no distribution of dividends has been made or only a smaller distribution has been made than might have been made:

Provided that-

- (i) where a charge is made under this section on any company in respect of adjustments which affect the liability to tax of the income of any shareholder, such company shall be entitled to recover from such shareholder the amount of tax attributable to the adjustment made in respect of such shareholder; and
- (ii) where an adjustment made under this section relates to any distributable profits of a company and such profits are subsequently distributed, appropriate adjustments shall be made in respect of the tax paid or payable by the company and the shareholders in such company.

(3) Any direction of the Commissioner-General under this section shall specify the transaction giving rise to the direction and adjustments as respects liability to tax which the Commissioner-General considers appropriate.

*(As amended by Acts No. 26 of 1970, No. 16 of 1972, No. 11 of 1973, No. 14 of 1976, No. 10 of 1979, No. 6 of 1980, No. 6 of 1981 and No. 12 of 1982)*

**95A.** *Repealed by Act No. 12 of 1982.*

**95B.** (1) Where shares in any company are held by-

Inter-company  
shareholdings

- (a) another company or other companies, some or all of whose shares are held by the first-mentioned company; or
- (b) a company which is not incorporated in the Republic, some or all of whose shares are held by-
  - (i) an individual who is resident in the Republic; or
  - (ii) a nominee on behalf of the individual mentioned in sub-paragraph (i);

whether by direct holding or through an interest in some other company or companies, the Commissioner-General may, by notice in writing to the companies concerned, direct that, for the purposes of this Act, the shares of all or any of such companies shall be deemed to be held in such manner as he shall determine (notwithstanding the actual shareholdings in such companies) and any distribution of dividends by those companies or amounts treated as distributed under the provisions of section *ninety-five* by those companies shall be deemed to have been received by the shareholders so determined in such companies in accordance with such determination.

*(As amended by Acts No. 16 of 1972 and No. 11 of 1984)*

**95C.** *Repealed by Act No. 7 of 1996.*

**95D.** (1) For the purposes of this section-

Loans to effective shareholder

"amount of a loan" means the amount of money advanced, the extent of credit facilities provided, the difference between the cost of providing any benefit or advantage and the amount paid for such benefit or advantage when provided or the difference between the open market value, as determined by the Commissioner-General, of an asset transferred and the amount paid for this at the date of transfer, as the case may be;

"grossed up equivalent of a loan" means such an amount as after deduction of tax at the highest rate specified in Part II of Annexure B or Part III of the Charging Schedule for the charge year in which the loan is made, is equal to the amount of the loan;

"loan" includes any advance of money, the provision of credit facilities, the provision of any benefit or advantage (whether or not such benefit or advantage is capable of being turned into money or money's worth) and the transfer of an asset.

(2) Subject to the other provisions of this section, where in any charge year a company to which the provisions of section *ninety-five* apply makes, directly or indirectly, any loan to any person who at the time the loan is made is an effective shareholder of the company or a nominee of the effective shareholder, the company shall pay, without assessment, such an amount as is equal to the difference between the amount of the grossed up equivalent of the loan and the amount of the loan, as if the amount were tax charged on the company.

(3) Subject to the other provisions of this section, the amount which a company is liable to pay under this section shall be due and payable to the Commissioner-General within fourteen days after the end of the income tax month in which the loan is made and for the purposes of this section a loan shall be deemed to be made by when the loan would have been received, as provided by section *five*, by the effective shareholder or the nominee, if the loan had been income of the effective shareholder or of the nominee;

(4) On making payment of any amount due under this section, the company shall furnish the Commissioner-General with a certificate stating, in relation to the loan in respect of which the amount is being paid-

- (a) the name and address of the person to whom the loan has been made;
- (b) the date the loan was made;
- (c) the grossed up equivalent of the amount of the loan;
- (d) the amount of the payment;
- (e) the amount of the loan; and

- (f) such other particulars as the Commissioner-General may, by notice in writing, require;

and shall send a copy of the certificate to the person to whom the loan was made.

(5) The Commissioner-General may, in his discretion, extend the time limited by subsection (3) within which the amount payable under this section shall be paid.

(6) Where any part of the amount payable under this section is not paid within the time limited by subsection (3), or as extended under subsection (5), penalties shall be chargeable in accordance with subsections (1) and (2) of section *seventy-eight* as if the amount payable were tax and the remaining subsections except subsection (7) of that section shall apply to such penalties as if they were penalties charged in relation to tax.

(7) Where a company has paid any amount payable under this section in any charge year in respect of any loan made and the Commissioner-General determines that the loan or part thereof has been repaid by the person to whom the loan was made or, in the event of the death of such person by his executor or administrator, the amount paid relating to the loan or part thereof so repaid, shall at the end of the charge year in which the loan or part thereof was repaid, be deemed to be tax paid in excess to which the provisions of section *eighty-seven* shall apply.

(8) Where any amount is payable under this section in any charge year in respect of any loan made, or where such an amount would have been payable but for the provisions of subsection (12), and the loan or part thereof is released or written off, the grossed up equivalent of the amount so released or written off shall be deemed to be income of the person to whom the loan was made or, in the event of the death of such person before the date on which the loan or part thereof is released or written off, of his estate, received on the day on which the loan or part thereof is released or written off:

Provided that-

- (i) where the loan relates to the provision of a benefit or advantage or to the transfer of an asset, that loan shall be deemed to have been released or written off on the last day of the accounts period of the company in which the loan was made to the extent that the loan is not included in the debtors as shown in the balance sheet of the company on that day;
- (ii) where the person to whom a loan is made is not an individual, this subsection shall not apply if at the time the loan is released or written off such person is not in existence.

(9) Where a company releases or writes off a loan or part thereof and subsection (8) applies, the company shall, within thirty days after releasing or writing off such loan or part thereof, furnish the Commissioner-General with a certificate stating in relation to such loan or part thereof-

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- (a) the name and address of the person to whom the loan was made;
- (b) the date the loan was made;
- (c) the amount of the loan released or written off
- (d) the date the amount of the loan was released or written off; and
- (e) such other particulars as the Commissioner-General may, by notice in writing, require;

and shall send a copy of the certificate to the person to whom the loan was made.

(10) Where a company releases or writes off a loan or part thereof and subsection (8) applies, the amount paid by the company under this section in respect of the loan or part thereof so released or written off, shall be applied firstly towards the satisfaction of any tax payable by the person deemed to have received income in respect of the loan or part thereof released or written off to the extent of such tax and the excess shall be deemed to be tax paid in excess by the company to which the provisions of section *eighty-seven* shall apply.

(11) Where any amount paid by a company is applied towards the satisfaction of the tax payable by any person in accordance with subsection (10), the company shall be entitled to recover the amount so applied from the person on whose behalf the amount was so applied or to retain out of any moneys that are or may come into his possession on behalf of that person so much as is necessary to indemnify him for the payment.

(12) This section shall not apply to a loan made to an effective shareholder or to his nominees where the joint total of all loans made to the effective shareholder and his nominees by all companies to which this section applies and of which the effective shareholder is an effective shareholder, does not exceed twenty thousand kwacha:

Provided that where the said joint total exceeds twenty thousand kwacha this section shall only apply to the excess.

(13) Where the Commissioner-General is of the opinion that a company is liable to pay an amount under this section but has failed to do so, he may forthwith make an assessment on such company specifying the particulars required in the certificate to be furnished by the company under subsection (4) and the date such amount was due to be paid in accordance with subsection (3).

(14) Any amount assessed by the Commissioner-General in accordance with subsection (13) shall be deemed to be tax due and payable on the date such amount was due to be paid as stated in the assessment and the provisions of Part VIII, relating to the collection, recovery and charging of penalties shall apply thereto:

Provided that where an assessment is made on a company under subsection (12) by reason that while the joint total of the loans made by such company did not exceed twenty thousand kwacha but the joint total of the loans made by such company and other companies did exceed that sum and the Commissioner-General determines that the company had taken all reasonable steps before making the loan to ascertain whether or not this section applied to the loan or part thereof, the amount payable shall be due and payable within thirty days of the date of service of the notice of assessment.

(15) The provisions of Part V, relating to the making of assessments, and the provisions of Part XI, relating to objections and appeals against assessments, shall apply to an assessment made under this section.

*(As amended by Acts No. 11 of 1975, No. 14 of 1976,  
No. 13 of 1994 and No. 7 of 1996)*

**96.** (1) No deduction shall be made in respect of any loss arising from any business which, having regard to the nature of the business, to the principal occupation of the owner, partners, shareholders or other persons having a beneficial interest therein, to the relationship of the business to the domestic establishment of any such person or to any other relevant factor, the Commissioner-General considers it reasonable to regard as not being carried on mainly with a view to the realisation of profits; and, without prejudice to the generality of the foregoing, a business shall be deemed not to be carried on for any charge year with a view to the realisation of profits where more than one-quarter of the amount of the revenue expenditure incurred in such business in such year relates to goods, services, amenities or benefits, or to the production of goods, services, amenities or benefits, which are of a personal or domestic nature enjoyed by the owner, partners, shareholders or other persons having a beneficial interest in the business or a member of the family or the domestic establishment of any such person.

Incurred loss not deductible in certain cases

(2) Where the Commissioner-General is of the opinion that any change in the shareholding in any company, as a direct or indirect result of which income has been received by or has accrued to that company during any charge year, has been effected by any person solely or mainly for the purpose of utilising any loss incurred by the company in order to avoid liability on the part of that company or any other person for the payment of tax to reduce the amount thereof, any loss incurred in any charge year prior to the charge year in which the change in shareholding took place and not deducted from income and the loss incurred for the period from the commencement of the charge year in which the change of shareholding took place to the date of the change in shareholding shall not be deducted from any income received by the company after the date of the change in shareholding.

*(As amended by Act No. 26 of 1970)*

**97.** (1) Where because of the existence of a trust the incidence of tax for any charge year in relation to a person beneficially interested in that trust is less than would be the case if that trust (apart from the ascertainment of the nature and amount of the beneficiary's interest for the purposes of this subsection) did not exist, the Commissioner-General may determine that the income of the trust attributable to that beneficiary's interest for any charge year shall for the purposes of this Act be assessed as if it were his income, and it shall be assessed and charged accordingly.

Commissioner-General may avoid trust

(2) This section applies, with necessary modifications, to the administration of the estate of a deceased person as from a year after his death.

## PART X

### OFFENCES AND PENALTIES

**98.** Any person guilty of an offence against this Act shall, unless any other penalty is specifically provided therefor, be liable on conviction therefor to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both. General Penalty

*(As amended by Acts No. 11 of 1992, No. 13 of 1994,  
No. 14 of 1994 and No. 2 of 1995)*

**99.** Every person who-

- (a) without just cause shown by him fails to furnish a full and true return in accordance with the requirements of any notice served upon him under this Act or fails to give notice to the Commissioner-General as required by section *forty-five* or by subsection (2) of section *forty-six*; or
- (b) without just cause shown by him fails to furnish within the required time to the Commissioner-General or to any other person any document which under this Act or under any notice served on him under this Act he is required so to furnish; or
- (c) fails to keep any records, books, accounts or documents that he is required to keep under this Act; or
- (d) fails to produce any document for the examination or inspection of the Commissioner-General or other person in accordance with the requirements of this Act; or
- (e) without just cause shown by him fails to attend at a time and place in accordance with the requirements of any notice served on him under this Act; or
- (f) without just cause shown by him fails to answer any question lawfully put to him or to supply or furnish any information lawfully required from him under this Act; or
- (g) otherwise contravenes or fails to comply with any of the provisions of this Act or of any regulations made thereunder, or fails to comply with any requirements of the Commissioner-General lawfully made under this Act or under any of the Schedules thereto; or
- (h) obstructs or hinders any officer acting in the discharge of his duty under this Act;

Penalty for failure to comply with notice, etc.

shall be guilty of an offence against this Act.

**100.** (1) Every person who negligently or through wilful default or fraudulently-

Penalty for incorrect returns, etc.

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- (a) fails to furnish a return of income in accordance with the requirements of sub-section (2) of section *forty-six*;
- (b) makes an incorrect return by omitting therefrom or understating therein any income of which he is required by this Act to make a return;
- (c) gives any incorrect information in relation to any matter affecting his own liability to tax or the liability to tax of any other person; or
- (d) submits any incorrect balance sheet, account, or other document;

shall pay a penalty equal to-

- (i) in the case of negligence, fifty per centum of the amount;
- (ii) in the case of wilful default, the amount; or
- (iii) in the case of fraud, one hundred and fifty per centum of the amount;

of any income omitted or understated, or any expenses overstated, in consequence of such failure, incorrect return, information or submission.

(2) Every person or partnership who fails to furnish a receipt to the payee within the time stipulated under subsection (7) of section *eighty-two A* shall pay a penalty equal to five per cent of the gross amount of the rent for each month or part thereof elapsing between the due date for furnishing the receipt and the date on which the receipt is furnished to the payee of the rent.

(3) The penalties provided by this section are a debt due to the Government and shall be treated as if they were tax for the purpose of recovery and shall be recoverable accordingly whether or not any proceedings are commenced for any offence against this Act arising out of the same facts.

(4) The Commissioner-General may accept a pecuniary settlement instead of taking proceedings for the recovery of a penalty under this section and may, in his discretion, mitigate or remit any penalty or stay or compound any proceedings for recovery thereof and may also after judgment in any proceedings under this Act further mitigate or entirely remit the penalty.

(5) Notwithstanding anything contained in Part XI, where in any appeal against an assessment which includes penalty, one of the grounds of appeal relates to the charge of such penalty then the decision of the Tax Appeal Court in relation to such ground of appeal shall be confined to the question as to whether or not the failure, claim, understatement or omission which gave rise to the penalty under subsection (1) was due to any neglect, wilful default or fraud.

(As amended by Acts No. 11 of 1973, No. 14 of 1973,  
No. 10 of 1979, No. 11 of 1992 and No. 4 of 1993)



**101.** No complaint charging any offence under section *ninety-eight* or *ninety-nine* shall be made at any time subsequent to six years after the date of the commission of the offence. Time Limit

**102.** (1) Any person who wilfully with intent to evade or to assist another person to evade tax- Penalty for fraudulent returns, etc.

- (a) omits from a return made under this Act any income which should under this Act be included therein; or
- (b) makes any false statement or entry in any return under this Act; or
- (c) gives any false answer, whether verbally or in writing, to any question or request for information asked or made in accordance with the provisions of this Act; or
- (d) prepare or maintains or authorises the preparation of maintenance of any false books of account or other records, or falsifies or authorises the falsification of any books of account or records; or
- (e) makes use of any fraud, art or contrivance whatsoever or authorises the use of any such fraud, art or contrivance; or
- (f) makes any fraudulent claim for the refund of any tax;

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(2) Whenever in any proceedings under this section it is proved that any false statement or entry is made in any return furnished under this Act by or on behalf of any person or partnership, or in any books of account or other records maintained by or on behalf of any person or partnership, that person or the partners shall be presumed, until the contrary is proved, to have made that false statement or entry with intent to evade tax.

*(As amended by Acts No. 17 of 1971, No. 11 of 1992,  
No. 13 of 1994 and No. 2 of 1995)*

**103.** Where any offence under this Act has been committed by a body corporate, every person who, at the time of the commission of the offence was a director, general manager, secretary or other similar officer of such body corporate or who was acting or purporting to act in any such capacity, shall also be guilty of that offence, unless he proves that the offence was committed without his knowledge or consent, and that he exercised all such diligence to prevent the commission of the offence, as he ought to have exercised, having regard to the nature of his functions in such capacity and in all the circumstances. Bodies corporate

**104.** If an officer authorised by the Commissioner-General to inquire into the affairs under this Act of any person satisfies a magistrate that in fact or according to reasonable suspicion that person has committed an offence under this Act, the magistrate may, by warrant, authorise the officer to exercise all or any of the following powers:

Power to search and seize

- (a) between sunrise and sunset to enter any premises to search for money or documents;
- (b) to open, or remove from the premises and open, any article in which money or documents may be contained;
- (c) to seize any documents which may be necessary for assessment or any criminal or other proceedings and retain them for so long as they are required for such purposes.

**105.** (1) In any civil or criminal proceedings under this Act any relevant document in the Commissioner-General's possession shall be received in evidence on mere production as such and shall be *prima facie* evidence of its contents, but the person affected by such production shall be given not less than four days' notice of intention to produce a document under this section, and he shall be given an opportunity to inspect and copy that document.

Documents in evidence

(2) Statements made or documents produced by or on behalf of any person shall not be inadmissible in any proceedings to which this section applies by reason only that it has been brought to his attention that-

- (a) in relation to tax the Commissioner-General may accept pecuniary settlements instead of instituting proceedings; and
- (b) though no undertaking can be given as to whether or not the Commissioner-General will accept such a settlement in the case of any particular person, it is the practice of the Commissioner-General to be influenced by the fact that a person has made a full confession of any fraud or default to which he has been a party and has given full facilities for investigation;

and that he was or may have been induced thereby to make the statements or produce the documents.

(As amended by Act No. 17 of 1971)

## PART XI

### OBJECTIONS AND APPEALS

**106.** Subject to the Commissioner-General's power relating to assessment, every assessment under this Act shall stand good unless proved otherwise by the person assessed upon objection or appeal under this Part.

Assessments good until disproved

**107.** (1) For the purposes of hearing and determining appeals as provided for in this Part, there is hereby established a Tax Appeal Court (hereinafter in this Part referred to as "the court"), consisting of a Chairman or Deputy Chairman or a Special Chairman, as the case may be, appointed by the Judicial Service Commission.

Establishment of Tax Appeal Court, its composition and powers

(2) The Chairman, Deputy Chairman and the Special Chairman shall be persons-

- (a) who are entitled to practise as advocates in Zambia;
- (b) who have held a judicial office; or
- (c) who, in the opinion of the Judicial Service Commission, have sufficient knowledge of and experience in tax matters so as to be qualified for appointment to the offices of the Chairman, Deputy Chairman and the Special Chairman.

(3) The court shall be presided over by the Chairman, and in his absence by the Deputy Chairman, and in the absence of the Chairman and Deputy Chairman by the Special Chairman. The Deputy Chairman or the Special Chairman shall do all things which the Chairman is empowered to do under this Act, and shall, while presiding over the court, have all the powers of the Chairman.

(4) A person shall not sit or act as a Chairman of the court if he has any interest, direct or indirect, personal or pecuniary, in any matter before the court.

(5) The court shall sit in such places as may be appointed by the Chairman.

(6) The date of hearing of any appeal shall be determined by the Chairman and notice thereof shall be published by him in the *Gazette* at least one month prior to that date.

(7) There shall be paid to the Chairman of the court such remuneration and allowances as the Attorney-General may (with the approval of the Minister) determine.

(8) The Public Service Commission may appoint a Registrar and such other officers of the court as it may deem necessary.

(9) If any person without reasonable excuse fails to attend as a witness or give evidence or to produce any document in his possession or power which relates to any matter in question on appeal when so required by the court he may be fined summarily by the Chairman an amount not exceeding two hundred penalty units and ordered to serve a sentence not exceeding three months' imprisonment in default of payment of the fine.

(10) The Minister may, by statutory instrument, make regulations with respect to the administration, organisation, powers, practice and procedure of the court in relation to appeals, costs on appeals and matters connected with the foregoing.

*(As amended by Acts No. 14 of 1973, No. 11 of 1975,  
No. 11 of 1992 and No. 13 of 1994)*

**108.** Within thirty days of the date of service of notice of assessment, the person assessed may make to the Commissioner-General a written statement of objection to the assessment setting out the grounds of objection, and the Commissioner-General shall give that person written notice of his decision concerning that objection:

Objection to  
assessment

Provided that-

- (i) the Commissioner-General may determine that an objection may be made within a longer period than thirty days but where he does not so determine he shall give the person written notice of his determination and the person may appeal against the determination under section *one hundred and nine* without making an objection;
- (ii) the right of objection to an amended assessment which is not made as a result of an objection shall be restricted to the items in that assessment which differ from, or are additional to, the items in the assessment for the same charge year made immediately prior to that assessment and only to the extent of such difference or addition;
- (iii) the right of objection to an amended assessment which is made as a result of an objection shall be the same right of objection as existed to the assessment objected to; and
- (iv) an amended assessment issued as a result of an objection shall, unless objected to, be the Commissioner-General's written decision concerning the objection.

*(As amended by Act No. 11 of 1975)*

**109.** (1) If a person assessed is dissatisfied with the Commissioner-General's decision concerning his objection to the assessment, that person may, by written notice to the Chairman, within thirty days of the date of service of the written notice of the Commissioner-General's decision, appeal against the assessment to the court and shall send a copy of the notice to the Commissioner-General.

Appeal against  
assessment

(2) If the court is satisfied that owing to absence from the Republic, sickness or other reasonable cause, the person referred to in subsection (1) was prevented from giving notice of appeal within the period mentioned in subsection (1), and there was no unreasonable delay on his part, the court may upon application by the appellant, extend the period as may be reasonable in the circumstances.

*(As amended by Acts No. 14 of 1973 and No. 11 of 1975)*

**110.** (1) Upon the hearing of an appeal under this Part, the court may make such order in relation to the assessment under appeal as is in accordance with this Act.

Determination of appeals

(2) If at any stage before the determination of an appeal, an agreement is reached between the Commissioner-General and the other party to the appeal, the Commissioner-General and the other party shall reduce the terms of the agreement into writing which writing shall be signed by them or their duly authorised agents. A copy of the duly signed writing shall be forwarded forthwith to the Chairman who shall make an order in the appeal in terms of such writing.

*(As amended by Acts No. 26 of 1970 and No. 14 of 1973)*

**111.** (1) Either party to an appeal to the court may appeal to the High Court from the decision of the court on any question of law or question of mixed law and fact but not on a question of fact alone.

Appeal to High Court and Supreme Court

(2) The High Court shall hear and determine any such appeal and may confirm, reduce, increase or annul the assessment determined by the court and make such further or other order on such appeal, whether as to costs or otherwise, as to the High Court may seem fit.

(3) An appeal from a decision of the High Court under this section shall lie to the Supreme Court as it lies in the case of and as though it were a judgement of the High Court made in the exercise of its original civil jurisdiction.

*(As amended by Acts No. 14 of 1973 and No. 11 of 1974)*

**112.** (1) Where a person assessed so requests, all proceedings concerning him under this Part shall be in private, or *in camera*, as the case may be.

Privacy of proceedings

(2) Nothing in subsection (1) shall prevent the printing or publishing of the judgement or order made on the determination of an objection or appeal if the High Court or Supreme Court does not prohibit publication, but any such publication shall not disclose the identity of the taxpayer concerned.

*(As amended by Acts No. 14 of 1973 and No. 11 of 1974)*

**113.** On the final determination of an objection or appeal against an assessment the Commissioner-General shall make all assessments and adjustments as are necessary to give effect to the determination and the provisions of section *eighty-seven* shall apply to any tax paid in excess as a result of such determination.

Adjustment on successful objection or appeal

*(As amended by Acts No. 26 of 1970 and No. 14 of 1976)*

**114.** (1) Where it is provided by this Act that any matter is subject or according to-

Appeals from  
Commissioner-General's  
discretions and  
determinations

- (a) the Commissioner-General's discretion, such discretion shall not be questioned in any proceedings;
- (b) the Commissioner-General's determination, such determination shall only be questioned in any proceedings on the ground that it is unreasonable.

(2) If a person is dissatisfied with a determination of the Commissioner-General, that person may object to or appeal against that determination as if the determination were an assessment and the provisions of this Part relating to objections and appeals against assessments shall apply *mutatis mutandis*.

(3) Where the Commissioner-General's determination as provided for in this Act is in relation to any assessment, any appeal against that determination shall be heard as a preliminary point upon an appeal against that assessment, and in any other case such appeal shall be heard as if the determination were an assessment.

**115.** Where according to the Commissioner-General's calculations a person has incurred a loss for any charge year, that person may require the Commissioner-General to certify accordingly, and the Commissioner-General's certificate shall be treated as if it were an assessment for the purposes of this Part:

Loss certificate for  
appeal

Provided that-

- (i) A person shall not require the Commissioner-General to certify in accordance with this section after the 31st March, 1975; and
- (ii) where the Commissioner-General has not been required to certify in accordance with this section for any charge year but the Commissioner-General has issued a written statement of the amount of any loss incurred by any person for that charge year on or before the 31st March, 1975, that statement shall be deemed to be a certificate issued in accordance with this section on the 31st March, 1975.

*(As amended by Acts No. 11 of 1973 and No. 11 of 1975)*

**115A.** *Repealed by Act No. 7 of 1996.*

## PART XII

### REPEALS AND TRANSITIONAL PROVISIONS

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**116.** Subject to the Seventh Schedule, the Income Tax Act, Chapter A.L. 31 of the 1965 Edition of the Applied Laws, the Income Tax (Employments) Act, 1966, and the Taxes Charging Act, 1966, are repealed. Repeals

The Laws of Zambia  
FIRST SCHEDULE

(Section 17)

FURTHER CLASSIFICATION OF INCOME

1. Income includes amounts received by way of maintenance or allowance, under any judicial order or decree in connection with matrimonial proceedings, or under a written separation agreement. Mainte  
*(As amended by Act No. 3 of 1997)*

2. (1) Income includes, in the case of any person to whom, under any agreement relating to or derived from the grant to any other person of the use or occupation of land or buildings, there accrues the right to have improvements effected on the land or to the buildings by any other person- Improv

- (a) the amount stipulated in the agreement as the value of, or the amount to be spent on, the improvements; or
- (b) if no amount is stipulated, an amount representing the value of the improvements;

and in either case the amount is deemed for the purposes of this Act to have been received by the first-mentioned person in equal monthly instalments from the date the improvements were effected over the unexpired period of the agreement or over twenty-five years, whichever period is the less.

(2) All the instalments deemed under sub-paragraph (1) to have been received by a person that have not been included in his income before any of the following events are treated as having been received by him immediately before the happening of any such event:

- (a) the cancellation of the agreement;
- (b) the sale or other disposal of the land or buildings as improved; or
- (c) his death or bankruptcy, or, in the case of a company, its liquidation.

3. Income includes any amount received in connection with the taking up of employment or by reason of the cessation of any agreement for employment including compensation for loss of office or employment. Comm  
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4. Income includes lump sum payments. Lump s  
payme

5. (1) Income of a person includes any amount paid by which recoveries from capital expenditure exceed- Capital  
recove  
(a) in the case of a building, such residue of the expenditure ranking for capital allowances incurred in respect of the building on which capital recovery has been made as remains after the deduction of any initial, wear and tear or other capital allowance or similar deduction whether allowed under this Act or under any provisions of the previous law for any charge year in respect of the building; but in no case shall the amount to be included in the income exceed the total of the deductions so allowed to him in respect of the building;



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- (b) in case of implement, machinery or plant, such residue of the expenditure ranking for capital allowances incurred in respect of the implement, machinery or plant as remains after deduction of any wear and tear or other capital allowances or similar deduction whether allowed under this Act or under any provisions of the previous law for any charge year;
- (c) in relation to a mine in respect of assets on which an allowance has not been claimed under Part I or Part II of the Fifth Schedule, the balance of unredeemed capital expenditure;

Provided that this paragraph shall not apply to recoveries from expenditure incurred on farm improvements and farm works to which Part I or Part II of the Sixth Schedule applies.

(2) For the purposes of items (a) and (b) of sub-paragraph (1)-

- (a) a recovery from capital expenditure shall be deemed to have taken place when-
  - (i) a building ceases to belong to such person without being sold, or permanently ceases to be used by such person for the purposes of any business;
  - (ii) any implement, machinery or plant ceases to belong to such person without being sold, or permanently ceases to be used by such person for the purposes of his business.
- (b) the amount of the recovery from capital expenditure shall be the amount which, according to the Commissioner-General's determination, the asset would have realised in the open market at the time the event giving rise to the recovery occurred.

(3) For the purposes of this paragraph the expression "capital allowances" shall not include any investment allowance deducted pursuant to section *thirty-four*, or pursuant to paragraph (w) of subsection (2) of section *thirteen* of the former Act.

*(Paragraph 5(1) as amended by section 15 of Act No.11 of 1974 with effect from 1st April, 1973 and paragraph 2 inserted by section 13 of Act No. 11 of 1969 with effect from 1st April, 1969)*

Item (a) in sub-paragraph (2) deleted and substituted by items (a) and (b) consequent upon the 1974 amendment. Clause (b) of sub-paragraph (1) of paragraph 5 is amended.

6. Where land is disposed of for valuable consideration, and there is on that land exotic timber which has been grown for sale, the market value of that timber at the time the land is disposed of is included in income. Exotic timber

7. Any stock owned by a farmer at the beginning and end of each period for which he makes up the accounts of his farming business shall, in computing the gains or profits from such business be taken into account: Farm s  
Provided that where livestock bought by a farmer for stud has been included in stock at the end of a period for which accounts are made up such livestock shall be included in stock at the beginning of the next period for which accounts are made up. For the purposes of this paragraph "stock" includes all livestock other than livestock bought by a farmer for stud, produce, and crops which have been harvested.

*(As amended by Act No. 11 of 1974)*

8. Deleted by Act No. 9 of 1979.

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SECOND SCHEDULE

(Section 15)

EXEMPTIONS

PART I

EXEMPT OFFICE HOLDERS

1. The emoluments of the President are exempt from tax.
2. The income of the Litunga of the Western Province as Litunga and the income of any Chief received as a Chief from the Government, are exempt from tax.

PART II

FOREIGN EXEMPTIONS

3. There shall be exempt from tax-
  - (a) the emoluments of any individual payable in respect of any office which he holds in the Republic as an official of any foreign government, if such individual is resident in the Republic solely for the purpose of carrying out the duties of his said office;
  - (b) the emoluments of any domestic or private servant of any individual referred to in sub-paragraph (a) payable in respect of domestic or private services rendered or to be rendered by such servant to such individual, if such servant is not a Zambian citizen and is resident in the Republic solely for the purpose of rendering the said services;
  - (c) the emoluments payable to any individual who is not a Zambian citizen and who is temporarily employed in the Republic in connection with any technical assistance scheme provided by any foreign country, any international organisation, or agency, any foreign foundation or any foreign organisation, if the exemption of such emoluments or such part of the emoluments as may be specified is authorised under the terms of an agreement entered into by the government of such foreign country, international organisation or agency, foreign foundation or foreign organisation with the Government of the Republic;
  - (d) the emoluments of any individual in respect of service with any international organisation or any agency of a foreign government or any foreign foundation or organisation, which organisation, agency or foundation is approved by the Minister by order in the *Gazette* and such individual is not a Zambian citizen and is resident in the Republic solely for the purpose of rendering the said service or secondment to any Zambia organisation, agency, or foundation.

(As amended by Acts No. 26 of 1970, No. 16 of 1972 and No. 12 of 1982)

4. There shall be exempt from tax such income of-
  - (a) any international organisation;
  - (b) any agency of a foreign government;
  - (c) any foreign foundation or organisation;

as is approved by the Minister by order in the *Gazette*.

(As amended by Acts No. 11 of 1969 and No. 26 of 1970)

PART III

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EXEMPT ORGANISATIONS

5. (1) The income is exempt from tax of any-

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- (a) local authority;
- (b) *Repealed by Act No. 11 of 1992;*
  
- (c) registered trade unions;
- (d) agricultural society, mining or commercial society, whether corporate or unincorporate, or any other society having similar objects, not operating for the private pecuniary gain or profits of its member;
- (e) club, society or association organised and operated only for social welfare, civil improvement, pleasure, recreation or like purposes, if its income, whether current or accumulated, may not in any way be received by an member or shareholder;
- (f) approved fund or medical aid society;
- (g) *Repealed by Act No. 7 of 1996;*
  
- (h) employees' savings scheme or fund, if approved by the Commissioner-General;
- (i) *Repealed by Act No. 11 of 1992;*
  
- (j) political party registered as a statutory society under the Societies Act.

Cap. 1

*(As amended by section 7 of Act No. 10 of 1981 with effect from 1st April, 1981, No. 16 of 1988 and No. 11 of 1992)*

(2) The income of the following shall be exempt from tax:

- (a) the Commonwealth Development Corporation;
- (b) the Economic Co-operation Administration and Mutual Security Agency, or successor agencies of the Government of the United States of America;
- (c) *Repealed by Act No. 11 of 1992;*
  
- (d) *Repealed by Act No. 11 of 1992;*
  
- (e) *Repealed by Act No. 7 of 1996.*

*(As amended by Acts No. 10 of 1981, No. 14 of 1987, No. 16 of 1988, No. 11 of 1992 and No. 7 of 1996)*

(3) The income of a co-operative society registered under the Co-operative Societies Act shall be exempt from tax if the gross income, before deduction of any expenditure, of such co-operative society when divided by the number of its members (that is to say, the number of individuals who are members together with, where another co-operative society so registered is a member, the number of individuals who are members of that other co-operative society) on the last day of any accounting period of twelve months does not exceed eight hundred kwacha or, if such accounting period is more or less than twelve months, such figure as bears the same relation to eight hundred kwacha as the number of months in such accounting period bears to twelve.

Cap. 3:

*(As amended by Act No. 12 of 1982)*

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(4) The income of a non-resident person derived from the carrying on of the business of shipowner, charterer or air transport operator shall be exempt from tax where the country in which such non-resident person is resident extends a similar exemption to shipowners, charterers and air transport operators who are not resident in such country but who are resident in the Republic.

(5) The income of any organisation, partnership or body corporate, or such part of the income as is specified, shall be exempt from tax where the objects and activities within the Republic of such organisation, partnership or body corporate are to assist in the development of the Republic and such exemption of the income, or such part thereof as is specified is approved by the Minister by Statutory Order.

*(As amended by Acts No. 11 of 1969, No. 26 of 1970, No. 17 of 1971, No. 16 of 1972, No. 12 of 1981 and No. 17 of 1988)*

6. (1) There shall be exempt from tax the income of any charitable institution or of any body of persons or trust established for the promotion of religion or education, or for the relief of poverty or other distress, if, in relation to the people of the Republic, the income may not be expended for any other purpose. Chariti

(2) If the income referred to in sub-paragraph (1) is the profit of a business carried on by the charitable institution, body of persons or trust receiving it, that income is not exempt from tax unless it is applied only to the purposes set out in that sub-paragraph, and either-

- (a) the business is carried on in the course and furtherance of those purposes; or
- (b) the work involved in the business is mainly carried out by the beneficiaries under those purposes.

## PART IV

### EXEMPT INCOME

7. There is exempt from tax income received-

- (a) by way of lump sum payments withdrawn from an approved fund at retirement age or death or on the beneficiary becoming permanently incapable of engaging in an occupation or such sums withdrawn from an approved fund which the Commissioner-General determines cannot be enjoyed by the member until he attains retirement age;
- (b) as a war disability pension, or as a war widow's pension, or as an old age pension paid out of public funds, or as a benefit paid under any written law in respect of injury or disease suffered in employment;
- (c) in conjunction with the award of military, police, and fire brigade decorations for distinguished or good conduct or long service;
- (d) by an individual or his dependants or heirs, being on account of his injury or sickness, from any approved fund or registered trade union or medical aid society or under any policy of insurance;
- (e) as a local overseas allowance by any member of the Defence Force of the Republic while on service officially declared to be active service;
- (f) as an allowance paid for service outside the Republic by the Government or a statutory corporation in respect of an excess of living expenses due to such service;
- (g) in respect of a scholarship or bursary, for the purposes of education and maintenance during such education;
- (h) by way of alimony, maintenance or allowance under any judicial order or decree in connection with matrimonial proceedings, or under any separation agreement, to the extent of the amount of the alimony, maintenance or allowance that has not been allowed as a deduction to another individual under this Act;
- (i) *Obsolete;*
- (j) by any individual, the amount of which is prescribed by the Ministerial and Parliamentary Offices (Emoluments) Act, and which, pursuant to the provisions of that Act, is exempt from tax;
- (k) by way of grant as compensation for loss of office or disturbance by an officer admitted to the permanent and pensionable establishment of the Government;
- (l) by way of any education allowance or passage value payable to a public officer or payable in respect of his wife and children or in respect of his wife or children, subject to the provisions of paragraph 8 (3);
- (m) *Repealed by Act No.4 of 1993;*

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- (n) by way of gratuity to the extent that such gratuity is, for the purposes of this Act, regarded and dealt with as income received by an individual other than by way of gratuity in accordance with paragraph (i) of the proviso to subsection (1) of section *twenty-one* where the employer from whom the income is received is the Government, a municipal council, township council, rural council or any other council established under the Local Government Act, the University of Zambia or the National Council for Scientific Research: Cap. 2:1  
Cap. 2:1
- (o) by way of a dividend from a source outside the republic:
- (i) the dividend is from a source outside the republic;
  - (ii) the person receiving the dividend has not during the charge year in which the dividend is received, remitted any moneys outside the republic and the provisions of the Exchange Control Act relating to contracts of employment, farming profits, education costs and immigration.
- (p) by a person designated as an enterprise under the Investment Act, or its successor, as the case may be, who has been granted the incentives provided under that Act, to such extent and for such period as the Minister may prescribe
- (q) by way of pension received by an individual from an approved fund; and
- (r) by way of a dividend declared from farming income for the first five years the distributing company commences farming.
- (s) by an individual by way of sitting allowance for attending a council meeting.
- (t) *ex-gratia* payment made to a spouse, or dependant on the death of an employee.
- (As amended by Acts No. 26 of 1970, No. 17 of 1971, No. 16 of 1972, No. 11 of 1975, No. 14 of 1976, No. 9 of 1978, No. 10 of 1979, No. 8 of 1986, No. 17 of 1988, No. 33 of 1989, No. 29 of 1990, No. 11 of 1992, No. 4 of 1993, No. 18 of 1995 and No. 3 of 1997)

8. (1) For the purposes of this paragraph-

"child" means a child of an individual who at the commencement of the charge year in which a passage is made is under nineteen years of age and is, at the time the passage is made, unmarried and wholly dependent on such individual;

"commencement passage" means the first passage under the terms of the written contract granting such passage to the Republic from the home country of an individual;

"education passage" means a return passage between the Republic and the place where a child is receiving full-time education outside the Republic;

"home country" means the country in which an individual is resident for the purposes of income tax or the equivalent tax, immediately before coming to the Republic, or the country of which the individual is a citizen;

"leave passage" means a return passage taken for leave purposes between the Republic and the home country of an individual or in the case of an individual undergoing full-time education outside the Republic, between the place where the child is receiving full-time education and the home country;

"passage" means a journey by air by the cheapest available fare as an economy class passenger on a scheduled airline the cost of which is granted to an individual under the terms of a written contract for his employment in the Republic;

"terminal leave" means leave due to an individual under the terms of a written contract for his employment in the Republic, taken after the last day of service of the individual in the Republic under such contract;

"terminal passage" means the last passage under the terms of the written contract granting the passage from the Republic to the home country of an individual or, in the case of a child of the individual undergoing full-time education outside the Republic, from the place where the child is receiving full-time education to the home country;

(2) This paragraph shall not apply to the value of a passage made-

- (a) by an individual, his wife or child referred to in sub-paragraph (1) of paragraph 7, subject, however, to the provisions of sub-paragraph (3);
- (b) by an individual or by the spouse or child of such individual where the individual is an effective shareholder or a director, other than a whole-time service director, of the company granting the passage;
- (c) by the spouse or child of an individual who alone or in partnership as employer grants the passage;
- (d) by an employee of a company granting a passage or the spouse or child of such employee, where the employee or his spouse is carrying on a business alone or in partnership and the services of the employee are provided to such business by such company; or
- (e) by the wife or child of an individual where the passage is granted under the terms of a written contract for the employment of the wife in the Republic if at the time such passage is made the wife is living with the individual and sub-paragraph (9) does not apply.

(3) The right of an individual to exemption from tax in respect of the value of a passage under this paragraph shall be available under the terms of only one written contract for employment in any one period of employment in the Republic.

(4) Subject to the other provisions of this paragraph, the value of a commencement and a terminal passage made by an individual shall be exempt from tax.

(5) Subject to the other provisions of this paragraph, the value of a commencement and a terminal passage made by the wife or child of an individual shall be exempt from tax:

Provided that-

- (i) the written contract which grants the cost of the passage specifies that the individual is to be employed in the Republic for a period of not less than one year, excluding terminal leave;
- (ii) the individual is so employed under the contract for the specified period or for a lesser period, where the Commissioner-General determines that the individual was prevented from being so employed for the specified period due to circumstances beyond the control of such individual;
- (iii) for each contract the value of not more than one commencement and one terminal passage in respect of a wife shall be exempt from tax; and
- (iv) the value of a commencement passage made by a child shall not be exempt from tax where the child leaves the Republic for full-time education outside the Republic within four months of arriving in the Republic.

(6) Subject to the provisions of this paragraph, the value of a leave passage made by an individual, his wife or his child, shall be exempt from tax:

Provided that-

- (i) the written contract which grants the cost of the passage specifies that the individual is to be employed in the Republic for a period of not less than three years, excluding terminal leave;
- (ii) the individual is so employed under the contract for the specified period;

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9. (1) Deleted by Act No. 2 of 1995.

Interes

(2) The following interest is exempt from tax:

- (a) interest on any public loan raised by Government or a statutory corporation, where the terms of the loan provide that the interest thereon shall be exempt from tax;
  - (b) interest on any bond issued under or in respect of a loan of the kind described in clause (a);
  - (c) Government of Zambia bonds.
- (3) Repealed by Act No. 11 of 1973.

(4) The first two hundred and forty thousand kwacha of interest earned by an individual during the charge year on all sums deposited or invested in a building society registered under any law relating to the registration of building societies for the time being in force in the Republic, or deposited in a savings or deposit account with a financial institution registered under the Banking and Financial Services Act, shall be exempt. Cap. 3:

(5) The first two hundred and forty thousand kwacha of discount income earned by an individual in a charge year on all sums invested in Treasury Bills or any other similar financial instruments sold at a discount from face value, shall be exempt.

(6) Repealed by Act No. 7 of 1966.

10. (1) An annuity shall be exempt from tax where such annuity is bought by an annuitant out of a lump sum payment withdrawn from an approved fund at retirement age, or death, or on the beneficiary being permanently incapable of engaging in an occupation and which is exempt from tax under paragraph 7(a). Annuiti

(2) An annuity, other than an annuity payable out of an approved fund, shall be exempt from tax to the extent that it represents a return of the purchase price.

(As amended by Act No. 11 of 1975)

11. Repealed by Act No. 2 of 1995.

12. Repealed by Act No. 11 of 1992.

13. Repealed by Act No. 11 of 1992.

The Laws of Zambia

THIRD SCHEDULE

(Section 25)

INSURANCE BUSINESS

1. (1) The profits of carrying on insurance business, other than life insurance business, by a resident company are ascertained by-
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- (a) taking the gross premiums, interest, and other income, less premiums refunded or paid on reinsurance; and
  - (b) adding a reserve for unexpired risks at such reasonable percentage as is adopted by the company at the beginning of the year's business; and
  - (c) deducting a reserve for unexpired risks at such reasonable percentage as is adopted by the company at the end of the year's business; and
  - (d) deducting the actual losses (less the amounts received under reinsurance), and other expenses, including deductions under Part II of the Fifth Schedule, allowable as a deduction in calculating business profits.
- (2) The profits of carrying on insurance business, other than life insurance business, by a company that is not resident are ascertained by-
- (a) taking the gross premiums, interest, and other income, received in the Republic, less premiums refunded or paid on reinsurance; and
  - (b) adding a reserve for unexpired risks at such reasonable percentage as is adopted by the company in relation to its business as a whole at the beginning of the year's business; and
  - (c) deducting a reserve for unexpired risks at such reasonable percentage as is adopted by the company in relation to its business as a whole at the end of the year's business; and
  - (d) deducting the actual losses (less the amounts received under reinsurance), agency expenses and deductions allowed under Part II of the Fifth Schedule incurred in the Republic, and such proportion of the company's head office expenses as the Commissioner-General determines.
2. (1) The profits from the life insurance business of a resident insurance company shall be the excess of the total investment income over three and one-half per centum of the total mean actuarial liabilities, reduced in the proportion which the total mean actuarial liabilities less the mean actuarial liabilities in respect of policies constituting approved funds (as defined in this Act) and annuity policies issued in the Republic under which annuities are being paid bear to the total mean actuarial liabilities.
- Life insurar
- (2) The profits from the life insurance business of a non-resident insurance company shall be the proportion of the company's total investment income that the actuarial liabilities in respect of local taxed life policies bear to the company's total actuarial liabilities less three and one-half per centum of the mean actuarial liabilities in respect of local taxed life policies.
- (3) For the purposes of this paragraph-
- "local taxed life policies" means those policies falling within the definition of "local policy" and within the definition of "life policy" in terms of the insurance legislation of the Republic, but excluding policies constituting approved fund (as defined in this Act) and annuity policies under which annuities are being paid;
- "actuarial liabilities" means the actuarial liabilities determined on the basis used by the company for making returns of actuarial liabilities in terms of the insurance legislation of the Republic;
- "mean actuarial liabilities" means one-half of the sum of the actuarial liabilities calculated at the beginning and end of the company's financial year for which the Commissioner-General has, in respect of the charge year concerned, accepted the accounts of the company under subsection (1) of section sixty-two.
- (As amended by Act No. 20 of 1970)
3. The tax on the profits of a company that carries on life insurance business in conjunction with any other insurance business is charged in one sum, but the profits of the life insurance business are separately calculated.
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The Laws of Zambia

4. This Schedule applies as well to a mutual insurance company as to a proprietary insurance company.

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The Laws of Zambia

FOURTH SCHEDULE

(No. 23 of 1968)

(Section 37)

APPROVED FUNDS

1. In this Schedule, "trustees" means the persons, by whatever name called, having the management or control of a fund which either is or was an approved fund within the meaning of approved fund as defined in this Act, or which is a fund or scheme in relation to which an application is made under paragraph 2 for the approval of the Commissioner-General. Definiti  
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The Laws of Zambia

2. (1) Where any fund or scheme is established by or on behalf of an employer for the payment, under the rules relating thereto, of pensions and other benefits to his employees in respect of service with him on the retirement of his employees from such service or to dependants of his employees on the death of his employees, then application under paragraph 2 may be made for such fund or scheme to be approved by the Commissioner-General; and, where any fund or scheme is so approved, it shall be known as an approved pension fund.

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(3) The Commissioner-General shall not approve any fund or scheme unless he considers that the rules relating thereto have as their main object the provision of pensions to employees on their retirement from the service of the employer on or after attaining a specified age and unless the Commissioner-General is satisfied-

- (a) that the fund or scheme is established in the Republic in connection with any business carried on wholly or partly within the Republic by the employer; and
- (b) that the rules do not-
  - (i) provide for the payment to any employee during his life of any sum except a pension, which may, subject to this paragraph, be commuted or, in the event of the employee leaving the service of his employer in circumstances in which no pension is payable to him, any contributions to the fund or scheme made by him together with reasonable interest thereon;
  - (ii) provide for the payment of the pension otherwise than on the retirement of the employee from the service of his employer on or after attaining the age of 55 years or on earlier retirement on account of any infirmity of mind or body;
  - (iii) provide for the payment of any other sums on the death of the employee except a lump sum, or sums payable by way of annuity to the widow or widower or dependants of the employee;
  - (iv) provide for the payment of the pension otherwise than during the life of the employee or for the payment to the widow or widower of the employee of an annuity otherwise than for a term certain or during the life of the widow or widower or during the minority of any dependant of the employee;
  - (v) provide for the annuity, if any, payable to the widow or widower of the employee to be of a greater annual amount than the pension payable to the employee; and
- (c) that the rules do-
  - (i) provide that all annual contributions of a recurrent nature to the fund or the scheme shall be in accordance with specified scales and clearly specify the benefits payable to members and their dependants from the fund or under the scheme;
  - (ii) provide that membership of the fund or scheme shall be open to all employees of the group or class of groups or classes specified in the rules;
  - (iii) provide that no pension, annuity or other sum payable out of the fund or under the scheme shall be capable of surrender or assignment except as provided for in sub-paragraph (2)(c)(vii);
  - (iv) provide that no contribution made to the fund or scheme by the employer shall be returnable to him;
  - (v) provide, in any case where the employer is a company the directors whereof have a controlling interest therein, that no director or the widow or widower or any dependant of a director, of the company shall be entitled to any payment out of the fund or under the scheme in respect of his service while he is such a director and that no contributions shall be made to the fund or scheme in respect of the service of such a director; and for the purposes of this sub-paragraph director does not include a whole time service director;
  - (vi) provide that, if the fund or scheme is wound up, the assets thereof shall be applied in the purchase of annuities for its members or, if a member so elects, shall be transferred to another approved fund;
  - (vii) provide that, where any pensions payable out of the fund or under the scheme to an employee may be commuted, the amount of the pension that may be commuted shall not exceed one million kwacha or one-half of the pension, whichever may be the greater.

*(As amended by Act No. 14 of 1994)*

The Laws of Zambia

- (3) The Commissioner-General may, in his discretion and subject to any conditions he thinks proper to impose-
- (a) approve a fund or scheme the rules relating to which otherwise satisfy sub-paragraph (2), notwithstanding that the fund or scheme-
    - (i) is established outside the Republic in connection with any business carried on wholly or partly within the Republic by the employer;
    - (ii) is established in connection with a function exercised in the Republic by the employer which is not a business;
    - (iii) provides for a pension to be paid to an employee before he attains the age of 55 years, but not before he attains the age of 45 years, if the Commissioner-General is satisfied that the nature of the service of the employee is one in which persons customarily retire before attaining the age of 55 years;
    - (iv) provides, in the event of the death of an employee after he has commenced to draw a pension from the fund or under the scheme, for the payment of such a sum as together with the total amount paid to him by way of pension does not exceed the contributions made to the scheme in respect of him together with reasonable interest thereon;
    - (v) provides for the employer to recover out of the amount standing to the credit of any employee any sum due by the employee under this Act and paid on his behalf and on his authority by the employer;
  - (b) approve a fund or scheme notwithstanding that the rules relating thereto do not satisfy the other provisions of this paragraph if, in his opinion, such rules satisfy substantially those provisions;
  - (c) approve part of a fund or scheme where the rules relating to that part satisfy substantially the other provisions of this paragraph; and in any such case the part so approved shall be the approved pension fund.

3. (1) Where application is made for approval of any fund or scheme under paragraph 2, then the trustees of the fund or scheme shall make the application in writing to the Commissioner-General; and the application shall be accompanied by two copies of any instrument under which the fund or scheme is established and of the rules relating to the fund or scheme.

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(2) After consideration of any application referred to in sub-paragraph (1), the Commissioner-General shall inform the trustees of the fund or scheme in writing of his decision and, if the decision is an approval of the fund or scheme, of the charge year in relation to which it is approved, whether the fund or scheme is approved in whole or in part and of any conditions to which the approval is subject; and, where any fund or scheme or part thereof has been approved by the Commissioner-General for any charge year, the fund or scheme or part thereof shall, subject to sub-paragraph (3), be deemed to be approved for each subsequent charge year unless the Commissioner-General withdraws approval under sub-paragraph (4).

(3) Where there is any alteration to the instrument establishing any approved pension fund or to any rules relating to any such fund, then the trustees of the fund in question shall immediately inform the Commissioner-General in writing of the alteration; and, if the Commissioner-General is not so informed, the approval of the fund in question shall be deemed to have been withdrawn as from the date of the alteration.

(4) The Commissioner-General may at any time by notice in writing withdraw his approval of any approved pension fund, if in his opinion-

- (a) the conditions on which the approval of the fund in question was granted have not been complied with; or
- (b) there has been any alteration to the instrument establishing the fund in question or to any rules relating to it.

(5) Where any approved pension fund ceases to be an approved fund, the provisions of section *eighty-two* shall nevertheless continue to apply in respect of the return of any contributions made while it was an approved fund.

(6) The accounts of an approved pension fund shall be maintained in such form and for such periods as the Commissioner-General may determine.

(7) References in sub-paragraphs (3) to (6), both inclusive, to approved pension fund shall be read and construed as including references to a pension fund within the meaning of paragraph (d) of the definition of approved fund; and fund shall be construed accordingly.

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4. (1) Where an individual in any charge year pays a premium under a contract providing for the payment to him of a life annuity (hereinafter referred to as an annuity contract) then he may apply for the contract to be approved by the Commissioner-General.

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(2) Subject to sub-paragraph (3), the Commissioner-General shall not approve an annuity contract unless he considers that the main object of such contract is the provision for the individual applying for its approval, of a life annuity in old age and unless the Commissioner-General is satisfied-

- (a) that the annuity contract is made in the Republic with an Insurance Company or body of Persons lawfully carrying on in the Republic the business of granting annuities on human life;
- (b) that the annuity contract provides for annual contributions by the individual throughout the currency of the contract; and
- (c) that the annuity contract does not-
  - (i) provide for the payment during the life of the individual of any sum except sums payable to the individual by way of annuity, which may, subject to this paragraph, be commuted; or
  - (ii) provide for the annuity payable to the individual to commence before he attains the age of 55 years or after he attains the age of 65 years; or
  - (iii) provide for the payment of any other sums except sums payable by way of annuity to the individual's widow or widower and any sums which, in the event of no annuity becoming payable to the individual, are payable to the executors or administrators of the individual by way of return of premiums, by way of reasonable interest on premiums or by way of bonuses out of profits;
  - (iv) provide for the annuity if any, payable to the individual's widow or widower to be of a greater annual amount than that paid or payable to the individual; or
  - (v) provide for the payment of an annuity otherwise than for the life of the annuitant;
- (d) that the annuity contract does-
  - (i) provide that no annuity payable under it shall be capable in whole or in part of surrender or assignment except as provided for in subparagraph (2) (d) (ii);
  - (ii) provide that not more than one-third of any annuity payable under it to the individual may be commuted;
  - (iii) provide that no annuity payable under it to the individual's widow or widower may be commuted:

Provided that, save under such conditions as the Commissioner-General thinks proper to impose, no annuity contract shall be approved by the Commissioner-General if the individual is contributing to any approved pension fund or an approved fund within the meaning or paragraph (c) of the definition of approved fund.

(3) The Commissioner-General may, in his discretion and subject to any conditions he thinks proper to impose, approve an annuity contract otherwise satisfying sub-paragraph (2) notwithstanding that such annuity contract was made by an individual resident in the Republic in a country other than the Republic with an insurance company or body of persons lawfully carrying on the business of granting annuities on human life before he became resident or that the annuity contract provides-

- (a) for the payment after the death of the individual applying for such approval of an annuity to a dependant not the widow or widower of the individual;
- (b) for the payment to the individual of an annuity commencing before he attains the age of 55 years, if the annuity is payable on his becoming incapable through infirmity of mind or body of carrying on his own occupation or any occupation of a similar nature for which he is trained or fitted;
- (c) if the individual's occupation is one in which persons customarily retire before attaining the age of 55 years, for the annuity to commence before he attains that age (but not before he attains the age of 50 years);
- (d) for the annuity payable to any individual to continue for a term certain (not exceeding 10 years) notwithstanding his death within that term or for the annuity payable to any individual to terminate or be suspended on marriage (or re-marriage) or in other circumstances;
- (e) in the case of an annuity which is to continue for a term certain, for the annuity to be assignable by will and, in the event of any individual dying entitled to it, for it to be assignable by executors or administrators in the distribution of the estate so as to give effect to a testamentary disposition, or to the rights of those entitled on intestacy, or to an appropriation of it to a legacy or to a share or interest in the estate.

(4) The Commissioner-General may at any time, by notice in writing given to the persons by and to whom premiums are payable under any approved annuity contract, withdraw that approval on such grounds and from such date as may be specified in the notice.

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5. (1) On receiving a claim for approval, the Commissioner-General may, in his discretion, and subject to any conditions he thinks proper to impose, approve a fund or scheme established by law in any other country, the main object of which is to provide for the payment under the rules relating thereto of pensions to its members on retirement from employment and, where any such fund or scheme is so approved, it shall be known as an approved pension fund. Approv  
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(2) The Commissioner-General may at any time withdraw approval of a fund approved under this paragraph.

*(As amended by Act No. 26 of 1970)*

6. Where under this Schedule the Commissioner-General may approve any pension fund or annuity contract (but not where he may approve thereof subject to any conditions) or may withdraw approval from any approved fund, then any person aggrieved by the refusal of the Commissioner-General to grant his approval or by the withdrawal of any approval already granted, may appeal therefrom as if the refusal or withdrawal of approval were a determination and such an appeal shall be heard accordingly. Appeal

7. The Commissioner-General's approval for the purposes of this Schedule is not subject to any rule of law against remoteness, and in any case is without prejudice to any such rule. Remot

The Laws of Zambia

FIFTH SCHEDULE

(Section 33)

CAPITAL ALLOWANCE FOR BUILDINGS, IMPLEMENTS, MACHINERY AND PLANT, AND PREMIUMS

PART I

BUILDINGS

1. (1) In this Part an industrial building means a building or structure in use for the purposes of any electricity, gas, water, inland navigation, transport, hydraulic power, bridge or tunnel undertaking, or any like undertaking of public utility, or is in use for the purposes of any trade which-

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- (a) is carried on in a mill, factory or like premises;
- (b) consists of the manufacture of goods or materials, or their subjection to any process;
- (c) consists of the storage of goods or materials to be used in the manufacture or processing of other goods;
- (d) consists of the storage of goods on import or for export; or
- (e) consists in the working of a mine or well for the extraction of natural deposits.

(As amended by Act No. 11 of 1975)

(2) For the purposes of this Part, the expression "industrial building" does not, save as provided in sub-paragraphs (3) and (4), include any building or structure in use as, or as part of or ancillary to the purposes of, a dwelling-house, retail shop, showroom, hotel or office, or in use for the purposes of any retail, repair or servicing trade or a trade of a like nature.

(As amended by Act No. 11 of 1973)

(3) Any building which on first construction after the commencement of this Act is an hotel, or which is an extension made after the commencement of this Act to a building first constructed as an hotel and which is certified by that body of the Government for the time being responsible for the hotel industry as conforming to such standards as it may from time to time prescribe, is an industrial building for the purposes of this Part.

(4) Any building constructed or acquired by a person for business purposes, the cost of which exceeds two million kwacha, shall be deemed to be an industrial building for the purposes of this part.

(5) Any building in use for the welfare of employees engaged in the undertakings and trades referred to in sub-paragraph (1) is an industrial building for the purposes of this Part.

(6) This paragraph applies to a part of an undertaking or trade as it applies to an undertaking or trade.

(7) Where a part of a building is an industrial building, and a part is not, and the capital expenditure incurred on the latter part is not more than ten per centum of such expenditure incurred on the whole building, the whole building is an industrial building for the purposes of this Part.

(As amended by Acts No. 26 of 1970, No. 11 of 1973, No. 11 of 1974,  
No. 11 of 1975 and No. 3 of 1997)

2. In this Part, a commercial building means a building or structure, or part thereof, which is not an industrial building as defined in paragraph 1, or farm improvement or farm works as defined in the Sixth Schedule, and which is in use for the purposes of any business:

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Provided that the construction of such building or structure is completed for first use on or after the 1st April, 1969.

(As amended by Act No. 11 of 1969)

## The Laws of Zambia

**3.** (1) In ascertaining the business profits of a person who, for the purposes of his business, has incurred capital expenditure on the construction of a building intended to be used as an industrial building, or on an addition to or an alteration of an industrial building, a deduction (called an initial allowance) of the percentage of the expenditure incurred, as set out in Part V, is allowed in the charge year in which the said building, addition to or alteration is brought into use as an industrial building.

Initial allowance for industrial building

(2) Capital expenditure amounting to the cost of acquisition is incurred by a person for the purpose of sub-paragraph (1) where he-

- (a) acquires the building from another person who constructed it in the course of his trade; and
- (b) is the first user of that building.

**4.** (1) In ascertaining for any charge year the business profits of any person who in that year uses for the purposes of his business an industrial or commercial building which he acquired, constructed, added to or altered, a deduction shall be allowed (called a wear and tear allowance) for each charge year of such use according to the case and at the percentage, as set out in Part V, of the original cost to such person:

Wear & tear allowance for building

Provided that in no case shall the total of all the deductions allowed to such person under this Part exceed the cost to such person of such acquisition, construction, addition or alteration, as the case may be.

(2) Where a building is used by a person as an industrial building for part of a charge year and as a commercial building for another part of the same charge year, that building shall be regarded as used by that person solely as an industrial building for that charge year.

(3) No allowance shall be deductible under this paragraph in ascertaining the business profits of any person for any charge year in respect of any building if at any time during the said charge year that building is used as his usual dwelling place by-

- (a) any individual who uses such building for the purposes of the business, or by any individual partner in such business;
- (b) any individual who, by reason of his shareholdings, or of his control of shareholdings, in any company or by reason of any partnership interest, is in a position to exercise control, directly or indirectly, over the person or persons using the building for the purposes of the business;
- (c) a director of a company using the building for the purposes of its business, who is not a whole time service director thereof.

*(As amended by Act No. 11 of 1969)*

**5.** (1) Where any building, in respect of which an initial or wear and tear allowance has been or could have been deducted in ascertaining the profits of a person carrying on a business, ceases to belong to that person or permanently ceases to be used by him for the purposes of any business whatsoever, a deduction (called a balancing allowance) shall be allowed in ascertaining the profits of the business for the purposes of which the said building was last used for the charge year of such cessation.

Balancing allowance for building

(2) The balancing allowance deductible under sub-paragraph (1) in respect of a building shall be equal to the amount by which any recovery of capital expenditure on that building together with any initial or wear and tear allowance deducted under this Part in respect of that building falls short of the original cost of that building to the person referred to in that sub-paragraph:

Provided that where wear and tear allowance has been deducted for part only of the entire period of ownership or possession of the building by the person who has been allowed the deduction of the said wear and tear allowance, the allowance deductible shall be determined by multiplying the balancing allowance as above calculated by the number of years in respect of which wear and tear allowance has been deducted and dividing the result by the number of years of the said ownership or possession.

(3) In calculating the balancing allowance in respect of any building upon any cessation referred to in sub-paragraph (1), the recovery from capital expenditure on the building shall be the amount which, according to the Commissioner-General's determination, it would have realised in the open market at the time of the cessation.

*(As amended by Act No. 11 of 1969)*

**6.** If any building is used by a person both for the purposes of his business and for other purposes, the amount of any allowance provided by this Part shall be reduced according to the Commissioner-General's determination.

Divided use

*(As amended by Act No. 11 of 1969)*

## PART II



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IMPLEMENTS, MACHINERY AND PLANT

7. Notwithstanding the definition of "business" as contained in section two, for the purposes of this Part "business" includes employment and the letting of property.

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8. This Part does not apply to implements requiring frequent replacement.

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9. *Repealed by Act No. 11 of 1974.*

10. (1) Where a person has used any implements, machinery or plant belonging to him for the purposes of his business a deduction (called a wear and tear allowance) shall be allowed in ascertaining the profits of the business for each charge year.

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(2) Where a person holds any implements, machinery or plant under a hire-purchase agreement as defined in the Hire-Purchase Act, then the implement, machinery or plant shall be deemed to belong to that person for the purposes of this paragraph.

(3) The wear and tear allowance for any charge year shall be at the percentage and in the cases set out in Part V:

Provided that in the charge year in which the business ceases the allowance shall be the amount of the residue of the original cost referred to in sub-paragraph (4).

(4) The wear and tear allowance for any charge year shall be calculated on a straight line basis of the original cost of the implements, machinery and plant:

Provided that in the case of any implements, machinery or plant which were acquired by a person other than for the purpose of a business, the original cost shall be the current market value of such implements, machinery or plant as determined by the Commissioner-General in the charge year that they are first used for the purpose of a business.

*(As amended by Acts No. 11 of 1974, No. 14 of 1976 and No. 29 of 1990)*

(5) Notwithstanding any other provisions of this Act to the contrary the wear and tear allowance on any implement, machinery or plant which has been exclusively used in farming manufacturing or tourism for any charge year shall be calculated on a straight-line basis at the rate of fifty per centum of the cost.

*(As amended by Acts No. 10 of 1981, No. 11 of 1984 and No. 4 of 1993)*

(6) Notwithstanding any other provisions of this Act, the wear and tear allowance on the cost of any new plant or machinery acquired and used by any soft drinks manufacturer in respect of such business carried on by him in a rural area, shall, in any charge year, be calculated on a straight-line basis at the rate of twenty per centum of the cost of such plant and machinery.

*(As amended by Acts No. 14 of 1976 and No. 12 of 1982)*

## The Laws of Zambia

**11.** For the purpose of paragraph 10-

- (a) a recovery from capital expenditure on implements, machinery or plant shall be deemed to have taken place when the implements, machinery or plant-
- (i) permanently cease to be used for the purposes of a business; or
  - (ii) cease to belong to the person carrying on a business;
- (b) the amount of the recovery from capital expenditure shall be the amount which, according to the Commissioner-General's determination, the implements, machinery or plant would have realised in the open market at the time the event giving rise to the recovery occurred.

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*(As amended by section 17 of Act No. 11 of 1974)*

**12.** If any implement, machinery or plant is used by a person both for the purposes of his business and for other purposes, the amount of any allowance provided for by this Part shall be reduced to the Commissioner-General's determination.

Divided  
use

**13.** (1) In the calculation of any allowance under this Part, the original cost to any person of any implement, machinery or plant that has been-

- (a) used outside the Republic by him, and brought by him to the Republic for the purposes of his business;
- (b) used by him for a purpose other than the purposes of his business, and is then used for the purposes of his business; or
- (c) acquired by him for no valuable consideration;

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is according to the Commissioner-General's determination.

(2) For the purposes of this Part, the original cost to any person of a road vehicle used for the purposes of his business and the vehicle was acquired by the person after the commencement of this Act, whether the vehicle is a commercial vehicle or otherwise, shall be used in the calculation of the allowance.

(3) In this paragraph, "commercial vehicle" means a road vehicle of a type not commonly used as private vehicle and unsuitable to be used as such but includes all types of road vehicles used solely for hire or carriage of the public for reward.

*(As amended by Acts No. 11 of 1974, No. 14 of 1976, No. 6 of 1980, No. 10 of 1981, No. 8 of 1986 and No. 29 of 1990)*

## PART III

### PREMIUM ALLOWANCE

**14.** (1) A deduction is allowed (called a premium allowance) in ascertaining the profits of a person's business equal to the amount of any premium or like consideration paid by him for the right of use of machinery or plant, or for the use of any patent, design, trade mark or copyright, or for the use of other property which the Commissioner-General determines is of a like nature, where such right is used by that person for the purposes of his business.

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(2) The amount of any deduction allowed for any charge year under sub-paragraph (1) shall not exceed the amount of the premium or like consideration divided by the number of years for which the right of use is granted.

(3) Where a person acquires any interest in the ownership of property for payment of a premium or like consideration for the right of use of which he has been allowed a deduction under sub-paragraph (1), he ceases to be allowed that deduction as from the date of such acquisition.

## PART IV

### GENERAL PROVISIONS

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**15.** (1) Where a person succeeds to another person's business, or there is a change in any partnership engaged in business, any property which immediately before the succession or change was in use for the purposes of the business, and, without being sold, is in such use immediately afterwards, is, for the purposes of this Schedule, treated as if it had been sold for an open market price as determined by the Commissioner-General at the time of the succession or change to the person carrying on the business immediately afterwards; but no initial allowance under this Schedule shall be deducted by virtue of this paragraph. Succession

(2) Where there is succession or change in terms of sub-paragraph (1), and notwithstanding that sub-paragraph, the Commissioner-General may, upon the written application of the parties concerned, make such adjustments in relation to the allowances which may be deducted under this Schedule as will provide for the continuity of those allowances in relation to the business the subject of the succession or change, but in any event any such adjustment is subject and according to the Commissioner-General's discretion.

**16.** For the purposes of this Schedule, the amount of any capital expenditure is reduced by the amount of any subsidy or grant from public funds towards or in aid or in recognition of the object of such expenditure. Subsidy

**17.** (1) This paragraph has effect in relation to the transfer by sale or otherwise of any property in respect of which any deductions have been allowed under Parts I, II and III, where either- Control of sales

(a) the transferee has control of the transferor, or the transferor has control of the transferee, or some other person has control of both; or

(b) the Commissioner-General determines by reference to the consideration given for the property that the transfer was not at arm's length.

(2) Where any property as is mentioned in sub-paragraph (1) is transferred other than at a price that it would have fetched if sold in the open market, then, subject to sub-paragraph (3), the like consequences shall ensue as would have ensued if the property had been sold for the price which it would have fetched if sold in the open market.

(3) Where the transfer is one to which sub-paragraph (1) (a) applies and the transferee uses the property transferred for the purposes of a business, then, subject to the parties to the transfer by notice in writing to the Commissioner-General so electing, sub-paragraph (2) shall not have effect, but the like consequences shall ensue as would have ensued if the property had been transferred for a sum equal to the residue of capital expenditure on the property still undeducted immediately before the transfer, and, in the case of such an election-

(a) no initial allowance shall be deducted in respect of the transferee; and

(b) in respect of a subsequent sale or cessation of use of the property for the purposes of the business by the transferee, the amount included in his income as a capital recovery shall be such an amount as would have been included in the transferor's income in a like case but for the transfer, and as if the transferor had been allowed all such deductions in respect of the property as were, in fact, allowed to the transferee.

*(As amended by Act No. 26 of 1970)*

PART V

RATES OF INITIAL AND WEAR AND TEAR ALLOWANCES

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- 18.** Under paragraph 3-  
initial allowance for industrial buildings ten per centum
- Under paragraph 4-  
wear and tear allowance for industrial buildings, in the case of low cost housing ten per centum  
and for other industrial buildings five per centum  
and for commercial buildings two per centum
- Under paragraph 10-  
Wear and tear for implements, machinery and plant including Commercial Vehicle twenty-five per centum  
Wear and tear for vehicles other than Commercial Vehicle twenty per centum
- (As amended by Acts No. 11 of 1974, No. 14 of 1976 and No. 29 of 1990)
- Rates of  
initial a  
wear a  
tear  
allowan

PART VI

MINING DEDUCTIONS

- 19.** In this Part unless the context otherwise requires-  
"capital expenditure" means expenditure, in relation to mining or prospecting operations-
- (a) on buildings, works, railway lines or equipment;
- (b) on shaft sinking, including expenditure on pumps, pumps chambers, stations and ore bins accessory to a shaft;
- (c) on the purchase of or on the payment of a premium for the use of any patent, design, trade-mark, process or other expenditure of a similar nature;
- (d) incurred prior to the commencement of production or during any period of non-production on preliminary surveys, boreholes, development or management, or;
- (e) by way of interest payable on any loan for mining or prospecting purposes;
- "deemed loss" means a deduction allowable in accordance with section *twenty-one*;
- "equity" means in relation to a company limited by shares-
- (a) issued ordinary share capital or stock, but only to the extent that such share capital or stock is paid up;
- (b) issued, deferred, preferred, preference or other priority share capital or stock, but only to the extent that such share capital or stock is paid up and provided that such share capital or stock carries no rights of early repayment on demand;
- Interpre  
of term

The Laws of Zambia

- (c) capital reserves in so far as they are not capable of distribution except either by way of diminution of capital or by addition to issued capital; and
- (d) revenue reserves to the extent that they have remained constant throughout the previous twelve months; but does not include-

- (i) loan stock or debentures whether carrying conversion rights or not;
- (ii) bank overdrafts or other drawing facilities;

"estimate of life" means the number of years not exceeding in relation to a mine-

- (a) in the case of a mine operated for the purpose of producing lead or zinc, ten years; and
- (b) in the case of any other mine, twenty years, during which mining operations at the mine may be expected to continue after the beginning of the charge year;

"expenditure" means net expenditure after taking into account any rebates, returns or recoveries from expenditure;

"pre-production expenditure" means capital expenditure incurred in charge years prior to the production charge year;

"production commencement date" means in relation to a mine, the latest of any of the following dates:

- (a) the date on which the mine first commenced regular production;
- (b) where the mine, having previously been in production, was closed down and then re-opened, the date on which it first recommenced regular production; or
- (c) where the mine has changed ownership and has been reorganised with substantially new development and new plant, the date on which it first commenced regular production after such reorganisation;

"production charge year" means the charge year in which a 1953, 1970 or 1975 new mine first commences or recommences regular production;

"prospecting expenditure" means expenditure incurred in relation to prospecting operations, including, any capital expenditure incurred in connection with such operations, and such expenditure as the Commissioner-General determines to be ancillary to expenditure on prospecting operations;

"1953 new mine", means a mine whose production commencement date is later than 31st March, 1953 but not later than 31st March 1970;

"1970 new mine" means a mine whose production commencement date is later than 31st March, 1970 but not later than 31st March, 1975;

"1975 new mine" means a mine whose production commencement date is later than 31st March, 1975.

*(As amended by Act No. 7 of 1996)*

**20.** There shall be no capital expenditure deduction allowed except under the provisions of this Part.

*(As amended by Act No. 7 of 1996)*

Capital  
expenc  
deduct

The Laws of Zambia

21. (1) Subject to the other provisions of this paragraph, the amount of prospecting expenditure incurred by a person in a charge year in respect of an area in Zambia over which a mining right has been granted shall be allowed as a deduction to that person. Prospe  
expenc  
deduct

(2) A company that is entitled may, by notice in writing given to the Commissioner-General within twelve months after the end of the charge year in which the expenditure is incurred, irrevocably elect to forego the deduction in favour of its shareholders; whereupon the deductions shall be allowed, not to the company but to its shareholders instead, in proportion to the calls on shares paid by them during the relevant accounting period or in such other proportions as the Commissioner-General having regard to any special circumstances, may determine:

Provided that this sub-paragraph shall not apply to a company carrying on mining operations in Zambia.

(3) Where-

- (a) a company (in this sub-paragraph called "the parent company") is entitled and under this paragraph to a deduction; and
- (b) subsequent to the date the expenditure is incurred, a new company, of which the parent company is a shareholder, is incorporated for the purpose of-
  - (i) continuing the prospecting operations of the parent company; or
  - (ii) carrying on mining operations in the Republic; and

the parent company may, by notice in writing given to the Commissioner-General within twelve months after the incorporation of the new company, irrevocably elect to forego the deduction in favour of the new company but to the new company instead:

Provided that this sub-paragraph shall not apply-

- (i) to a company carrying on mining operations in Zambia; or
- (ii) in respect of expenditure incurred after the new company takes over the prospecting operations of the parent company or commences to carry on mining operations.

(4) A deduction allowable under this paragraph shall be deemed to be a loss and shall be allowed, in accordance with section *thirty* of the Income Tax Act as a loss incurred-

- (a) in the case of sub-paragraphs (1) and (2), in the charge year in which the expenditure is incurred; and
- (b) in the case of sub-paragraph (3), in the charge year in which the new company takes over the prospecting or exploration operations or commences to carry on mining operations:

Provided that where the deemed loss exceeds the income of the person for the charge year in which it is incurred, the excess shall be deemed to be a loss incurred in the following charge year and so on from year to year until the deemed loss is extinguished.

(5) In computing a loss incurred by the operator of a 1975 new mine in any charge year, prospecting expenditure incurred in relation to the mine and allowable as a deduction shall be deemed to be deducted last.

(As amended by Act No. 7 of 1996)

The Laws of Zambia

**22.** (1) Subject to the other provisions of this paragraph and the provisions of paragraph (5), a deduction shall be allowed in determining the gains or profits from carrying on of mining operations by any person in charge year in respect of the capital expenditure incurred by the person on a mine which is in regular production in the charge year.

Mining  
expenc  
deduct

(2) The deduction to be allowed for a charge year in the case of a 1975 new mine company shall be-

(a) where the charge year is in the production charge year, the sum of the pre-production expenditure, to the extent that such expenditure has not already been allowed as a deduction and the capital expenditure incurred in the production charge year:

Provided that where, on the last day of any charge year prior to the production expenditure incurred in such charge year exceeds the amount remaining after deducting from the equity of the company on such day the prospecting expenditure incurred in such charge year and in all previous charge years on such day and allowable as a deemed loss, the excess shall not be so increased for such charge year; and

(b) where the charge year is a charge year subsequent to the production charge year, the capital expenditure incurred in such charge year.

(3) The deduction to be allowed for a charge year in the case of a 1970 new mine shall be-

(a) where the charge year is the production charge year, the total capital expenditure incurred on the mine up to the end of the production charge year, to the extent that such expenditure has not already been allowed as deduction; and

(b) where the charge year is a charge year subsequent to the production charge year, the capital expenditure incurred on the mine in such charge year.

(4) The deduction to be allowed for any charge year in the case of a 1953 new mine shall be the sum of-

(a) the fraction of any unredeemed capital expenditure on the mine at the commencement of the charge year ended 31st March, 1971, that would have been allowed in such charge year under the provisions of paragraph *twenty-three* of Part VI of the Fifth Schedule to the Income Tax Act, as in force on 31st March, 1970, had those provisions not been repealed;

(b) the capital expenditure incurred on the mine in such charge year.

(5) The deduction to be allowed for any charge year in the case of any other mine shall be-

(a) one-twentieth or, in the case of a mine operated for the purposes of producing lead or zinc, one-eighth of the balance of unredeemed capital expenditure on the mine, including any balance which deductions were previously claimed under Parts I to V of the Fifth Schedule to the Income Tax Act, at the commencement of the charge year ended 31st March, 1971, until such balance is extinguished; and

(b) an amount obtained by taking the sum of-

(i) the balance of the capital expenditure on the mine incurred after 22nd September, 1973 and unredeemed at the commencement of such charge year; and

(ii) the capital expenditure on the mine incurred in such charge year;

and dividing the sum so obtained by the number of years in the approved estimate of the life of the mine:

Provided that where separate and distinct mining operations are carried on in mines which are not contiguous, the deduction allowable shall be calculated separately according to the approved estimate of the life of each mine.

(6) For the purposes of sub-paragraph (5) the approved estimate of the life of the mine at the commencement of the charge year shall be based on the certified estimates of ore reserves of the mine and supported by calculations showing how the estimates have been arrived at as submitted in writing by the person carrying on the mining operations:

Provided that if the Commissioner-General does not approve the estimate of the life of the mine as submitted, the approved estimate of the life of the mine shall be as the Commissioner-General determines.

(7) The deduction for any interest on borrowings to be allowed in any charge year shall not exceed the interest on any borrowings in excess of a loan-to-equity ration of 2:1.

(As amended by Act No. 7 of 1996)

**23.** Where a person is carrying on mining operations in a mine which is in regular production and is also the owner of, or has the right to work, a mine which is not contiguous with the producing mine and from which the person has a loss in the charge year, the amount of such loss may be deducted in ascertaining the gains or profits from his mining operations in that charge year:

Deduct  
mining  
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and  
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mine

Provided that the amount of tax which would otherwise be payable by such person in such charge year is not reduced by more than twenty per centum as a result of this deduction.

(As amended by Act No. 7 of 1996)

The Laws of Zambia

**24.** Where a mine ceases regular production due to the expiration of the life of the mine, or where the mining right has ended, or for any other reason acceptable to the Commissioner-General, and the person who was carrying on the mining operations irrevocably so elects, by notice in writing to the Commissioner-General, within twelve months after the end of the charge year in which the mine ceased regular production, the deduction allowable in ascertaining the gains or profits from the carrying on of the mining operations in respect of the capital expenditure on the mine for each of the last six charge years in which the mine was in regular production shall be an amount arrived at by taking the sum of-

- (a) the unredeemed capital expenditure on the mine at the commencement of the six charge years; and
  - (b) the capital expenditure on the mine incurred in the six charge years;
- and dividing the sum so obtained by six.

*(As amended by Act No. 7 of 1996)*

**25.** Subject to the provisions of paragraph 26, when change in the ownership of a mine takes place, the consideration for the assets which qualify, for the purposes of this Part, as capital expenditure shall, for income tax purposes-

- (a) be allowable as capital expenditure incurred by the new owner; and
- (b) be deemed to be a capital recovery by the previous owner in the charge year in which the change takes place.

**26.** (1) Whenever there is a change in the ownership of a mine, this paragraph shall have effect in relation to the sale of any property in respect of which any deductions have been allowed under this Schedule in any case where either-

- (a) the buyer has control of the seller, or the seller has control of the buyer, or some other person has control of both; or
- (b) the Commission-General determines, by reference to the consideration given for the property, that the same was not at arm's length.

(2) Where the property is sold at a price other than what it would have fetched if sold in the open market, then, subject to the provisions of sub-paragraph (3), the same consequences shall ensue as would have ensued if the property had been sold for the price which it would have fetched if sold in the open market.

(3) Where the sale is one to which clause (a) of sub-paragraph (1) applies and the parties to the sale irrevocably so elect, by notice in writing to the Commissioner-General, then sub-paragraph (2) shall not have effect but, instead, the same consequences shall ensue as would have ensued if the property had been sold for a sum equal to the residue of capital expenditure on the property still unredeemed immediately before the sale.

*(As amended by Acts No. 9 of 1977, No. 14 of 1995 and No. 7 of 1996)*

**27** (1) Nothing in this Part shall apply to petroleum operations.

(2) The Minister may, by statutory instrument, make provisions regulating deductions in connection with petroleum operations.

*(As amended by Acts No. 11 of 1985 and No. 7 of 1996)*



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SIXTH SCHEDULE

(Section 33)

FARMING IMPROVEMENT AND WORKS ALLOWANCES AND LIVESTOCK VALUATION

PART I

FARM IMPROVEMENT ALLOWANCE

1. In this Part-

Definiti

"farm dwelling" means a permanent building, used as a dwelling (the original cost of which is taken for the purposes of this Part as not in excess of one million kwacha), which is not used by the farmer claiming the allowance under this Part as the homestead of himself and his family; and

"farm improvement" means any permanent work, including a farm dwelling and fencing appropriate to farming and any building constructed for and used for the welfare of, employees, and in relation to farming land owned or occupied by the farmer claiming the allowance under this Part for ascertainment of his profit.

*(As amended by Acts No. 6 of 1980, No. 14 of 1987, No. 2 of 1995 and No. 7 of 1996)*

NOTE: Restriction of cost under the definition of "farm dwelling" has been as follows-

K

with effect from 1st April, 1966,000

with effect from 1st April, 1980,000

with effect from 1st April, 1987,000

with effect from 1st April, 1995,000

with effect from 1st April, 1996,000

2. For any expenditure incurred in a charge year on farm improvements, a deduction called improvement allowance shall be allowed in determining the profits of the farming business for the charge year.

Farm  
improv  
allowar

*(As amended by Act No. 11 of 1974 and No. 7 of 1996)*

3. Where the expenditure referred to in paragraph 2 partly in respect of a farm improvement, and partly in respect of some other purposes, only such proportion of that expenditure as the Commissioner-General may determine is taken into account for the purposes of that paragraph.

Dividec  
use

4. *Repealed by Act No. 3 of 1997.*

PART II

FARM WORKS ALLOWANCE

## The Laws of Zambia

**5.** The deduction under this Part (called the farm works allowance) is allowed to a farmer in respect of expenditure on farming land in his ownership or occupation and for the purposes of farming, on stumping and clearing, works for the prevention of soil erosion, boreholes, wells, aerial and geophysical surveys, and water conservation (in this Part collectively referred to as "farm works").

Nature  
farm w

**6.** The expenditure incurred by any person for any charge year in respect of any farm works is allowed as a deduction in ascertaining the profits of his farming business for that year:  
Provided that where the person incurs the expenditure in a charge year prior to the charge year in which he commences farming operations the expenditure shall be allowed as a deduction in the charge year in which he commences farming operations.

Farm  
works  
allowar

*(As amended by Act No. 26 of 1970)*

### PART III

#### VALUATION OF LIVESTOCK

**7.** (1) In ascertaining a farmer's gains or profits the value of his livestock (other than livestock bought by him for stud) is the standard value or if he so irrevocably elects, whichever is the lower of the market value or the cost to him of the livestock.

Standa  
value

(2) The standard value for the purposes of this paragraph applicable to any class of livestock shall be that adopted by the farmer in the first return delivered by him after he commences farming, if the Commissioner-General determines that such value may be approved and that standard value shall not be varied for the purposes of any subsequent charge year unless the Commissioner-General so determines, and subject to any conditions he may impose on such determination.

(3) For the purpose of this paragraph and paragraph 7 of the First Schedule the value of livestock bought for stud shall be the cost price or market value whichever is the lower.

*(As amended by Acts No. 14 of 1987 and No. 17 of 1988)*

### PART IV

#### GENERAL PROVISIONS

**8.** For the purposes of this Schedule the amount of any capital expenditure incurred in respect of farm improvement to which Part I applies for expenditure incurred in respect of farm works to which Part II applies is reduced by the amount of any subsidy or grant from public funds towards or in aid or in recognition of the object of such expenditure.

Subsid

*(As amended by Acts No. 23 of 1968 and No. 14 of 1987)*

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SEVENTH SCHEDULE

(Section 117)

TRANSITIONAL PROVISIONS

*Repealed by Act No. 2 of 1995.*

The Laws of Zambia

EIGHTH SCHEDULE

(Section 77(2))

PAYMENT OF PROVISIONAL TAX

*Repealed by Act No. 12 of 1982.*

CHARGING SCHEDULE

(Section 14)

PART I

PERSONAL ALLOWANCES AND TAX CREDITS

1. (1) Subject to the provisions of this Part, an individual resident in the Republic who for any charge year has furnished a return of income and makes a claim in that behalf giving such particulars, and supported by such proof, as the Commissioner-General may require, shall, in respect of that charge year, be entitled to such personal allowances and tax credits as are appropriate to his case in accordance with the Table contained in Annexure "A" to this Schedule: Claims and rat

Provided that-

- (i) such individual shall be provisionally entitled to such personal allowances and tax credits:
  - (a) for the purposes of section *seventy-one*, and regulation 7 of the Income Tax (Employment) Regulations, if he is a public servant or if he has completed a claim for the immediately preceding charge year in accordance with paragraph 1; or
  - (b) for the purposes of section *forty-six A* if he has provided an estimate of income tax liability for such charge year;
- (ii) such return and claim is made not later than six years after the end of the charge year to which it relates or, if later, six years after the date of service of a notice of assessment for that charge year;
- (iii) where the individual was not resident in the Republic for the previous charge year or is not resident in the Republic for the subsequent charge year, the personal allowances to which he is entitled under this Part shall be reduced by one-twelfth for each complete month for which he does not reside in the Republic in the charge year; and
- (iv) where the emoluments of a claimant are not liable to tax in the Republic, the allowances to which the claimant is entitled shall not exceed the amount of the income, excluding income classified in subsection (1) of section *nineteen*, which is liable to tax in the Republic.

(2) In this Part, "claimant" means an individual who claims personal allowances and tax credits pursuant to section *fourteen* of this Act.

*(As amended by Acts No. 11 of 1973, No. 10 of 1979 and No. 14 of 1987)*

2. *Repealed by Act No. 33 of 1989.*

3. *Repealed by Act No. 14 of 1987.*

4. *Repealed by Act No. 15 of 1990.*

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5. *Repealed by Act No. 15 of 1990.*

6. *Repealed by Act No. 11 of 1992.*

7. *Repealed by Act No. 16 of 1972.*

8. (1) A claimant who is not resident in the Republic may elect that the tax chargeable in the Republic on his income other than the income which the Commissioner-General is prohibited from including in an assessment, shall be reduced to the extent that it shall not exceed the amount of tax which bears the same proportion to the tax which would be chargeable if the claimant's world income were chargeable under this Act (after allowing the personal allowances to which he would be entitled if he were resident in the Republic, but without taking account of double taxation relief under Part VII of the Act as the claimant's assessable income bears to his world income. Non-re world ii electio

(2) An election under this paragraph shall be made in the same manner and subject to the same conditions as a claim for personal allowances and tax credits.

(3) In sub-paragraph (1), "world income" means the total amount of claimant's income from all sources, excluding the income which is chargeable to tax but which the Commissioner-General is prohibited from including in an assessment, the amount of income from each source being substantiated to the Commissioner-General's satisfaction.

*(As amended by Act No. 11 of 1973)*

8A. Where the individual, or spouse of the individual who at any time during the charge year lives with that individual, is a handicapped person, there shall be an abatement of the tax due under this Act by the amount of the handicapped person's credit shown in Annexure "A". Handic person

*(As amended by Acts No. 17 of 1988, No. 4 of 1993 and No. 4 of 1994)*

## PART II

### INDIVIDUAL TAX CREDIT

9. (1) For any individual there shall be an abatement of tax due under this Act by the amount of the individual tax credit shown in Annexure "A". Individ tax cre

(2) Where the individual is not a resident of the Republic for part or all of the charge year, the individual tax credit will be for each complete month in the charge year for which he does not reside in the Republic.

(3) For the purpose of this Part the entitlement of a husband and wife shall be separately determined.

(4) The amount of the individual tax credit provided by this Part shall be in lieu of any personal allowances.

*(As amended by Acts No. 11 of 1992 and No. 4 of 1993)*

## PART III

### RATES OF TAX

The Laws of Zambia

**10.** (1) Subject to the provisions of sub-paragraph (2) and of paragraphs 13, 14, 15 and 16, the tax with which an individual shall be charged for a charge year:

- (a) on income received by way of lump sum payments, shall be calculated at the rate specified for such charge year contained in Part I of Annexure "B" to this Schedule;
- (b) on the balance of his income (except income charged under sub-paragraphs (a), (b), (c) and (e) after the deduction of personal allowances appropriate to his case), shall be calculated at the relevant rates specified for such income in the Table appropriate to such charge year contained in Part II of Annexure "B" to this Schedule:

Provided that-

- (i) the tax chargeable on income received from a rural enterprise, for each of the first five charge year for which such business is carried on, shall be reduced by such amount as is equal to one-seventh of the tax which would otherwise be so chargeable on such business income;
- (ii) the maximum rate on income received from farming shall be fifteen per centum;
- (iii) the maximum rate of tax on that portion of income which is determined by the Commissioner-General as originating from the export of non-traditional products shall be fifteen per centum; and
- (iv) repealed by Act No. 2 of 1995;
- (v) the maximum rate of tax on the balance of income received under subsection (5) of section *twenty-one* shall be ten per centum.

(As amended by Acts No. 11 of 1992, No. 14 of 1994 and No. 2 of 1995)

- (c) on the balance of any income deemed to be his pursuant to subsection (1) of section *nineteen* arising from any business, excluding the letting of property, or from any employment (except any such income charged under sub-paragraphs (a) or (e), after the deduction of any personal allowances appropriate to his case which it has not been possible to deduct from income charged under sub-paragraph (b), shall be calculated at the relevant rates specified for such income in the Table appropriate to such charge year contained in Part II of Annexure "B" to this Schedule:

Provided that-

- (i) the tax chargeable on income received from a rural enterprise, for each of the first five charge years for which such business is carried on shall, be reduced by such amount as is equal to one-seventh of the tax which would otherwise be so chargeable on such business income;
- (ii) the maximum rate of tax on income received from farming shall be fifteen per centum;
- (iii) the maximum rate of tax on that portion of income which is determined by the Commissioner-General as originating from the export of non-traditional products shall be fifteen per centum.
- (d) on the balance of income received by way of gratuity as provided by section *twenty-one* (except any such income charged under sub-paragraph (e), after the deduction of any personal allowances appropriate to his case which it has not been possible to deduct from income charged under sub-paragraphs (b) and (c), shall be calculated at the relevant rates specified for such income in the Table appropriate to such charge year contained in Part II of Annexure "B" to this Schedule.

(As amended by Act No. 17 of 1988)

**11.** Subject to the provisions of paragraph 13, 14, 15 and 16 the tax with which a person other than an individual, a trust, a deceased's estate or a bankrupt's estate, shall be charged on income for a charge year shall be calculated at the relevant rates specified for such income in the Table appropriate to such charge year contained in Annexure "C" to this Schedule:

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trusts,  
deceas  
estates  
bankru  
estates

Provided that-

- (i) the tax chargeable on income received from a rural enterprise for each of the first five charge years for which such business is carried on, shall be reduced by such amount as is equal to one-seventh of the tax which would otherwise be so chargeable on such business income;
- (ii) the rate of tax on income received from farming shall be fifteen per centum;  
(the rate for the year ended 31st March, 1982 was twenty-five per centum)
- (iii) the maximum rate of tax on that portion of income which is determined by the Commissioner-General as originating from export of non-traditional products shall be fifteen per centum;
- (iv) the rate of tax on income received by a company listed on the Lusaka Stock Exchange, shall be thirty per centum.

(As amended by Acts No. 16 of 1972, No. 11 of 1985, No. 14 of 1986  
and No. 7 of 1996)

## The Laws of Zambia

**12.** Subject to the provisions of paragraphs 13, 14, 15 and 16 the tax with which a trust or a bankrupt's estate shall be charged on income for a charge year shall be calculated at the relevant rates specified for such income in the Table appropriate to such charge year contained in Annexure "D" to this Schedule.

(As amended by Act No. 16 of 1972)

Trust,  
deceas  
estate  
and  
bankru  
estate

**12A.** Repealed by Act No. 7 of 1996.

**13.** Repealed by Act No. 7 of 1996.

**14.** Subject to the provisions of any agreement made under section *seventy-four*, the tax with which a person shall be charged for a charge year on Management or Consultancy fees which the Commissioner-General is prohibited from including in an assessment under the provisos to subsection (1) of section *sixty-three*, shall be at the rate specified in the Table appropriate to that charge year as set forth in Annexure "K" to this Schedule.

(As amended by Acts No. 4 of 1993 and No. 2 of 1995)

Manag  
and  
Consul  
fees

**15.** Subject to the provisions of any agreement made under section *seventy-four*, the tax with which a person shall be charged for a charge year on interest and royalties which the Commissioner-General is prohibited from including in an assessment under the provisos to subsection (1) of section *sixty-three*, shall be at the rate specified in the Table appropriate to such charge year contained in Annexure "G" to this Schedule.

(As amended by Acts No. 16 of 1972, No. 11 of 1993, No. 2 of 1995  
and No. 7 of 1996)

Interes  
and  
royaltie

**16.** Subject to the provisions of any agreement made under section *seventy-four*, the tax with which a person shall be charged for a charge year in the case of a person who is not resident in the Republic or a Company incorporated in the Republic on dividends which the Commissioner-General is prohibited from including in an assessment under the provisions of sub-paragraphs (i) and (ii) of the proviso to subsection (1) of section *sixty-three* shall be at the rate specified in the Table appropriate to such charge year contained in Annexure "H" to this Schedule.

(As amended by Act No. 10 of 1979)

Divider

## ANNEXURES

- A Personal Allowances Deduction.
- B Rates for Individuals, Parts I, II, III, IV and V.
- C Rates for Persons other than Individuals, Trusts, Deceased's and Bankrupt's Estate.
- D Rates for Trusts, Deceased's Estates and Bankrupt's Estate.
- E Rates for Public Entertainment Fees.
- F Rates for Large Scale Mining.
- G Rates for Interest and Royalties.
- H Rates for Dividends.
- I Rates for Rents.
- J Rates for Contractors and Suppliers (under section *eighty-one A*)
- K Rates for Management and Consultancy Fees

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ANNEXURE "A"

PART I

PERSONAL ALLOWANCE DEDUCTION

(Paragraph 9)

**Table 1** with effect from 1st April, 1969

(a)	Married allowance under paragraph 2	..	..	..	..	K1,300
(b)	Family allowance under paragraph 3 (subject to apportionment pursuant to sub-paragraph (3) of paragraph 3)	..	..	..	..	K450
(c)	Single allowance under paragraph 4	..	..	..	..	K450
(d)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K180
(e)	Insurance allowance under paragraph 6 20% of premiums up to maximum allowance of	..	..	..	..	K300
(f)	Non-resident allowance under paragraph 6	..	..	..	..	K600

**Table 2** with effect from 1st April, 1971

(a)	Married allowance under paragraph 2	..	..	..	..	K1,300
(b)	Family allowance under paragraph 3 (subject to apportionment pursuant to sub-paragraph (3) of paragraph 3)	..	..	..	..	K450
(c)	Single allowance under paragraph 4	..	..	..	..	K500
(d)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K180
(e)	Insurance allowance under paragraph 6 20% of premiums up to maximum allowance of	..	..	..	..	K300
(f)	Non-resident allowance under paragraph 6	..	..	..	..	K400
(g)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K400

**Table 3** with effect from 1st April, 1972

(a)	Married allowance under paragraph 2	..	..	..	..	K1,000
(b)	Single allowance under paragraph 4	..	..	..	..	K500
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K180
(d)	Insurance allowance under paragraph 6 20% of premiums up to maximum allowance of	..	..	..	..	K300
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K600

(As amended by Act No. 16 of 1972)

**Table 4** with effect from 1st April, 1975

(a)	Married allowance under paragraph 2	..	..	..	..	K1,000
(b)	Single allowance under paragraph 4	..	..	..	..	K500
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K200
(d)	Insurance allowance under paragraph 6 20% of premiums up to maximum allowance of	..	..	..	..	K300
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K500

(As amended by Act No. 11 of 1975)



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**Table 5** with effect from 1st April, 1978

(a)	Married allowance under paragraph 2	..	..	..	..	K1,000
(b)	Single allowance under paragraph 4	..	..	..	..	K500
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K225
(d)	Insurance allowance under paragraph 6 20% of premiums up to maximum allowance of	..	..	..	..	K500
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K500

(As amended by Act No. 9 of 1978)

**Table 6** with effect from 1st April, 1979

(a)	Married allowance under paragraph 2	..	..	..	..	K1,000
(b)	Single allowance under paragraph 4	..	..	..	..	K500
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K225
(d)	Insurance allowance under paragraph 6 20% of premiums up to maximum allowance of	..	..	..	..	K300
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K500

(As amended by Act No. 10 of 1979)

**Table 7** with effect from 1st April, 1981

(a)	Married allowance under paragraph 2	..	..	..	..	K1,500
(b)	Single allowance under paragraph 4	..	..	..	..	K600
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K225
(d)	Insurance allowance under paragraph 6 20% of premiums up to maximum allowance of	..	..	..	..	K400
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K500

(As amended by Act No. 10 of 1981)

**Table 8** with effect from 1st April, 1984

(a)	Married allowance under paragraph 2	..	..	..	..	K1,700
(b)	Single allowance under paragraph 4	..	..	..	..	K650
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K325
(d)	Insurance allowance under paragraph 6 The amount of premiums up to maximum of	..	..	..	..	K600
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K600

(As amended by Act No. 12 of 1982)

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**Table 9** with effect from 1st April, 1984

(a)	Married allowance under paragraph 2	..	..	..	..	K1,700
(b)	Single allowance under paragraph 4	..	..	..	..	K650
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K325
(d)	Insurance allowance under paragraph 6 The amount of premiums up to maximum of	..	..	..	..	K400
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K600

(As amended by Act No. 11 of 1984)

**Table 10** with effect from 1st April, 1985

(a)	Married allowance under paragraph 2	..	..	..	..	K2,100
(b)	Single allowance under paragraph 4	..	..	..	..	K900
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K325
(d)	Insurance allowance under paragraph 6 The amount of premiums up to maximum of	..	..	..	..	K400
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K600

(As amended by Act No. 11 of 1985)

**Table 11** with effect from 1st April, 1986

(a)	Married allowance under paragraph 2	..	..	..	..	K2,100
(b)	Single allowance under paragraph 4	..	..	..	..	K900
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K330
(d)	Insurance allowance under paragraph 6 The amount of premiums up to maximum of	..	..	..	..	K400
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K600

(As amended by Act No. 8 of 1986)

**Table 12** with effect from 1st April, 1987

(a)	Married allowance under paragraph 2	..	..	..	..	K4,600
(b)	Single allowance under paragraph 4	..	..	..	..	K1,800
(c)	Child allowance under paragraph 5 (subject to apportionment pursuant to sub-paragraph (2) of paragraph 5)	..	..	..	..	K330
(d)	Insurance allowance under paragraph 6 The amount of premiums up to maximum of	..	..	..	..	K800
(e)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K600

(As amended by Act No. 14 of 1987)

**Table 13** with effect from 1st April, 1989

(a)	Primary allowance under paragraph 2	..	..	..	..	K6,000
(b)	Insurance allowance under paragraph 6 The amount of premiums up to maximum of	..	..	..	..	K800
(c)	Handicapped persons allowance under paragraph 8A	..	..	..	..	K600

(As amended by Act No. 28 of 1989)

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**Table 14** with effect from 1st April, 1990

(a)	Primary allowance under paragraph 2	..	..	..	..	K12,000
(b)	Insurance allowance under paragraph 6					
	The amount of premiums up to maximum of	..	..	..	..	K800
(c)	Handicapped persons allowance under paragraph 8A					K600

(As amended by Act No. 33 of 1989)

PART II

INDIVIDUAL TAX CREDIT

(Paragraph 9A)

**Table 1** with effect from 1st April, 1993

	Primary allowance under sub-paragraph 9A (1)	..	..	..	..	K72,000
	Tax credit under sub-paragraph 9A(2) and 9A(3)					K13,000

(As amended by Act No. 11 of 1992)

**Table 2** with effect from 1st April, 1993

	Individual tax credit under sub-paragraph 9(1)	..	..	..	..	K45,000
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**Table 3** with effect from 1st April, 1995

	Individual tax credit under sub-paragraph 9(1)	..	..	..	..	K60,000
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ANNEXURE "B"

PART I

(Sub-paragraph 10(1)(a))

	<i>Rate per centum</i>
Lump sum payments	10

PART II

(Sub-paragraphs 10(1)(b), (c), (d) and (e))

**Table 1** with effect from 1st April, 1969

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K500	7.5
exceeds K500 but does not exceed K1,000	10.0
exceeds K1,000 but does not exceed K1,500	12.5
exceeds K1,500 but does not exceed K2,000	15.0
exceeds K2,000 but does not exceed K2,500	20.0
exceeds K2,500 but does not exceed K4,000	30.0
exceeds K4,000 but does not exceed K6,000	35.0
exceeds K6,000 but does not exceed K8,500	40.0
exceeds K8,500 but does not exceed K10,500	50.0
exceeds K10,500	60.0

**Table 2** with effect from 1st April, 1978

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K500	7.5
exceeds K500 but does not exceed K1,000	10.0
exceeds K1,000 but does not exceed K1,500	12.5
exceeds K1,500 but does not exceed K2,000	15.0
exceeds K2,000 but does not exceed K2,500	20.0
exceeds K2,500 but does not exceed K4,000	30.0
exceeds K4,000 but does not exceed K6,000	35.0
exceeds K6,000 but does not exceed K8,500	40.0
exceeds K8,500 but does not exceed K10,500	50.0
exceeds K10,000 but does not exceed K20,000	60.0
exceeds K20,000 but does not exceed K25,000	70.0
exceeds K25,000 but does not exceed K30,000	80.0
exceeds K30,000	90.0

(As amended by Act No. 26 of 1970)

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**Table 3** with effect from 1st April, 1971

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K500	..	..	..	..	7.5
exceeds K500 but does not exceed K1,000	..	..	..	..	10.0
exceeds K1,000 but does not exceed K1,500	..	..	..	..	12.5
exceeds K1,500 but does not exceed K2,000	..	..	..	..	15.0
exceeds K2,000 but does not exceed K2,500	..	..	..	..	20.0
					<i>Rate per centum</i>
exceeds K2,500 but does not exceed K4,000	..	..	..	..	30.0
exceeds K4,000 but does not exceed K6,000	..	..	..	..	35.0
exceeds K6,000 but does not exceed K8,500	..	..	..	..	40.0
exceeds K8,500 but does not exceed K10,000	..	..	..	..	50.0
exceeds K10,000 but does not exceed K15,000	..	..	..	..	60.0
exceeds K15,000 but does not exceed K20,000	..	..	..	..	70.0
exceeds K20,000	..	..	..	..	75.0

(As amended by Act No. 17 of 1971)

**Table 4** with effect from 1st April, 1973

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K1,000	..	..	..	..	10.0
exceeds K1,000 but does not exceed K2,000	..	..	..	..	20.0
exceeds K2,500 but does not exceed K4,000	..	..	..	..	30.0
exceeds K4,000 but does not exceed K6,000	..	..	..	..	40.0
exceeds K6,000 but does not exceed K8,000	..	..	..	..	50.0
exceeds K8,000 but does not exceed K10,000	..	..	..	..	60.0
exceeds K10,000 but does not exceed K12,000	..	..	..	..	65.0
exceeds K12,000 but does not exceed K16,000	..	..	..	..	70.0
exceeds K16,000	..	..	..	..	75.0

(As amended by Act No. 11 of 1973)

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**Table 5** with effect from 1st April, 1974

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K500	..	..	..	..	..	..	..	5.0
exceeds K500 but does not exceed K2,000	..	..	..	..	..	..	..	10.0
exceeds K2,000 but does not exceed K4,000.	..	..	..	..	..	..	..	20.0
exceeds K4,000 but does not exceed K6,000.	..	..	..	..	..	..	..	30.5
exceeds K6,000 but does not exceed K8,000.	..	..	..	..	..	..	..	40.0
exceeds K8,000 but does not exceed K10,000.	..	..	..	..	..	..	..	50.0
exceeds K10,000 but does not exceed K12,000.	..	..	..	..	..	..	..	60.0
exceeds K12,000	..	..	..	..	..	..	..	70.0

(As amended by Act No. 11 of 1974)

**Table 6** with effect from 1st April, 1976

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K500	..	..	..	..	..	..	..	5.0
exceeds K500 but does not exceed K2,000	..	..	..	..	..	..	..	10.0
exceeds K2,000 but does not exceed K4,000.	..	..	..	..	..	..	..	22.5
exceeds K4,000 but does not exceed K6,000.	..	..	..	..	..	..	..	32.5
exceeds K6,000 but does not exceed K8,000.	..	..	..	..	..	..	..	45.0
exceeds K8,000 but does not exceed K10,000.	..	..	..	..	..	..	..	55.0
exceeds K10,000 but does not exceed K12,000	..	..	..	..	..	..	..	65.0
exceeds K12,000	..	..	..	..	..	..	..	75.0

(As amended by Act No. 14 of 1976)

**Table 7** with effect from 1st April, 1977

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-*Rate per centum*

does not exceed K500	..	..	..	..	..	..	..	5.0
exceeds K500 but does not exceed K2,000	..	..	..	..	..	..	..	10.0
exceeds K2,000 but does not exceed K4,000.	..	..	..	..	..	..	..	25.0
exceeds K4,000 but does not exceed K6,000.	..	..	..	..	..	..	..	35.0
exceeds K6,000 but does not exceed K8,000.	..	..	..	..	..	..	..	45.0
exceeds K8,000 but does not exceed K10,000.	..	..	..	..	..	..	..	55.0
exceeds K10,000 but does not exceed K12,000	..	..	..	..	..	..	..	65.0
exceeds K12,000	..	..	..	..	..	..	..	75.0

(As amended by Act No. 9 of 1977)

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**Table 8** with effect from 1st April, 1979

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K1,000	..	..	..	..	..	..	..	5.0
exceeds K1,000 but does not exceed K2,000	..	..	..	..	..	..	..	10.0
exceeds K2,000 but does not exceed K4,000	..	..	..	..	..	..	..	20.0
exceeds K4,000 but does not exceed K6,000	..	..	..	..	..	..	..	30.0
exceeds K6,000 but does not exceed K8,000	..	..	..	..	..	..	..	45.0
exceeds K8,000 but does not exceed K10,000	..	..	..	..	..	..	..	55.0
exceeds K10,000 but does not exceed K12,000	..	..	..	..	..	..	..	65.0
exceeds K12,000	..	..	..	..	..	..	..	70.0

(As amended by Act No. 10 of 1979)

**Table 9** with effect from 1st April, 1981

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K1,000	..	..	..	..	..	..	..	5.0
exceeds K1,000 but does not exceed K2,500	..	..	..	..	..	..	..	10.0
exceeds K2,500 but does not exceed K4,000	..	..	..	..	..	..	..	15.0
exceeds K4,000 but does not exceed K6,500	..	..	..	..	..	..	..	20.0
exceeds K6,500 but does not exceed K9,000	..	..	..	..	..	..	..	30.0
exceeds K9,000 but does not exceed K12,000	..	..	..	..	..	..	..	45.0
exceeds K12,000 but does not exceed K15,000	..	..	..	..	..	..	..	60.0
exceeds K15,000 but does not exceed K20,000	..	..	..	..	..	..	..	70.0
exceeds K20,000 but does not exceed K25,000	..	..	..	..	..	..	..	75.0
exceeds K25,000	..	..	..	..	..	..	..	80.0

(As amended by Act No. 10 of 1981)

**Table 10 (without inducement allowance)** with effect from 1st April, 1986

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

The part of the balance of such income that-

does not exceed K2,000	..	..	..	..	..	..	..	5.0
exceeds K2,000 but does not exceed K5,500	..	..	..	..	..	..	..	15.0
exceeds K5,500 but does not exceed K10,000	..	..	..	..	..	..	..	25.0
exceeds K10,000 but does not exceed K15,500	..	..	..	..	..	..	..	35.0
exceeds K15,500 but does not exceed K22,000	..	..	..	..	..	..	..	45.0
								<i>Rate per centum</i>
exceeds K22,000 but does not exceed K30,000	..	..	..	..	..	..	..	55.0
exceeds K30,000 but does not exceed K40,000	..	..	..	..	..	..	..	60.0
exceeds K40,000	..	..	..	..	..	..	..	65.0

(As amended by Act No. 8 of 1986)

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PART II

(Paragraph 10(3))

**Table 11 (with inducement allowance)** with effect from 1st April, 1986

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

does not exceed K2,000	..	..	..	..	..	..	..	10.0
exceeds K2,000 but does not exceed K5,500	..	..	..	..	..	..	..	25.0
exceeds K5,500 but does not exceed K10,000	..	..	..	..	..	..	..	40.0
exceeds K10,000 but does not exceed K15,500	..	..	..	..	..	..	..	55.0
exceeds K15,500 but does not exceed K22,000	..	..	..	..	..	..	..	65.0
exceeds K22,000 but does not exceed K30,000	..	..	..	..	..	..	..	70.0
exceeds K30,000	..	..	..	..	..	..	..	75.0

(As amended by Act No. 8 of 1986)

**Table 12 (without inducement allowance)** with effect from 1st April, 1988

Balance of income charged either under sub-paragraphs 10(1)(b), (c), (d) and (e) but excluding income charged under sub-paragraph 10(1)(a):

does not exceed K2,000	..	..	..	..	..	..	..	5.0
exceeds K2,000 but does not exceed K4,500	..	..	..	..	..	..	..	10.0
exceeds K4,500 but does not exceed K8,000	..	..	..	..	..	..	..	15.0
exceeds K8,000 but does not exceed K12,500	..	..	..	..	..	..	..	25.0
exceeds K12,000 but does not exceed K17,000	..	..	..	..	..	..	..	35.0
exceeds K17,000 but does not exceed K23,000	..	..	..	..	..	..	..	40.0
exceeds K23,000 but does not exceed K30,000	..	..	..	..	..	..	..	45.0
exceeds K30,000 but does not exceed K40,000	..	..	..	..	..	..	..	55.0
exceeds K40,000	..	..	..	..	..	..	..	60.0

(As amended by Act No. ?? of 1988)

**Table 13 (without inducement allowance)** with effect from 1st April, 1990

The balance of income that-

does not exceed K5,000	..	..	..	..	..	..	..	5.0
exceeds K5,000 but does not exceed K15,000	..	..	..	..	..	..	..	10.0
exceeds K15,000 but does not exceed K30,000	..	..	..	..	..	..	..	20.0
exceeds K30,000 but does not exceed K50,000	..	..	..	..	..	..	..	30.0
exceeds K50,000 but does not exceed K70,000	..	..	..	..	..	..	..	40.0
exceeds K70,000 but does not exceed K100,000	..	..	..	..	..	..	..	45.0
exceeds K100,000	..	..	..	..	..	..	..	50.0

(As amended by Acts No. 33 of 1989 and No. 12 of 1991)



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**Table 14** with effect from 1st April, 1992

The balance of income that-

does not exceed K50,000	..	..	..	..	..	..	..	15.0
exceeds K50,000 but does not exceed K100,000	..	..	..	..	..	..	..	25.0
exceeds K100,000	..	..	..	..	..	..	..	35.0

(As amended by Act No. 11 of 1992)

**Table 15** with effect from 1st April, 1993

The balance of income that-*Rate per centum*

does not exceed K600,000	..	..	..	..	..	..	..	15.0
exceeds K600,000 but does not exceed K900,000	..	..	..	..	..	..	..	25.0
exceeds K900,000	..	..	..	..	..	..	..	35.0

**Table 16** with effect from 1st April, 1995

The balance of income that-

does not exceed K900,000	..	..	..	..	..	..	..	15.0
exceeds K900,000 but does not exceed K1,200,000	..	..	..	..	..	..	..	25.0
exceeds K1,200,000	..	..	..	..	..	..	..	35.0

(As amended by Act No. 7 of 1996)

**Table 17** with effect from 1st April, 1996

The balance of income that-

does not exceed K1,200,000.	..	..	..	..	..	..	..	10.0
exceeds K1,200,000 but does not exceed K1,800,000.	..	..	..	..	..	..	..	20.0
exceeds K1,800,000	..	..	..	..	..	..	..	30.0

(As amended by Act No. 7 of 1996)

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ANNEXURE "C"

RATES FOR PERSONS OTHER THAN INDIVIDUALS, TRUSTS, DECEASEDS' ESTATE AND BANKRUPTS' ESTATE

(Paragraph 11)

**Table 1** with effect from 1st April, 1968

So much of income as-

does not exceed K200,000 .. .. .	37.5
exceeds K200,000 .. .. .	45.5

**Table 2** with effect from 1st April, 1969

45.0

(As amended by Act No. 26 of 1970)

**Table 3** with effect from 1st April, 1976

50.0

(As amended by Act No. 9 of 1977)

**Table 4** with effect from 1st April, 1981

(As amended by Act No. 10 of 1979)

**Table 5** with effect from 1st April, 1981

50.0

(As amended by Act No. 10 of 1981)

**Table 6** with effect from 1st April, 1981

45.0

(As amended by Act No. 12 of 1982)

**Table 7** with effect from 1st April, 1984

50.0

(As amended by Act No. 8 of 1986)

**Table 8** with effect from 1st April, 1986

Manufacturing company .. .. .	35.0
Others .. .. .	45.0

(As amended by Act No. 14 of 1987)

**Table 10** with effect from 1st April, 1989

On income from manufacturing .. .. .	40.0
On other income .. .. .	45.0
On income of all banks registered under the Banking and Financial Services Act:	
(i) on income up to K10,000,000 .. .. .	45.0
(ii) on income in excess of K10,000,000 .. .. .	52.5

**Table 11** with effect from 1st April, 1991 *Rate per centum*

On income from manufacturing and other income .. .. .	45.0
On income of all banks registered under the Banking and Financial Services Act:	
(i) on income up to K10,000,000 .. .. .	45.0
(ii) on income in excess of K10,000,000 .. .. .	52.5

(As amended by Act No. 29 of 1990)

The Laws of Zambia

**Table 12** with effect from 1st April, 1992

On income from manufacturing and other income	..	..	..	40.0
On income of all banks registered under the Banking and Financial Services Act:				
(i) on income up to K10,000,000	..	..	..	40.0
(ii) on income in excess of K10,000,000	..	..	..	45.0

*(As amended by Act No. 11 of 1992)*

**Table 13** with effect from 1st April, 1994

On income from manufacturing and other income	..	..	..	35.0
On income of all banks registered under the Banking and Financial Services Act:				
(i) on income up to K100,000,000	..	..	..	35.0
(ii) on income in excess of K100,000,000	..	..	..	45.0

*(As amended by Act No. 4 of 1993)*

**Table 14** with effect from 1st April, 1996

On income from LUSE listed companies	..	..	..	30.0
On income from manufacturing and other companies	..	..	..	35.0
On income of all banks registered under the Banking and Financial Services Act:				
(i) on income up to K100 million	..	..	..	35.0
(ii) on income in excess of K100 million	..	..	..	45.0

*(As amended by Act No. 7 of 1996)*

The Laws of Zambia  
ANNEXURE "D"

RATES FOR TRUSTS, DECEASEDS' ESTATES AND BANKRUPTS' ESTATES

(Paragraph 12)

**Table 1** with effect from 1st April, 1969

The income of-

a trust	..	..	..	..	..	..	..	..	35.0
the estate of deceased person	..	..	..	..	..	..	..	..	35.0
the estate of a bankrupt	..	..	..	..	..	..	..	..	35.0

**Table 2** with effect from 31st January, 1993

The income of-

(1) a trust	..	..	..	..	..	..	..	..	35.0
(2) a deceased's estate:									
first K5,000,000	..	..	..	..	..	..	..	..	Nil
next K250,000	..	..	..	..	..	..	..	..	5.0
balance	..	..	..	..	..	..	..	..	10.0
(3) a bankrupts' estate	..	..	..	..	..	..	..	..	35.0

**Table 3** with effect from 1st April, 1996

The income of-

(i) a trust	..	..	..	..	..	..	..	..	35.0
(ii) a bankrupt's estate	..	..	..	..	..	..	..	..	35.0

The Laws of Zambia  
ANNEXURE "E"

RATES FOR PUBLIC ENTERTAINMENT FEES

<b>Table 1</b>	with effect from 1st April, 1971	15.0
<b>Table 2</b>	with effect from 1st April, 1977	30.0

(As amended by Act No. 9 of 1977)

*Rate per centum*

<b>Table 3</b>	with effect from 1st April, 1993	10.0
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(As amended by Act No. 26c of 1970)

**Table 4** Repealed by Act No. 7 of 1996

ANNEXURE "F"

*Repealed by Act No. 7 of 1996*

ANNEXURE "G"

RATES FOR WITHHOLDING TAX ON INTEREST AND ROYALTIES

<b>Table 1</b>	with effect from 1st April, 1971	10.0
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(As amended by Acts No. 17 of 1971 and No. 16 of 1972)

<b>Table 2</b>	with effect from 26th January, 1973	20.0
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(As amended by Act No. 11 of 1973)

<b>Table 3</b>	with effect from 1st April, 1977	30.0
----------------	----------------------------------	------

(As amended by Act No. 9 of 1977)

<b>Table 4</b>	with effect from 1st April, 1985	
Royalties	.. .. .	30.0
Interest	.. .. .	15.0

(As amended by Act No. 11 of 1985)

<b>Table 5</b>	with effect from 1st April, 1992	
Royalties	.. .. .	10.0
Interest	.. .. .	10.0

(As amended by Act No. 11 of 1992)

The Laws of Zambia

**Table 6** with effect from 1st April, 1993

Royalties	..	..	..	..	..	..	..	..	..	10.0
Interest	..	..	..	..	..	..	..	..	..	10.0

*(As amended by Act No. 4 of 1993)*

**Table 7** with effect from 1st August, 1995

Royalties	..	..	..	..	..	..	..	..	..	25.0
Interest	..	..	..	..	..	..	..	..	..	25.0

*(As amended by Act No. 18 of 1995)*

**Table 8** with effect from 1st August, 1996

Royalties	..	..	..	..	..	..	..	..	..	15.0
Interest	..	..	..	..	..	..	..	..	..	15.0

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ANNEXURE "H"

RATES FOR DIVIDENDS WHICH THE COMMISSIONER-GENERAL IS PROHIBITED FROM INCLUDING IN AN ASSESSMENT

**Table 1** with effect from 1st April, 1972 15.5  
(As amended by Acts No. 16 of 1972 and No. 10 of 1979)

**Table 2** with effect from 26th January, 1973 20.0  
(As amended by Act No. 11 of 1973)

**Table 3** with effect from 1st April, 1984

Companies and non-resident shareholders	..	..	..	..	20.0
Resident shareholders	..	..	..	..	35.0

(As amended by Act No. 11 of 1984)

**Table 4** with effect from 1st April, 1985 *Rate per centum*

Companies and non-resident shareholders	..	..	..	..	20.0
Resident shareholders	..	..	..	..	30.0

(As amended by Act No. 11 of 1985)

**Table 5** with effect from 1st April, 1991

Resident companies	..	..	..	..	15.0
Non-resident shareholders	..	..	..	..	20.0
Resident individual shareholders	..	..	..	..	30.0

(As amended by Act No. 29 of 1990)

**Table 6** with effect from 1st April, 1993

Resident shareholders	..	..	..	..	10.0
Non-resident shareholders not covered by Treaty	..	..	..	..	10.0
Non-resident shareholders covered by Treaty	..	..	..	..	Applicable Treaty rate

(As amended by Act No. 4 of 1993)

**Table 7** with effect from 1st August, 1995

Resident shareholders	..	..	..	..	25.0
Non-resident shareholders not covered by Treaty	..	..	..	..	25.0
Non-resident shareholders covered by Treaty	..	..	..	..	25.0

(As amended by Act No. 18 of 1995)

**Table 8** with effect from 1st April, 1996

Resident shareholders	..	..	..	..	15.0
Non-resident shareholders covered by Treaty	..	..	..	..	15.0
Non-resident shareholders not covered by Treaty	..	..	..	..	15.0

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ANNEXURE "I"

RATES FOR DEDUCTION OF TAX FROM RENT UNDER SECTION 82A

<b>Table 1</b>	with effect from 1st April, 1984	35.0
		<i>(As amended by Act No. 11 of 1984)</i>
<b>Table 2</b>	with effect from 1st April, 1985	15.0
		<i>(As amended by Act No. 11 of 1985)</i>
<b>Table 3</b>	with effect from 1st April, 1989	25.0
		<i>(As amended by Act No. 28 of 1988)</i>
<b>Table 4</b>	with effect from 1st April, 1993	10.0
		<i>(As amended by Act No. 2 of 1993)</i>
<b>Table 5</b>	with effect from 1st August, 1995	25.0
		<i>(As amended by Act No. 2 of 1995)</i>
<b>Table 6</b>	with effect from 1st April, 1996	15.0
		<i>(As amended by Act No. 7 of 1996)</i>

The Laws of Zambia  
ANNEXURE "J"

RATES FOR WITHHOLDING TAX UNDER SECTION 81A AND 81B

<b>Table 1</b>	with effect from 1st April, 1989	25.0
		<i>(As amended by Act No. 28 of 1988)</i>
<b>Table 2</b>	with effect from 1st April, 1992	15.0
		<i>(As amended by Act No. 11 of 1992)</i>
<b>Table 3</b>	with effect from 1st April, 1993	10.0
		<i>(As amended by Act No. 4 of 1993)</i>
<b>Table 4</b>	with effect from 1st April, 1994	10.0
		<i>(As amended by Acts No. 14 of 1994 and No. 7 of 1996)</i>

The Laws of Zambia  
ANNEXURE "K"

RATES FOR WITHHOLDING TAX UNDER SECTION 82A

	<i>Rate per centum</i>
<b>Table 1</b> with effect from 1st April, 1995	10.0
	<i>(As amended by Act No. 2 of 1995)</i>
<b>Table 2</b> with effect from 1st August, 1995	25.0
	<i>(As amended by Act No. 27 of 1995)</i>
<b>Table 3</b> with effect from 1st April, 1996	15.0
	<i>(As amended by Act No. 7 of 1996)</i>

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**PART C**

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**SUBSIDIARY LEGISLATION**

SECTIONS 9 AND 107-THE TAX APPEAL COURT REGULATIONS

*Statutory Instrument  
126 of 1973*

Regulations by the Minister (*Revised as a Consequence of the Amendments to Section 107 of the Act to fit into the application of the Law*)

1. These Regulations may be cited as the Tax Appeal Court Regulations.

Title

2. In these Regulations unless the context otherwise requires-

Interpretation

"Appellant" means a person who under the Act has the right to appeal to the court and includes a legal practitioner or agent acting on his behalf;

"Chairman" means the Chairman of the Court appointed under section *one hundred and seven* of the Act and Deputy Chairman or Special Chairman shall be construed accordingly;

"Commissioner-General" means the Commissioner-General of the Zambia Revenue Authority;

"Registrar" means an Officer of the Court appointed under sub-section (8) of section *one hundred and seven* of the Act and Deputy Registrar shall be construed accordingly.

3. (1) The Registrar of the Court shall be the Chief Administrative Officer of the Court and shall in that capacity issue documents and accept service on behalf of the court.

Registrar of Court

(2) The Commissioner-General shall appoint such officers as may be necessary for the performance of the functions of the court.

4. (1) The Registrar of the Court shall by *Gazette* notice notify his address for service of documents for the purposes of these Regulations and in his capacity as Registrar shall comply with the general and special directions of the court and the Chairman.

Registrar to notify  
address for service

(2) The Registrar shall attend sittings of the court but shall not take part in the deliberations and consideration of the decisions of the court.

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5. (1) The court shall sit in such place or places as may be appointed by the Chairman. Place and sittings of Court

(2) The date of hearing of any appeal shall be determined by the Chairman and notice thereof shall be published by him in the *Gazette* at least one month prior to that date.

6. A member of the court shall not sit as member, chairman or registrar if he has any interest, direct or indirect, personal or pecuniary in any matter before the court. Member of Court barred by vested interest

7. The court shall, subject to the provisions of the Act and these regulations determine its own procedure. Practice and Procedure

8. Every Notice of Appeal to the court under section *one hundred and nine* of the Act shall be in duplicate and shall contain an address for service of notices or documents. Notice of Appeal

9. (1) An appellant shall, within fourteen days after the date on which he gave written notice of appeal to the Commissioner in accordance with sub-section (1) of section *one hundred and nine* of the Act, serve on the Registrar a memorandum of appeal in quadruplicate, accompanied by the copies of the documents and the statement of facts required by sub-regulation (3) of this Regulation. Memorandum of Appeal

(2) The Memorandum of Appeal shall be signed by the Appellant and shall set forth concisely each ground of appeal, without any argument or narrative, in separate paragraphs and the paragraphs shall be numbered consecutively.

(3) The Memorandum of Appeal shall be accompanied by-

- (a) three copies of the assessment appealed against and of the written notice of the decision given by the Commissioner-General under section *one hundred and eight* of the Act; and
- (b) three copies of the written notice of appeal; and
- (c) a statement of facts in quadruplicate, signed by the appellant setting forth the facts on which the appeal is based and referring therein to any documentary or other evidence which the appellant proposes to adduce at the hearing of the appeal.

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(4) Upon being served with the memorandum of appeal documents and a statement of facts in pursuance of sub-regulation (1), the Registrar shall transmit one memorandum of appeal and one statement of facts to the Commissioner-General.

**10.** The Appellant may, at any time before the appeal is called for hearing withdraw any appeal by serving a written notice to that effect on the Commissioner-General and the Registrar of the court. Withdrawal of Appeal

**11.** (1) Every person who has appealed to the court shall appear in person or by a legal practitioner or agent on his behalf at the place, date and time fixed for the hearing of the appeal. Appellant to appear at hearing and procedure on non-attendance

(2) Notwithstanding the provisions of sub-regulation (1), where at the place, date and time fixed for the hearing of an appeal by the court there is no appearance for the appellant, the court may hear and determine the appeal in the absence of the appellant.

**12.** On the hearing and determination of an appeal by the court, the procedure shall be in accordance with the following provisions: Procedure on hearing

- (a) the appellant shall state the grounds of the appeal and may adduce any relevant evidence in support thereof;
- (b) save with the consent of the court and upon such terms as the court may determine-
  - (i) the appellant shall not rely at the hearing on any ground of appeal other than those set forth in the memorandum of appeal; or



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- (ii) the appellant shall not adduce any evidence other than the evidence previously adduced to the Commissioner-General;
- (c) at the conclusion of such statement and evidence, if any, the Commissioner-General shall be entitled to make his submissions and adduce any relevant evidence in support of his case;
- (d) the appellant shall be entitled to reply to the submissions made and evidence adduced by the Commissioner-General but in his reply the appellant shall not introduce or rely on any ground of appeal or evidence not before the court.
- (e) a witness called and examined by any party may be cross-examined by the other party to the appeal and, if so cross-examined, may be re-examined;
- (f) a witness called and examined by the court may be cross-examined by any party to the appeal;
- (g) the chairman or a member of the court shall be entitled at any stage of the hearing to ask such questions of the appellant or the Commissioner-General or any witness as he considers necessary for the determination of the appeal;
- (h) before the court considers its decision, the parties to the appeal shall withdraw from the sitting and thereupon, unless the court adjourns to consider its decision, the court shall deliberate and consider its decision according to law;
- (i) a record of all proceedings of the sitting, except the deliberations and consideration of the decision by the court, shall be kept and the decision of the court shall be recorded therein.

**13.** The court shall, within seven days after the date on which it gives its decision, issue an order setting forth its decision and the grounds thereof and the date thereof, and the order shall thereupon be served on the Commissioner-General and the person who appealed.

Decision to be set forth in an order

**14.** (1) On the hearing and determination of an appeal or any proceedings preliminary or incidental thereto, no fees shall be payable and costs shall not be allowed on either side save as may be allowed under sub-regulation (2) or ordered under regulation 17.

Costs and fees

(2) When, on the dismissal of an appeal, the court is of the opinion that an appeal was vexatious or frivolous, it may order the person who appealed to pay to the Commissioner-General such costs, not exceeding five hundred thousand kwacha as the court may determine.

**15.** The court shall have power at any time to postpone or adjourn the hearing or determination of any appeal before it from time to time and on such terms, including any order as to costs, as it may determine.

Adjournment

**16.** Subject to the provisions of these Regulations, the court may admit any evidence adduced which is relevant to a question in issue, whether oral or documentary, and whether or not it is admissible under any law relating to the admissibility of evidence.

Admissibility of certain evidence

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**17.** The court may, by notice in writing, require any person to appear before it to be examined and such person may be examined on any matter in question on the appeal, and may, by the same or a separate notice in writing, require any person to produce any book document or other record which may be in his possession or under his control relating to any such matter.

Power to summon witnesses and order production of documents

**18.** Either party to an Appeal may appeal to the High Court from the decision of the court on any question of law or a question of mixed law and fact but not on a question of fact alone.

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SCHEDULE

(Regulation 5)

Date.....

Chairman,  
Tax Appeal court,  
P.O. Box  
.....

NOTICE OF APPEAL

INCOME TAX ACT

(Section 109)

Name of Taxpayer.....

Income Tax Charge Year ended 31st March, 19.....

\*(2)Assessment No.

\*(3)Date of Issue

\*(4)Determination dated.....

Being dissatisfied with the Commissioner-General's decision under the Income Tax Act, on the objection to the \*(5)assessment/determination details of which are given above an appeal is hereby made under section 109 of the Income Tax Act against the \*(6)assessment/determination on the following grounds:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

The Commissioner-General's address for service is:

† (7).....  
.....

Signature.....  
(Appellant or Agent)

Address for service:

.....  
.....

\*Delete whichever is inappropriate.  
†Enter address on assessment or determination.

SECTION 90A-THE INCOME TAX (JOB CREDITS) REGULATIONS

Statutory Instrument  
111 of 1986

*Regulations by the Minister*

1. These Regulations may be cited as the Income Tax (Job Credits) Regulations. Title
2. In these Regulations unless the context otherwise requires- Interpretation

"business as a manufacturer" shall have the meaning ascribed thereto in section *thirty-four* of the Act;

"job credit" means an amount equivalent to such percentage of the total basic wages and salaries payable in any charge year during a qualifying period, and in respect of such employees, as is hereinafter provided;

"qualifying employee" means an individual who-

- (a) is a Zambian citizen;
- (b) immediately prior to commencing his employment with a qualifying employer, was not holding a similar employment or office;
- (c) had been employed by a qualifying employer on a substantially full-time basis for the whole of a charge year; and
- (d) if a director of a company, is also in full-time service of such company;

"qualifying business" means a business as a manufacturer;

"qualifying employer" means an employer engaged in a qualifying business;

"qualifying period" means any period of four consecutive charge years, the first of such periods commencing on 1st April 1980.

- 3.** Subject to the provisions of these Regulations-
- Rates of job credits
- (a) where an employer had commenced a qualifying business before 1st April, 1980, and the number of qualifying employees employed by him in any charge year during the qualifying period exceeds the number of qualifying employees in the charge year immediately preceding, he shall be allowed, against the tax chargeable on him for that charge year, job credits in an amount equivalent to five per centum of the total basic wages and salaries payable to such additional number;
  - (b) where an employer commences a qualifying business on or after 1st April, 1980, he shall be allowed, against the tax chargeable on him for that charge year, job credits calculated as follows:
    - (i) for the first charge year of the qualifying period, an amount equivalent to ten per centum of the total basic wages and salaries payable to all qualifying employees during such charge year;
    - (ii) with respect to the second and subsequent charge years of the qualifying period, he shall be subject to the provisions of sub-paragraph (a) as if he had commenced the qualifying business before 1st April, 1980.
- 4.** Where the qualifying business is a partnership, the amount of job credits shall be allowed against the tax chargeable on each partner in the same proportion as that partner's income from the partnership bears to the total income of the partnership.
- Job credits to partnerships
- 5.** Where the total amount of job credits allowable in a charge year is in excess of the amount of tax chargeable in such charge year the excess shall not be carried forward or allowed in any subsequent charge year.
- Excess of job credits not to be carried forward
- 6.** Once a qualifying employer has been allowed job credits in respect of a qualifying employee, such employer shall not be allowed any job credits in respect of the same employee in any subsequent charge year of the qualifying period.
- Job credits to be given once in respect of same employee

FIFTH SCHEDULE (1)-INCOME TAX (LOW-COST HOUSING) NOTICE

*Statutory Instrument*  
78 of 1987  
CAP. 323

- 1.** This Notice may be cited as the Income Tax (Low-Cost Housing) Notice, 1987, and shall come into operation on the 1st April, 1987.
- Title and commencement

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2. For the purpose of Part I of the Fifth Schedule to the Income Tax Act, a housing unit shall qualify as an industrial building if-
- Limits for low-cost housing
- (a) in the case of a housing unit constructed or acquired before the 1st April, 1975, the cost of such housing unit does not exceed three thousand kwacha; or
  - (b) in the case of a housing unit constructed or acquired on or after the 1st April, 1975, the cost of such housing unit does not exceed four thousand kwacha; or
  - (c) in the case of a housing unit constructed or acquired on or after the 1st April, 1980, the cost of such housing unit does not exceed ten thousand kwacha; or
  - (d) in the case of a housing unit constructed or acquired on or after the 1st April, 1987, the cost of such housing unit does not exceed twenty thousand kwacha.

SECTION 9-THE INCOME TAX (PETROLEUM OPERATIONS) REGULATIONS

Statutory Instrument  
98 of 1985

*Regulations by the Minister*

1. These Regulations may be cited as the Income Tax (Petroleum Operations) Regulations. Title

2. In these Regulations unless the context otherwise requires- Interpretation

"capital expenditure" means expenditure of a capital nature as determined pursuant to the terms of a contract;

"contract" and "contractor" shall have the meaning assigned thereto in the Petroleum (Exporation and Production) Act; Cap. 439

"expenditure" means net expenditure, in relation to petroleum operations, after taking into account any rebates of returns from expenditure;

"gross income" means the sum of all proceeds of sales and the monetary equivalent of the value of other dispositions of petroleum produced and save and not used in petroleum operations and any other proceeds derived from petroleum operations;

"operating expenditure" means expenditure of a non-capital nature as determined pursuant to the terms of a contract;

"petroleum operations" shall have the meaning assigned thereto in the Petroleum (Exploration and Production) Act. Cap. 439

**3.** (1) The determination of the assessable income of a contract from petroleum operations and the assessment of tax thereon shall be made separately from the determination of assessable income and the assessment of tax on income from other sources.

Income from petroleum operations to be taxed separately

(2) The rules and procedures provided for in these Regulations shall apply only to the income and expenditure of a contractor from petroleum operations.

**4.** (1) The determination of assessable income pursuant to the Income Tax Act shall be made by deducting from a contractor's gross income from petroleum operations during a charge year all allowable expenditure incurred or deemed incurred by such contractor in such charge year but excluding any expenditure previously deducted from gross income in any previous charge year.

Determination of assessable income

(2) Allowable expenditures which may be taken as a deduction from the gross income of a contractor in any charge year shall include-

- (a) all operating expenditures incurred by such contractor in that year;
- (b) the amount of any capital allowances in respect of capital expenditure of such contractor which may be deductible in that year;
- (c) an amount in respect of any operating loss incurred to the extent provided in section *thirty* of the Act;
- (d) any other expenditures which are specifically allowable as a deduction in that charge year against such contractor's gross income pursuant of his contract.

(3) Allowable expenditures shall not include any expenditure of a contractor for which no deduction may be made pursuant to the terms of his contract.

**5.** Capital allowances in respect of the capital expenditure of a contractor shall be determined pursuant to the terms of his contract.

Capital allowances

**6.** In the event that a contractor at any time comprises more than one person in the form of a partnership, joint venture, unincorporated association or other combination of persons, the determination of assessable income, and the assessment of tax thereon, in that charge year, shall be made on the basis of the assessable income and tax liability of each person comprising such contractor.

Taxable parties

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SECTION 15-THE INCOME TAX (ZAMBIA APPOINTMENTS LIMITED EMPLOYEES)  
(EXEMPTION APPROVAL) ORDER

*Statutory Instrument*  
134 of 1994

*Order by the Minister*

1. This Order may be cited as the Income Tax (Zambia Appointments Limited Employees) (Exemption Approval) Order, and shall be deemed to have come into operation on 1st April, 1994. Title and commencement

2. In this Order- Interpretation

"seconded expatriate mining employee" means an employee of the Company, or of any foreign subsidiary of the Company, who-

- (a) under an agreement entered into before 1st April, 1994, was seconded to Zambia Consolidated Copper Mines Limited or any subsidiary thereof;
- (b) is not a Zambian citizen; and
- (c) is resident in the Republic solely for the purpose of the secondment;

"the Company" means Zambia Appointments Limited, a company registered under the laws of the United Kingdom of Great Britain and Northern Ireland.

3. There shall be exempt from tax pursuant to sub-paragraph (a) of paragraph 3 in Part II of the Second Schedule to the Act- Exemption

- (a) the salary, gratuity, educational allowances and payments in commutation of leave paid outside the Republic by the Company or by any foreign subsidiary of the Company to or on account of any seconded expatriate mining employee; and
- (b) any payment, made by the trustees of any pension or superannuation fund established or administered outside the Republic, to or on account of any such employee.

4. For the purposes of the exemption contained in paragraph 3, the Company and any foreign subsidiary thereof are hereby approved for the purposes of sub-paragraph (a) of paragraph 3 in Part II of the Second Schedule to the Act. Approval

SECTION 15-THE INCOME TAX (FUND INVESTMENT SERVICES LIMITED) (APPROVAL AND EXEMPTION) ORDER

*Statutory Instrument*  
51 of 1997



The Laws of Zambia  
*Order by the Minister*

1. (1) This Order may be cited as the Income Tax (Fund Investment Services Limited) (Approval and Exemption) Order. Title and commencement

(2) This Order shall be deemed to have come into operation on the 1st April, 1996.

2. (1) The Fund Investment Services Limited, is hereby approved for the purpose of exemption from tax under the Second Schedule to the Act as set out in subparagraph (2). Approval and exemption from specific taxes

(2) Fund Investment Services Limited is exempt from the payment of-

- (a) company tax;
- (b) withholding tax on management fees;
- (c) withholding tax on dividends received from any investee company; and
- (d) withholding tax on interest received from any investee company.

SECTION 15-THE INCOME TAX (ZAMBIA VENTURE CAPITAL FUND LIMITED) (APPROVAL AND EXEMPTION) ORDER *Statutory Instrument 52 of 1997*

*Order by the Minister*

1. (1) This Order may be cited as the Income Tax (Zambia Venture Capital Fund Limited) (Approval and Exemption) Order. Title and commencement

(2) This Order shall be deemed to have come into operation on the 1st April, 1996.

2. (1) The Zambia Venture Capital Fund Limited, is hereby approved for the purpose of exemption from tax under the Second Schedule to the Act as set out in subparagraph (2). Approval and exemption from specific taxes

(2) The Zambia Venture Capital Fund Limited is exempt from payment of-

- (a) company tax;
- (b) withholding tax on dividends received from any investee company; and
- (c) withholding tax on interest received from any investee company.

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SECTION 15-THE INCOME TAX (FOREIGN ORGANISATIONS) (APPROVAL AND EXEMPTION)  
ORDER

*Statutory Instrument*  
82 of 1997

*Order by the Minister*

1. (1) This Order may be cited as the Income Tax (Foreign Organisations) (Approval and Exemption) Order. Title and commencement
- (2) This Order shall be deemed to have come into operation on the 18th December, 1996.
2. With respect to the Agreement described in the Schedule to this Order, L. Hojgaard & Schultz; Joint Venture is hereby approved for the purpose of exemption from tax. Approval of foreign organisations
3. The income and emoluments of the foreign organisation approved in paragraph 2 of this Order accruing under the Agreement described in the Schedule to this Order, shall be exempt from tax pursuant to paragraph 5 of Part III of the Second Schedule to the Act, and the emoluments payable to any foreign employee temporarily employed in the Republic shall be exempt from tax pursuant to sub-paragraph (c) of paragraph 3 of Part II of the said Second Schedule to the Act. Exemption from tax

The Laws of Zambia

SCHEDULE

*(Paragraph 5)*

The Agreement between the Republic of Zambia and L. Hojgaard & Schultz; Joint Venture, dated the 18th December, 1996, relating to the rehabilitation of the Kapiri Mposhi-Serenje Road section of the Great North Road.

The Laws of Zambia

SECTION 74-THE DOUBLE TAXATION RELIEF (TAXES ON INCOME) (REPUBLIC OF FINLAND) ORDER

*Statutory Instrument  
77 of 1985*

**1.** This Order may be cited as the Double Taxation Relief (Taxes on Income) (Republic of Finland) Order. Title

**2.** It is hereby declared that the Convention, the text of which is set out in the Schedule hereto, being a Convention relating to relief for double taxation on income made between the Government of the Republic of Zambia and the Government of the Republic of Finland, shall have effect in Zambia in accordance with section *seventy-four* of the Income Tax Act. Convention

The Laws of Zambia

SCHEDULE

(Paragraph 2)

CONVENTION BETWEEN ZAMBIA AND FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Republic of Zambia and the Government of the Republic of Finland, desiring to conclude a Convention 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

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its public communities or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are-

(a) in Finland:

- (i) the state income and capital tax;
- (ii) the communal tax;
- (iii) the church tax;
- (iv) the sailors' tax; and
- (v) the tax withheld at source from non-residents' income; (hereinafter referred to as Finnish tax);

(b) in Zambia:

- (i) the income tax;
- (ii) the mineral tax;
- (iii) the personal levy;

(hereinafter referred to as Zambian tax).

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

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ARTICLE 3

GENERAL DEFINITIONS

In this Convention, unless the context otherwise requires:

- (a) The term "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration and exploitation of the natural resources of the sea bed and its sub-soil may be exercised;
- (b) the term "Zambia" means the Republic of Zambia;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Finland or Zambia, as the context requires;
- (d) the term "person" comprises an individual, a company and any other body of persons;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) 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;
- (g) the term "national" means any individual possessing the nationality of a Contracting State, and any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;
- (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (i) the term "competent authority" means:
  - i(i) in Finland, the Ministry of Finance or its authorised representative.
  - (ii) in Zambia, the Commissioner-General of Taxes or his authorised representative.

2. 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 law of that State concerning the taxes to which the Convention applies.

ARTICLE 4

FISCAL DOMICILE

## The Laws of Zambia

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. An undivided estate of a deceased person shall be deemed to be a resident of the Contracting State of which the deceased was a resident at the time of his death according to the preceding sentence or the provisions of paragraph 2. However, this term does not include any person who is liable to taxation in that Contracting State in respect only of income from sources in that State or capital situated therein.

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 Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) If the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting 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 Contracting State in which its place of effective management is situated.

## ARTICLE 5

### PERMANENT ESTABLISHMENT

## The Laws of Zambia

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" shall include especially:
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop; and
  - (f) a mine, an oil well, a quarry or any other place of extraction of natural resources.
3. A building site or a construction, assembly or installation project or supervisory activities in connection therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than six months.
4. The furnishing of services, including management or consultancy services, by an enterprise of a Contracting State through employees or other personnel, where activities of that nature continue (for the same or a connected project) in the other Contracting State for a period or periods aggregating more than three months within any twelve-month period shall constitute a permanent establishment in that other State.
5. 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 for 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.
6. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of an independent status to whom the provisions of paragraph 8 apply-shall be deemed to be a permanent establishment in the first-mentioned State if:
  - (a) he has, and habitually exercise in that State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for that enterprise, or
  - (b) he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
7. An insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State, if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 8.
8. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
9. 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



## The Laws of Zambia

1. Income from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.

2. (a) The term "immovable property" shall, subject to the provisions of sub-paragraphs (b) and (c), be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term "immovable property" shall in any case 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.

(c) Ships 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. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property owned by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. 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.

The provisions of paragraph 4 shall likewise apply to the income from a right of enjoyment referred to in that paragraph of an enterprise and to income from such right of enjoyment used for the performance of independent personal services.

6. In determining the income from immovable property which a resident of a Contracting State has in the other Contracting State expenses (including interest on debt-claims) which are incurred for the purposes of such property shall be allowed as deductions on the same conditions as they are allowed to residents of that other State.

## 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 and to sales of goods or merchandise, or the supply of services, where such sales or services are of the same kind as, or of a similar kind to, those effected through 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 the determination of the profits of a permanent establishment there shall be allowed as deductions expenses which are incurred for the purpose 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 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 embodied 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

The Laws of Zambia

SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

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

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

## The Laws of Zambia

**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 law of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of the State of which the company making the distribution is a resident.

**4.** The provisions of paragraph 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 a 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, or 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

## The Laws of Zambia

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 law of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State or a public community or a local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that Government or public community or local authority shall be exempt from tax in the first-mentioned State.

4. The term "interest" as used in this Article means income from debt-claims of every kind; whether or not secured by mortgage, and whether or not carrying a right to participate in the debtors' profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to bonds or debentures. 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 a 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 the State itself, a public community, 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 the permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7. Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid, 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 that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 12

## ROYALTIES

## The Laws of Zambia

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, royalties of the kind referred to in sub-paragraph (b), (c) and (a) of paragraph 3 may also be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 5 per cent, in the case of royalties referred to in sub-paragraphs (b), and 15 per cent, in the case of royalties referred to in sub-paragraphs (c) and (a), 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:

- (a) for the use of, or the right to use, any copyright of literary, artistic or scientific work;
- (b) for the use of, or the right to use, any copyright of any cinematograph films, and films or tapes for television or radio broadcasting;
- (c) for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or any industrial, commercial or scientific equipment; or
- (d) for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting 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 a 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 public community, 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 Contracting State in which the permanent establishment or fixed base is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 13

### CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of shares or other corporate rights referred to in paragraph 4 of Article 6, may be taxed in the Contracting State in which the immovable property owned by the company is situated.

3. 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 gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 4 of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

4. Gains from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

## ARTICLE 14

### INDEPENDENT PERSONAL SERVICES

## The Laws of Zambia

1. Income derived by an individual resident of a Contracting State in respect of his professional services or other independent activities of a similar 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 services or activities, in which case so much of the income may be taxed in that other State as is attributable to that fixed base; or
- (b) he is present in the other Contracting State for the purpose of performing his services or activities for a period or periods amounting to or exceeding in the aggregate 183 days in the taxable year concerned, in which case so much of the income may be taxed in that other State as is attributable to the services or activities performed in that other State.

2. The term "professional services or other independent activities" 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, 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 first-mentioned State if:

- (a) the recipient is present in the other state for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
- (b) the remuneration is paid, by or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## ARTICLE 16

### DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or another 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

## The Laws of Zambia

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 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.

## ARTICLE 18

### PENSIONS

1. Any pension (other than a pension of the kind referred to in paragraph 2) or any annuity derived by an individual who is a resident of a Contracting State from sources within the other Contracting State may be taxed in that other State.

2. Subject to the provisions of paragraph 2 of Article 19, pensions and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

3. The term "pension" means a periodic payment made in consideration of services rendered in the past or by way of compensation or injuries received during the course of an employment.

4. 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 payment in return for adequate and full compensation in money or moneys worth.

## ARTICLE 19

### GOVERNMENT SERVICE

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

(b) However, such remuneration shall be taxable only in the Contracting State of which the recipient is a resident if the services are rendered in that State and the Recipient:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of performing the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a public community or a local authority thereof to any individual in respect of services rendered to that State or community or local authority thereof shall be taxable only in that State.

(b) However, such pension shall be taxable only in the Contracting State of which the recipient is a resident if he is a national of that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a Contracting State or a public community or a local authority thereof.

## ARTICLE 20

### STUDENTS

## The Laws of Zambia

1. Payments which a student or business, technical, agricultural or forestry 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 maintenance, education or training shall not be taxed in that State, provided that such payments are made to him from sources outside the State.

2. A student at a university or other institution for higher education in a Contracting State, or a business, technical, agricultural or forestry apprentice who is or was immediately before visiting the other Contracting State a resident of the first-mentioned State and who is present in the other State for a period or periods not exceeding in the aggregate 365 days in any continuous period of two years, shall not be taxed in that other State in respect of remuneration for services rendered in that State, provided that the services are in connection with his studies or training and the remuneration constitutes earnings necessary for his maintenance.

## 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. However, where such item of income arises in the other Contracting State such income may be taxed in that other State.

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 and income from shares or other corporate rights referred to in paragraph 4 of Article 6, if the recipient of the 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

## ARTICLE 22

### CAPITAL

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property owned by the company is situated.

3. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base for the performance of independent personal services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

4. Ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

## ARTICLE 23

### PERSONAL ALLOCANCES



## The Laws of Zambia

1. Individuals who are residents of Finland may claim the same personal allowance, reliefs and reductions for the purposes of Zambian nationals who are not residents of Zambia.

2. Individuals who are residents of Zambia may claim the same personal allowances, reliefs and reductions for the purposes of Finnish tax as Finnish nationals who are not residents of Finland.

## ARTICLE 24

### ELIMINATION OF DOUBLE TAXATION

(a) Where a resident of Finland derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Zambia, Finland shall, where the provisions of sub-paragraph (b) are not applicable, allow:

- (i) as a deduction from the taxes on income of that person, an amount equal to the taxes on income paid in Zambia.
- (ii) as a deduction from the tax on capital of that person, an amount equal to the taxes on capital paid in Zambia.

The deduction in either case shall not; however, exceed that part of the taxes on income or on capital, as computed before the deduction is given, which is appropriate, as the case may be, to the income or the capital which may be taxed in Zambia.

Notwithstanding the provisions of sub-paragraph (a), dividends paid by a company which is a resident of Zambia to a company which is a resident of Finland shall be exempt from Finnish tax to the extent that the dividends would have been exempt from tax under Finnish taxation law if both companies had been residents of Finland.

Notwithstanding any other provision of this Convention, an individual who is a resident of Zambia and under Finnish nation law with respect to the Finnish taxes referred to in article 2 also is regarded as a resident of Finland may be taxed in Finland. However, Finland shall allow any Zambian tax paid on the income or capital as a deduction from Finnish tax in accordance with the provisions of paragraph 1. The provisions of this paragraph shall apply only to nationals of Finland.

Subject to the existing provisions of the law of Zambia regarding the allowance as a credit against Zambian tax of tax payable in a territory outside Zambia and to any subsequent modification of these provisions, which shall not affect the general principle hereof, tax payable under the laws of Finland whether directly or by deduction, on profits, income or chargeable gains from sources within Finland shall be allowed as a credit against any Zambian tax computed by reference to the same profits, income or chargeable gains by reference to which the Finnish tax is computed.

However, in the case of a dividend the credit against Zambian tax shall take into account only such Finnish tax payable in respect thereof as is additional to Finnish tax payable by the company on its profits out of which the dividend is paid and is ultimately borne by the recipient of the dividend.

## ARTICLE 25

### NON-DISCRIMINATION

## The Laws of Zambia

1. The nationals of a Contracting State, whether or not they are residents of one of the Contracting States, 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. 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.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same condition as if they had been paid to a resident of the first-mentioned State.

Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible as if they had been contracted to a resident of the first-mentioned State.

4. 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. In this Article the term "taxation" means taxes of every kind and description.

## ARTICLE 26

### 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 this convention, he may notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with the Convention.

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 an appropriate 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 national laws 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 reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

## ARTICLE 27

### EXCHANGE OF INFORMATION

## The Laws of Zambia

1. The Competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this 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 which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes. These persons or authorities may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

- (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting States;
- (b) to supply particulars which are 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 policy (order public).

## ARTICLE 28

### DIPLOMATIC AND CONSULAR OFFICIALS

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

## ARTICLE 29

### ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify to each other that the constitutional requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

- (a) in Finland:
  - i(i) in respect of taxes withheld at source, to amounts derived on or after 1 January in the calendar year next following the year in which the Convention enters into force;
  - (ii) in respect of other taxes on income, taxes on capital and taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force;
- (b) in Zambia with respect to income and chargeable gains for charge years beginning after 31st March in the year following the year in which the Convention enters into force.

## ARTICLE 30

### TERMINATION

## The Laws of Zambia

This Convention shall remain in force until terminated by one of the Contracting States. 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 following after the period of five years from the date on which the Convention enters into force. In such event the Convention shall cease to have effect:

- (a) in Finland:
  - i(i) in respect of taxes withheld at source, to amounts derived on or after 1 January in the calendar year next following the year in which the notice is given;
  - (ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following the year in which the notice is given;
- (b) in Zambia with respect to income and chargeable gains for charge years beginning after 31 March in the year next following the year in which the notice is given.

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

Done in duplicate at Lusaka this 3rd day of November, 1978, in the English language.

*For the Government of the Republic of Zambia:*  
J.M. MWANAKATWE

*For the Government of the Republic of Finland:*  
UNTO KORRONEN

## PROTOCOL

At the signing today of the Convention between Zambia and Finland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income and on capital the undersigned have agreed upon the following provisions which shall form an integral part of the Convention: with reference to paragraph 1 of Article 4, it is understood that the term "resident of a Contracting State" where that Contracting State is Zambia, includes any person who, under the law of Zambia concerning the taxes to which the Convention applies, is regarded as being a resident of Zambia, notwithstanding that he may not be liable to taxation by reason of his being a resident of Zambia.

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

Done in duplicate at Lusaka this 3rd day of November, 1978, in the English language.

*For the Government of the Republic of Zambia:*  
J.M. MWANAKATWE

*For the Government of the Republic of Finland:*  
UNTO KORHONEN

## CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION-FRANCE

*Federal Government  
Notice  
370 of 1963  
Government Notice  
514 of 1964*

An arrangement has been made with the Government of the United Kingdom of Great Britain and Northern Ireland whereby the Convention between that Government and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income has been extended to the former Protectorate by and incorporating the terms of the exchange of notes set out in the Schedule.

The Laws of Zambia

SCHEDULE

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FRENCH REPUBLIC EXTENDING TO THE FEDERATION OF RHODESIA AND NYASALAND THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME SIGNED AT PARIS ON DECEMBER 14, 1950.

No. 1

*Her Majesty's Ambassador at Paris to the Minister for Foreign Affairs of the French Republic*

*British Embassy,  
Paris, November 5, 1963.*

Monsieur le Ministre,

With reference to the Convention between the United Kingdom of Great Britain and Northern Ireland and France for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Paris on the 14th of December, 1950, I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XXIII, the above-mentioned Convention should be extended to the Federation of Rhodesia and Nyasaland in the manner, subject to the modifications, and with effect from the dates specified in the Annex to the present Note.<sup>(1)</sup>(8)

If the foregoing proposal is acceptable to the French Government, I have the honour to suggest that the present Note with its Annex, and Your Excellency's reply to that effect, should be regarded as constituting the Agreement reached between the two Governments in this matter.

I avail, etc.,  
PIERSON DIXON.

ANNEX

I. APPLICATION

## The Laws of Zambia

(1) The Convention of the 14th December, 1950, as modified by the present Annex shall apply-

- (a) as if the Contracting Parties were the Government of France and the Government of the Federation of Rhodesia and Nyasaland;
- (b) as if the term "United Kingdom" (except where the context otherwise required) meant the Federation of Rhodesia and Nyasaland; and
- (c) as if the taxes concerned in the Federation of Rhodesia and Nyasaland were the Income Tax, Supertax and Undistributed Profits Tax.

(2) When the last of those measures shall have been taken in France and in the Federation of Rhodesia and Nyasaland necessary to give the present extension the force of law in France and in the Federation the present extension shall have effect - <sup>(2)</sup>(9)

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<sup>(1)</sup> By a further Exchange of Notes dated December 31, 1963, it was agreed with the French Ministry of Foreign Affairs that this extension should be regarded as continuing in force in relation to Southern Rhodesia, Northern Rhodesia and Nyasaland individually on the dissolution of the Federation and that references therein to the Federation should be construed accordingly.

<sup>(2)</sup> By a notification dated December 17, 1963, the French Government informed the United Kingdom Government that these measures had been taken in France.

By a similar notification dated December 31, 1963, the United Kingdom Government informed the French Government that the necessary measures were taken in the Federation of Rhodesia and Nyasaland on December 9, 1963.

- (a) in France as respects taxes charged in respect of the year 1962 and subsequent years;
- (b) in the Federation of Rhodesia and Nyasaland as respects tax on the profits derived from operating ships or aircraft, for the year of assessment beginning on the 1st April, 1953, and for subsequent year of assessment, and, as respects tax on all other income, for the year of assessment beginning on the 1st April, 1962, and for subsequent years of assessment.

(3) The French Government shall inform the Government of the United Kingdom in writing when the last of the measures necessary, as indicated in paragraph (2), have been taken in France. The Government of the United Kingdom shall inform the French Government in writing when the last of the measures necessary, as indicated in paragraph (2), have been taken in the Federation of Rhodesia and Nyasaland.

(4) The present extension shall remain in force indefinitely but either of the Contracting Parties may, on or before the 30th June in any calendar year not earlier than the year 1966, give to the other Contracting Party through the diplomatic channel written notice of termination and in such event the present extension shall cease to have effect-

- (a) in France as respects taxes charged in respect of any year following the calendar year during which the notice is given;
- (b) in the Federation of Rhodesia and Nyasaland as respects tax for any year of assessment beginning on or after the 1st April in the calendar year next following the date of such notice.

## II. MODIFICATIONS

The Convention of the 14th December, 1950, shall apply with the modifications that-

- (1) the words "shall be exempt from United Kingdom surtax" in Article IX shall be understood as though they read "shall not be liable to tax in the Federation of Rhodesia and Nyasaland at a rate in excess of the rate applicable to a company"; and
- (2) Article XIII shall apply to remuneration, including pensions, paid by or out of funds created by the Government of each of the Territories constituting the Federation, to any individual in respect of services rendered to that Government in the discharge of governmental functions as it applies to similar payments by or out of funds created by the Government of the Federation.

The Laws of Zambia

*The Minister for Foreign Affairs of the French Republic to Her Majesty's Ambassador at Paris*

*Paris, le 5 novembre, 1963.*

Monsieur l'Ambassadeur,

Par lettre en date de ce jour accompagnée de son annexe dont la traduction figure ci-après, vous avez bien voulu me faire savoir ce qui suit:

"Me référant à la convention entre le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et la France tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôt sur le revenu, signée à Paris le 14 décembre 1950, j'ai l'honneur, au nom du Gouvernement du Royaume-Uni, de proposer, conformément aux dispositions de son article XXIII, que les dispositions en soient étendues à la Fédération de Rhodésie et du Nyassaland, conformément à l'Annexe à la présente lettre et sous réserve des modifications et à compter des dates qui y sont indiquées.

(1) By a notification dated December 17, 1963, the French Government informed the United Kingdom Government that these measures had been taken in France.

By a similar notification dated December 31, 1963, the United Kingdom Government informed the French Government that the necessary measures were taken in the Federation of Rhodesia and Nyassaland on December 9, 1963.

Pour le cas où cette proposition agréerait au Gouvernement français, je suggère que la présente lettre accompagnée de son annexe, et la réponse de Votre Excellence soient réputées constituer l'Accord intervenu entre les deux Gouvernements en cette matière.

ANNEXE

I. APPLICATION

(1) La Convention du 14 décembre 1950, telle qu'elle est modifiée par la présente annexe, sera applicable:

- (a) comme si les Parties Contractantes étaient le Gouvernement français et le Gouvernement de la Fédération de Rhodésie et du Nyassaland;
- (b) comme si le terme "Royaume-Uni", à moins que le contexte ne l'exige autrement, désignait la Fédération de Rhodésie et du Nyassaland;
- (c) comme si les impôts visés dans la Fédération de Rhodésie et du Nyassaland étaient l'impôt sur le revenu, la supertaxe et l'impôt sur les bénéfices non distribués.

(2) Lorsque toutes les mesures nécessaires pour donner à la présente extension force de loi en France et dans la Fédération auront été prises en France et dans la Fédération de Rhodésie et du Nyassaland, la présente extension produira ses effets:

- (a) en France, pour l'établissement des impôts exigibles au titre de l'année 1962 et des années subséquentes, et
- (b) dans la Fédération de Rhodésie et du Nyassaland:

-en ce qui concerne l'établissement des impôts frappant les bénéfices provenant de l'exploitation de navires ou d'aéronefs, pour l'année d'imposition commençant le 1er avril 1953, ainsi que pour les années d'imposition subséquentes.

-en ce qui concerne l'établissement des impôts frappant tous les autres revenus, pour l'année d'imposition commençant le 1er avril 1962 ainsi que pour les années d'imposition subséquentes.

(3) Le Gouvernement français informera par écrit le Gouvernement du Royaume-Uni lorsque toutes les mesures nécessaires visées au paragraphe (2) auront été prises en France. Le Gouvernement du Royaume-Uni informera par écrit le Gouvernement français lorsque toutes les mesures nécessaires visées au paragraphe (2), auront été prises dans la Fédération de Rhodésie et du Nyassaland.

(4) La présente extension demeurera en vigueur sans limitation de durée mais l'une ou l'autre des Parties Contractantes pourra, à partir de 1966, et au plus tard le 30 juin de chaque année civile, notifier par écrit à l'autre Partie Contractante, par la voie diplomatique, qu'elle y met fin. Dans ce cas, la présente extension cessera d'avoir effet:

- (a) en France, pour l'établissement des impôts afférents aux années postérieures à l'année civile au cours de laquelle la notification sera intervenue;
- (b) dans la Fédération de Rhodésie et du Nyassaland, pour l'établissement de l'impôt afférent aux années d'imposition commençant le 1er avril ou après le 1er avril de l'année civile suivant immédiatement la date d'une telle notification.

II. MODIFICATIONS

The Laws of Zambia

La Convention du 14 décembre 1950 s'appliquera avec les modifications suivantes:

- (1) Les termes "sont exempts de la surtaxe du Royaume-Uni" figurant à l'article IX de la Convention seront interprétés comme signifiant "ne sont pas passibles de l'impôt dans la Fédération de Rhodésie et du Nyassaland à un taux supérieur à celui qui s'applique à une société"; et
- (2) l'article XIII sera applicable aux rémunérations y compris les pensions, versées par le Gouvernement de chacun des territoires constituant la Fédération ou sur des fonds créés par le Gouvernement de chacun desdits territoires, à toute personne en contrepartie de services rendus audit Gouvernement dans l'exercice de fonctions officielles, de même qu'il s'applique aux paiements similaires effectués par le Gouvernement de la Fédération ou sur des fonds créés par ledit Gouvernement."

J'ai l'honneur de porter à la connaissance de Votre Excellence que les termes de la lettre qui précède et de son annexe recourent l'agrément du Gouvernement français. Celle-ci et la présente réponse constituent l'accord recherché par nos deux Gouvernements.

Veillez agréer, etc.,  
FR. LEDUC.

(Translation of No. 2)

*Paris, November 5, 1963.*

Monsieur l'Ambassadeur,

By a letter of today's date accompanied by an annex, the translation of which is given below, you have informed me as follows:

(As in No. 1)

I have the honour to inform Your Excellency that the terms of the preceding letter and its Annex are acceptable to the French Government and together with this reply constitute an Agreement between our two Governments.

Please accept, etc.,  
FR. LEDUC.

ANNEXURE

CONVENTION BETWEEN HIS MAJESTY IN RESPECT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE PRESIDENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas and the President of the French Republic,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have appointed for that purpose as their Plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas:

For the United Kingdom of Great Britain and Northern Ireland:

His Excellency Sir Oliver Charles Harvey, G.C.M.G., G.C.V.O., C.B.,

His Ambassador Extraordinary and Plenipotentiary in Paris;

The President of the French Republic:

His Excellency Monsieur Alexandre Parodi, Ambassador of the French Republic, General Secretary for Foreign Affairs;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I



## The Laws of Zambia

1. The taxes which are the subject of the present Convention are:

(a) In France:

The tax on the income of individuals (proportional tax and progressive surtax), the tax on the income of companies and the tax on undistributed profits under Article 14 of the law of 31st January, 1950 (hereinafter referred to as "French tax");

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax").

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in France or the United Kingdom subsequently to the date of signature of the present Convention.

## ARTICLE II

## The Laws of Zambia

1. In the present Convention, unless the context otherwise requires-

- (a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;
- (b) The term "France" means metropolitan France, and excludes Algeria, the overseas departments, and other territories of the French Union;
- (c) The terms "one of the territories" and "the other territory" mean the United Kingdom or France, as the context requires;
- (d) The term "tax" means United Kingdom tax or French tax, as the context requires;
- (e) The term "person" means-
  - (i) any physical person;
  - (ii) any unincorporated body of physical persons; and
  - (iii) any body corporate;
- (f) The term "company" means any body corporate;
- (g) The terms "resident of the United Kingdom" and "resident of France" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and who has not his fiscal domicile for the purposes of French tax in France and any person whose fiscal domicile for the purposes of French tax is in France and who is not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as having its fiscal domicile in France if its business is managed and controlled in France;
- (h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of France as the context requires;
- (i) The terms "United Kingdom enterprise" and "French enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of France; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a French enterprise, as the context requires;
- (j) The term "industrial or commercial profits" includes in particular profits arising from the business of insurance companies, banks, and other financial enterprises;
- (k) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business in which is exercised, in whole or in part, the activity of the enterprise, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection-
  - (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;
  - (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
  - (iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company;
- (l) The term "taxation authorities" means, in the case of the United Kingdom, the Commissioner-Generals of Inland Revenue or their authorised representative; in the case of France, the Director General of Taxes (Directeur Général des Impôts) or his authorised representative; and, in the case of any territory to which the present Convention is extended under Article XXIII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

2. Where the present Convention provides that income from a source in one of the territories shall be exempt from tax in that territory if (with or without other conditions) it is subject to tax in the other territory, and under the law in force in that other territory the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other territory and not by reference to the full amount thereof, then the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to so much of the income as is remitted to or received in the other territory.

3. In the application of the provisions of the present Convention by one of the High Contracting Parties any term not otherwise defined shall unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

## The Laws of Zambia

### ARTICLE III

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to French tax unless the enterprise carries on a trade or business in France through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by France but only on so much of them as is attributable to that permanent establishment: provided that nothing in this paragraph shall affect the provisions of the law of France, as it stands at the date of signature of this Convention, as respects the taxation of profits of non-residents from the business of insurance.

2. The industrial or commercial profits of a French enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

4. Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

### ARTICLE IV

A company which is a resident of the United Kingdom and which carries on a trade or business in France through a permanent establishment situated therein and which is liable to the tax on income from movable capital under Article 39, paragraph 11 of the Decree No. 48-1986, of 9th December, 1948, shall not be charged to that tax on income exceeding the amount of the profits or gains arising in France and chargeable in accordance with Article III.

### ARTICLE V

Where-

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

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 these conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

### ARTICLE VI

## The Laws of Zambia

Where a company which is a resident of the United Kingdom derives industrial and commercial profits from a permanent establishment in France, and these profits are chargeable both to the tax on undistributed profits under Article 14 of the law of 31st January, 1950, and to the tax on income from movable capital, the incidence of these two taxes shall not result in a total charge greater than 10 per centum on the amount of the profits chargeable to these two taxes in accordance with Article III. In consequence, the rate of the tax on income from movable capital shall be reduced to 10 per centum.

If, hereafter, the tax on undistributed profits is not imposed, or if it is imposed at a rate different from the rate in force at the date of signature of the present Convention, the taxation authorities of the two High Contracting Parties shall consult together in that event with a view to fixing the appropriate rate of the tax on income from movable capital.

## ARTICLE VII

Profits distributed by a company which is a resident of France to a company which is a resident of the United Kingdom and which has owned for a year registered shares (actions ou parts d'intérêt) representing at least 50 per centum of the capital of the former company shall be charged to the tax on income from movable capital at the rate determined in accordance with Article VI.

## ARTICLE VIII

Notwithstanding the provisions of Article III, IV V and VI, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

## ARTICLE IX

Dividends and interest paid by a company which is a resident of the United Kingdom to a resident of France, who is subject to tax in France in respect thereof and does not carry on trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

## ARTICLE X

1. Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this Article the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark or other like property, and includes rents in respect of cinematograph films, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

3. Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

## ARTICLE XI

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt in that other territory from any tax in respect of gains from the sale, transfer, or exchange of capital assets.

## The Laws of Zambia

### ARTICLE XII

1. Income derived from real property in one of the territories by a resident of the other territory shall be subject to tax in accordance with the laws of the first-mentioned territory. Where the income is also subject to tax in the other territory, relief from double taxation shall be given in accordance with the provisions of Article XX.

2. In this Article, the term "income from real property" means income of whatever nature derived from real property, and includes royalties or any other amounts paid in respect of the operation of mines or quarries or any other extraction of natural resources.

### ARTICLE XIII

1. Remuneration, including pensions, paid by or out of funds created by one of the High Contracting Parties to any individual for services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other High Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

2. The following pensions shall be exempt from United Kingdom tax, regardless of the nationality of the pensioner, so long as they are exempt from French tax:

- (a) Pensions granted by virtue of the law of the 31st March, 1919, to all those persons who since the 2nd August, 1914, have become entitled to military pensions by reason of disabilities resulting whether from hostilities or from ailments or accidents occurring on service;
- (b) Pensions granted by virtue of the combined provisions of the law of the 31st March, 1919, and of Article 1 of the law of the 22nd June, 1927, to retired soldiers and sailors by reason of wounds received or disabilities or ailments contracted on service before the 2nd August, 1914:

Provided that paragraph 1 of this Article shall apply to such part of the mixed pensions provided for in Article 60-2ø of the law of the 31st March, 1919, as relates to length of service and is not exempted from French tax.

3. The following pensions shall be exempt from French tax, regardless of the nationality of the pensioner, so long as they are exempt from United Kingdom tax:

- (a) Wounds pensions granted to members of the naval, military or air forces of the Crown;
- (b) Retired pay of disabled officers granted on account of medical unfitness attributable to or aggravated by naval, military or air force service;
- (c) Disablement or disability pensions granted to members, other than commissioned officers, of the naval, military or air forces of the Crown on account of medical unfitness attributable to or aggravated by naval, military or air force service;
- (d) Disablement pensions granted to persons who have been employed in the nursing services of any of the naval, military or air forces of the Crown on account of medical unfitness attributable to or aggravated by naval, military or air force service;
- (e) Injury and disablement pensions payable under any scheme made under the Injuries in War (Compensation) Act, 1914, the Injuries in War Compensation Act, 1914 (Session 2), the Injuries in War (Compensation) Act, 1915, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act, 1939, the Personal Injuries (Emergency Provisions) Act, 1939, or under any War Risks Compensation Scheme for the Mercantile Marine:

Provided that paragraph 1 of this Article shall apply to such part of any income from those pensions as is not exempted from United Kingdom tax.

4. The provisions of paragraph 1 of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the High Contracting Parties for purposes of profit.PP

### ARTICLE XIV

## The Laws of Zambia

- 1.** An individual who is a resident of the United Kingdom shall be exempt from French tax on profits or remuneration in respect of personal (including professional) services performed within France in any year of assessment if-
  - (a) he is present within France for a period or periods not exceeding in the aggregate 183 days during that year, and
  - (b) (i) in the case of an employment, the services are performed on behalf of a person who is a resident of the United Kingdom;  
(ii) in other cases, he has no office or other fixed place of business in France, and
  - (c) the profits or remuneration are subject to United Kingdom tax.
- 2.** An individual who is a resident of France shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if-
  - (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and
  - (b) (i) in the case of an employment, the services are performed on behalf of a person who is a resident of France;  
(ii) in other cases, he has no office or other fixed place of business in the United Kingdom, and
  - (c) the profits or remuneration are subject to French tax.
- 3.** The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

## ARTICLE XV

- 1.** Any pension (other than a pension of the kind referred to in paragraph 1 or 2 of Article XIII) and any annuity, derived from sources within France by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from French tax.
- 2.** Any pension (other than a pension of the kind referred to in paragraph 1 or 3 of Article XIII) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of France and subject to French tax in respect thereof, shall be exempt from United Kingdom tax.
- 3.** 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.

## ARTICLE XVI

Nothing in the present Convention shall affect the provisions of the Code Général des Impôts regarding the tax payable by individuals who have not their fiscal domicile in France, but have a residence in France. Subject to these provisions, a resident of the United Kingdom shall not be chargeable to French progressive surtax in respect of income from sources in France.

## ARTICLE XVII

A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

## ARTICLE XVIII

## The Laws of Zambia

A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons resident in the first-mentioned territory for the purposes of his maintenance, education or training.

### ARTICLE XIX

In the application of paragraph 4 of Article XXII, the High Contracting Parties have agreed as follows:

- (1) Individuals who are residents of France shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom income tax as British subjects not resident in the United Kingdom.
- (2) Individuals who are residents of the United Kingdom shall be entitled for the purposes of French tax to the same reductions of taxes or charges, basic abatements, and allowances on account of family responsibilities as French nationals.

### ARTICLE XX

1. The laws of the High Contracting Parties shall continue to govern the taxation of income arising in either of the territories, except where express provision to the contrary is made in the present Convention. Where income is subject to tax in both territories, relief from double taxation shall be given in accordance with the following paragraphs:

2. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, French tax payable, whether directly or by deduction, in respect of income from sources within France shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is a dividend paid by a company resident in France to a company resident in the United Kingdom which controls, directly or indirectly, not less than one-half of the voting power in the former company, the credit shall take into account (in addition to any French tax appropriate to the dividend) the French tax payable by the company in respect of its profits.

3. (a) Subject to the provisions of sub-paragraph (b) of this paragraph, income derived by a person who is a resident of France (whether or not that person is resident in the United Kingdom for the purposes of United Kingdom tax) from sources in the United Kingdom which, under the laws of the United Kingdom and in accordance with this Convention, is subject to tax in the United Kingdom either directly or by deduction, shall be exempt from the French proportional tax on the income of individuals, or, as the case may be, from French tax on companies.

(b) Where the income consists of dividends or interest derived from a company which is a resident of the United Kingdom by a person who is a resident of France (whether or not that person is resident in the United Kingdom for the purposes of United Kingdom tax) and the income is subject to United Kingdom tax, either directly or by deduction, it shall be exempt from the French tax on income from movable capital, United Kingdom tax being regarded as wholly covering that tax in view of its rate.

(c) In the cases referred to in sub-paragraph (a) of this paragraph, the income shall be exempt from French progressive surtax but, where the person receiving this income is a resident of France, the income may be taken into account in determining the effective rate of progressive surtax surchargeable on his income other than the income referred to.

4. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

### ARTICLE XXI

The taxation authorities of the High Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

## The Laws of Zambia

### ARTICLE XXII

1. The nationals of one of the High Contracting Parties shall not be subjected in the territory of the other High Contracting Party to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits or capital attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory are or may be subjected in respect of the like profits or capital.

3. The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory shall not be subjected in the first-mentioned territory to any taxation which is other, higher or more burdensome than the taxation to which other enterprises of that first-mentioned territory are or may be subjected in respect of the like income, profits and capital.

4. Nothing in paragraph 1 or 2 of this Article shall be construed as obliging either High Contracting Party to grant to nationals of the other High Contracting Party, who are not resident in the territory of the former High Contracting Party, any personal allowances, reliefs or reductions for tax purposes. Each of the High Contracting Parties shall adhere to its own legislation in this respect, subject to any special agreements which may be made between them determining the arrangements to be applied.

5. In this Article the term "nationals" means-

- (a) in relation to France all French subjects and French protected persons residing in France or in any French territory to which the present Convention applies by reason of extension made under Article XXIII and all legal persons, partnerships and associations deriving their status as such from the law in force in any French territory to which the present Convention applies;
- (b) in relation to the United Kingdom, all British subjects and British protected persons residing in the United Kingdom or in any British territory to which the present Convention applies by reason of extension made under Article XXIII and all legal persons, partnerships and associations deriving their status as such from the law in force in any British territory to which the present Convention applies.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

### ARTICLE XXIII

1. The present Convention may be extended, either in its entirety or with modifications, to any territory of one of the High Contracting Parties to which this Article applies and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and any such extensions 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 High Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of France or the United Kingdom of the present Convention under Article XXVI shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

3. The territories to which this Article applies are-

- (a) in relation to His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas:  
Any territory other than the United Kingdom for whose international relations the United Kingdom is responsible;
- (b) in relation to the President of the French Republic:  
Any department, protectorate or other overseas territory, for whose international relations France is responsible.

### ARTICLE XXIV



## The Laws of Zambia

On the entry into force of the present Convention the following agreements between the High Contracting Parties shall be terminated in respect of the territories to which the Convention applies:

- (1) The agreement constituted by Exchange of Notes dated the 1st October, 1932, for the exemption from taxation of profits accruing from the business of shipping;
- (2) The Agreement dated the 9th April, 1935, for the reciprocal exemption from income tax of profits arising from the business of air transport;
- (3) The Agreement dated the 19th October, 1945, for relief from double taxation in certain circumstances, exclusive of the Protocol of Signature to that Agreement;

and the provisions of those Agreements (other than the Protocol of Signature to the last-mentioned Agreement) shall cease to have effect:

- (a) In the United Kingdom, as respects income tax for the year of assessment beginning on the 6th April, 1950, and subsequent years, and as respects surtax for the year of assessment beginning on the 6th April, 1949, and subsequent years;
- (b) In France, as respects taxes charged in respect of the year 1950 and subsequent years.

## ARTICLE XXV

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.

2. The present Convention shall enter into force upon exchange of ratifications and the foregoing provisions thereof shall have effect:

- (a) In the United Kingdom:
  - as respects income tax for any year of assessment beginning on or after the 6th April, 1950;
  - as respects surtax for any year of assessment beginning on or after the 6th April, 1949; and
  - as respects profits tax in respect of the following profits:
    - (i) profits arising in any chargeable accounting period beginning on or after the 1st April, 1950;
    - (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
    - (iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after the 6th April, 1950;
- (b) In France:
  - as respects taxes charged in respect of the year 1950 and subsequent years, and as respects the undistributed profits tax. Nevertheless, so far as income other than that referred to in Article X of the present Convention is concerned, no repayment shall be made of tax on income from movable capital, which has been deducted in France at the time of payment of the said income and before the date of exchange of ratifications of the present Convention.

## ARTICLE XXVI

The Laws of Zambia

The present Convention shall continue in force indefinitely but either of the High Contracting Parties may, on or before the 30th June in any calendar year not earlier than the year 1954, give to the other High Contracting Party, through diplomatic channels, written notice of termination and, in such event, the present Convention shall cease to be effective:

(a) In the United Kingdom:

as respects income tax for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;

as respects surtax for any year of assessment beginning on or after the 6th April in the calendar year in which the notice is given; and

as respects profits tax in respect of the following profits:

(i) profits arising in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the next following calendar year;

(b) In France:

as respects taxes charged in respect of the year following the calendar year during which the said notice is given.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Paris in duplicate, in the English and French languages, both texts being equally authoritative, on the fourteenth day of December, one thousand nine hundred and fifty.

(L.S.)  
HARVEY.  
(L.S.)

OLIVER  
A. PARODI.

SECTION 74-THE DOUBLE TAXATION RELIEF (TAXES ON INCOME) (UNITED KINGDOM)  
ORDER

*Statutory Instrument*  
89 of 1973

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) Title  
(United Kingdom) Order.

2. It is hereby declared that the Convention, the text of which is set out in the Convention  
Schedule to this Order, being a Convention relating to relief from double taxation on  
income made between the Government of the Republic of Zambia and the Government of  
the United Kingdom shall have effect in Zambia in accordance with section *seventy-four* of  
the Income tax Act.

Made at Lusaka this 29th of March, 1973.

The Laws of Zambia

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Zambia,

Desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital,

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 taxes which are the subject of this Convention are-

(a) in the United Kingdom of Great Britain and Northern Ireland:

- (i) the income tax (including surtax);
- (ii) the corporation tax; and
- (iii) the capital gains tax;

(b) in Zambia:

- (i) the income tax;
- (ii) the mineral royalty tax; and
- (iii) the personal levy.

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes.

(3) The competent authorities of the Contracting States shall notify to each other any changes which are made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

## The Laws of Zambia

(1) In this Convention, unless the context otherwise requires-

- (a) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (b) the term "Zambia" means the Republic of Zambia;
- (c) the term "national" means-
  - (i) in relation to the United Kingdom, all citizens of the United Kingdom and Colonies who derive their status as such from their connection with the United Kingdom and all legal persons, partnerships and associations deriving their status as such from the law in force in the United Kingdom;
  - (ii) in relation to Zambia, all citizens of Zambia and all legal persons, partnerships and associations deriving their status as such from the law in force in Zambia;
- (d) the term "United Kingdom tax" means tax imposed by the United Kingdom being tax to which this Convention applies by virtue of the provisions of Article 2; the term "Zambia tax" means tax imposed by Zambia being tax to which this Convention applies by virtue of the provisions of Article 2;
- (e) the term "tax" means United Kingdom tax or Zambia tax, as the context requires;
- (f) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Zambia, as the context requires;
- (g) the term "persons" comprises an individual, a company and any other body of persons;
- (h) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (i) 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;
- (j) the term "competent authority" means, in the case of the United Kingdom the Commissioner-Generals of Inland Revenue or their authorised representative, and in the case of Zambia, the Commissioner-General of Taxes or his authorised representative.

(2) As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

## ARTICLE 4

### FISCAL DOMICILE

## The Laws of Zambia

(1) For the purposes of this Convention, the term "resident of a Contracting State" means, subject to the provisions of paragraphs (2) and (3) of this Article, any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. The terms "resident of the United Kingdom" and "resident of Zambia" shall be construed accordingly.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting 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) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

## ARTICLE 5

### PERMANENT ESTABLISHMENT

## The Laws of Zambia

(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include especially-

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than six months.

(3) The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if-

- (a) it carries on the activity of providing the services within that other Contracting State of public entertainers or athletes referred to in Article 18; or
- (b) it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State.

(5) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of an independent status to whom the provisions of paragraph (6) of this Article apply-shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

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

(7) 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

### LIMITATION OF RELIEF

Where under any provision of this Convention any person is relieved from tax in a Contracting State on certain income if (with or without other conditions) that person is subject to tax in the other Contracting State in respect of that income and that person is subject to tax in respect of that income in that other State by reference to the amount thereof which is remitted to or received in that other State, the relief from tax to be allowed under this Convention in the first-mentioned Contracting State shall apply only to the amounts so remitted or received.

## ARTICLE 7

## The Laws of Zambia

### INCOME FROM IMMOVABLE PROPERTY

- (1) Income from immovable property may be taxed in the Contracting State in which such property is situated.
- (2) (a) The term "immovable property" shall, subject to the provisions of sub-paragraph (b) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.  
(b) The term "immovable property" shall in any case 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) of this Article 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) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.
- (5) Notwithstanding the preceding provisions of this Article profits derived by an agricultural, forestry or plantation enterprise shall be dealt with in accordance with the provisions of Article 8.

### ARTICLE 8

#### 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) 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 at arm's length with the enterprise of which it is a permanent establishment.
- (3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) which are incurred for 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) 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.
- (5) Where profits include items which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be provisions of this Article.

### ARTICLE 9

#### SHIPPING AND AIR TRANSPORT

Profits derived from the operation of ships or aircraft in international traffic by an enterprise of a Contracting State shall be exempt from tax in the other Contracting State.

### ARTICLE 10

The Laws of Zambia

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 11

DIVIDENDS



## The Laws of Zambia

(1) Dividends paid by a company which is a resident of Zambia to a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in Zambia according to the law of Zambia but, provided the recipient is subject to tax in respect thereof in the United Kingdom, the tax so charged, being tax which is charged in addition to the tax chargeable in respect of the profits of the company, shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the recipient is a company which controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividends;
- (b) in all other cases 15 per cent of the gross amount of the dividends.

(2) Dividends paid by a company which is a resident of the United Kingdom to a resident of Zambia may be taxed in Zambia. Such dividends may also be taxed in the United Kingdom and according to the laws of the United Kingdom but, provided the recipient is subject to tax in respect thereof in Zambia, the tax so charged, being tax which is charged in addition to the tax chargeable in respect of the profits of the company, shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the recipient is a company which controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividends;
- (b) in all other cases 15 per cent of the gross amount of the dividends.

(3) However, as long as an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom, the following provisions of this paragraph shall apply instead of the provisions of paragraph (2) of this Article:

- (a) (i) Dividends paid by a company which is a resident of the United Kingdom to a resident of Zambia may be taxed in Zambia on the aggregate of the amount or value of the dividends and the amount of the tax credit (if any) to which he is entitled under sub-paragraph (b) of this paragraph.  
(ii) Where a resident of Zambia is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph tax may also be charged in the United Kingdom and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.  
(iii) Except as aforesaid, dividends paid by a company which is a resident of the United Kingdom to a resident of Zambia who is subject to tax in Zambia on them shall be exempt from any tax in the United Kingdom which is chargeable on dividends.
- (b) A resident of Zambia who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (c) of this paragraph and provided he is subject to tax in Zambia on the dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.
- (c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the recipient of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. For the purposes of this sub-paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by a third company.

(4) The term 'dividends' as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident and also includes any other item of income (other than interest or royalties relieved from tax under the provisions of Article 12 or the provisions of Article 13 of this Convention) which, under the law of the Contracting State of which the company paying the dividends is a resident, is treated as a dividend or distribution of a company.

(5) The provisions of paragraphs (1), (2) and (3) of this Article shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 8 shall apply.

(6) If the recipient of a dividend owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the relief from tax provided for in paragraphs (1), (2) and (3) of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term 'relevant date' means the date on which the recipient of the dividend became the owner of 10 per cent or more of the class of shares in question.

Provided that this paragraph shall not apply if the shares were acquired for bona fide commercial reasons and not primarily for the purpose of securing the benefits of this Article.

(7) 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 to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State."

*(As amended by S.I. No 7 of 1983)*

## The Laws of Zambia

### ARTICLE 12

#### 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 be taxed in the Contracting State in which it arises, and according to the law of that State; but where such interest is paid to a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State in which the interest arises shall not exceed 10 per cent of the gross amount of the interest.

(3) The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment and the debt-claim from which the interest arises is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 8 shall apply.

(5) 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Any provision of the law of one of the Contracting States which relates only to interest paid to a non-resident company with or without any further requirement, shall not operate so as to require such interest paid to a company which is a resident of the other Contracting State to be left out of account as a deduction in computing the taxable profits of the company paying the interest as being a dividend or distribution. The preceding sentence shall not however apply to interest received by a company which is a resident of one of the Contracting States in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons resident in the other Contracting State.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

### ARTICLE 13

#### ROYALTIES

## The Laws of Zambia

(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 be taxed in the Contracting State in which they arise and in accordance with the law of that Contracting State; but where such royalties are paid to a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State in which the royalties arise shall not exceed 10 per cent of the gross amount of the royalties.

(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, and films or tapes for radio or television 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 paragraph (2) of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the right or property giving rise to the royalties is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 8 shall apply.

(5) Any provision of the law of a Contracting State which requires royalties paid by a company to be left out of account as a deduction in computing the company's taxable profits as being a dividend or distribution shall not operate in relation to royalties paid to a resident of the other Contracting State. The preceding sentence shall not however apply to royalties derived by a company which is a resident of that other Contracting State where-

- (a) the same persons participate directly or indirectly in the management or control of the company paying the royalties and the company deriving the royalties; and
- (b) more than 50 per cent of the voting power in the company deriving the royalties is controlled directly or indirectly by a person or persons resident in the Contracting State in which the company paying the royalties is resident.

(6) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 14

### CAPITAL GAINS

(1) Capital gains from the alienation of any 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 any property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, capital gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting State.

(3) Capital gains from the alienation of any property other than those mentioned in paragraph (1) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

(4) The provisions of paragraph (3) of this Article shall not affect the right of a Contracting State to levy according to its own law a tax on capital gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property.

## ARTICLE 15

### INDEPENDENT PERSONAL SERVICES

## The Laws of Zambia

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless 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 Contracting State but only so much of it as is attributable to that fixed base.

(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 16

### EMPLOYMENTS

(1) Subject to the provisions of Articles 19, 20 and 21, 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) of this Article, 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 first-mentioned State if-

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

## ARTICLE 17

### DIRECTORS' FEES

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

## ARTICLE 18

### ARTISTES AND ATHLETES

Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

## ARTICLE 19

### PENSIONS

## The Laws of Zambia

(1) Any pension (other than a pension of the kind referred to in paragraph (2) or paragraph (4) of Article 20) and any annuity derived from sources within a Contracting State by an individual who is a resident of the other Contracting State and subject to tax in that other State in respect thereof shall be exempt from tax in the first-mentioned Contracting 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 of money's worth.

## ARTICLE 20

### GOVERNMENTAL FUNCTIONS

(1) Remuneration (other than pensions) paid by the Government of a Contracting State to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other Contracting State if the individual is not ordinarily resident in that other Contracting State or is ordinarily resident in that other Contracting State solely for the purpose of rendering those services.

(2) Any pension paid by the Government of a Contracting State to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other Contracting State if immediately prior to the cessation of the services to which the pension relates the remuneration therefor was exempt from tax in that other Contracting State (whether under paragraph (1) of this Article or otherwise).

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by the Government of either Contracting State for purposes of profit.

(4) Any pension paid to an individual for services rendered in the discharge of governmental functions which would have been exempt from tax in a Contracting State if the existing Agreement had continued in force shall be exempt from tax in that Contracting State under this Convention. In this paragraph the term "the existing Agreement" has the same meaning as in paragraph (7) of Article 29 of this Convention.

## ARTICLE 21

### RESEARCH PERSONNEL AND STUDENTS

(1) An individual who immediately before visiting one of the Contracting States is a resident of the other Contracting State and is temporarily present in the first-mentioned Contracting State for a period not exceeding two years for the purpose of research, solely as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of one of the Contracting States shall be exempt from tax in the first-mentioned Contracting State on-

- (a) the amount of such grant, allowance or award; and
- (b) any remuneration for personal services rendered in the first-mentioned Contracting State provided such services are in connection with his research or are incidental thereto.

(2) Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other Contracting State provided that such payments are made to him from sources outside that other Contracting State.

(3) Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State shall not be taxed in that other Contracting State provided that such employment is directly related to his studies or training or the remuneration constitutes earnings reasonably necessary for his maintenance and education.

(4) The benefits of paragraphs (2) and (3) of this Article shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken but in no event shall any individual have the benefits of this Article for more than three consecutive years of assessment or charge years.

## ARTICLE 22

The Laws of Zambia

INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State being income of a class or from sources not expressly mentioned in the foregoing Articles of this Convention in respect of which he is subject to tax in that State shall be taxable only in that State. Provided that this Article shall not be construed as affecting the taxation of income attributable to a permanent establishment which a resident of one Contracting State has in the other Contracting State.

ARTICLE 23

ELIMINATION OF DOUBLE TAXATION

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof)-

- (a) Zambia tax payable under the laws of Zambia and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Zambia shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Zambia tax is computed. Provided that in the case of a dividend the credit shall take into account only such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.
- (b) In the case of a dividend paid by a company which is a resident of Zambia to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Zambia tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Zambia tax payable by the company in respect of the profits out of which such dividend is paid.

(1A) For the purposes of paragraph (1) of this Article the term "Zambia tax payable" shall be deemed to include any amount which would have been payable as Zambia tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under-

- (a) Sections 19 and 20 of the Pioneer Industries (Relief from Income Tax) Act, Cap. 666, and section 20 (f) of the Industrial Development Act, 1977, so far as they were in force on, and have not been modified since, the date of signature of the Protocol amending this Convention or have been modified only in minor respects so as not to affect their general character; or
- (b) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character:

Provided that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Zambia tax was first granted in respect of that source.

*(As amended by S.I. No. 9 of 1983, effective in the United Kingdom from 1st April 1980, as regards Corporation tax and 6th April 1980 as regards income Tax and Capital gains tax and in Zambia on 1st April 1980 for income tax purposes)*

(2) Subject to the provisions of the law of Zambia regarding the allowance as a credit against Zambia tax of tax payable in a territory outside Zambia (which shall not affect the general principle hereof)-

- (a) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within the United Kingdom shall be allowed as a credit against any Zambia tax computed by reference to the same profits, income or chargeable gains by reference to which the United Kingdom tax is computed:

Provided that in the case of a dividend the credit shall take into account only such tax in respect thereof as is charged on the recipient under paragraph 2 or under paragraph (3)(a)(ii) of Article 11 and credit shall not be allowed in respect of any tax payable by the company on the profits out of which the dividend is paid.

*(As amended by S.I. No. 9 of 1983)*

## The Laws of Zambia

(b) In the case of a dividend paid by a company which is a resident of the United Kingdom to a company which is a resident of Zambia and which controls directly or indirectly at least 10 per cent of the voting power in the United Kingdom company, the credit shall take into account (in addition to any United Kingdom tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the United Kingdom tax payable by the company in respect of the profits out of which such dividend is paid.

(3) For the purposes of paragraphs (1) and (2) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

## ARTICLE 24

### PERSONAL ALLOWANCES

(1) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of Zambia shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

(2) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Zambia tax as Zambia citizens not resident in Zambia.

(3) Nothing in this Convention shall entitle an individual who is a resident of a Contracting State and whose income from the other Contracting State consists solely of dividends, interest or royalties (or solely of any combination thereof) to the personal allowances, reliefs and reductions of the kind referred to in this Article for the purposes of taxation in that other Contracting State.

## ARTICLE 25

### NON-DISCRIMINATION

(1) The 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) 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.

(3) 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

(4) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident, nor as obliging Zambia to grant to non-nationals the relief available to Zambian nationals under section 42C of the Zambian Income Tax Act, 1966, nor as conferring any exemption from tax in a Contracting State in respect of dividends paid to a company which is a resident of the other Contracting State.

(5) In this Article the term "taxation" means taxes of every kind and description.

## ARTICLE 26

### MUTUAL AGREEMENT PROCEDURE

## The Laws of Zambia

(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 this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(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 an appropriate 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 not in accordance with the Convention.

(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.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## ARTICLE 27

### EXCHANGE OF INFORMATION

The competent authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or administrative body) concerned with assessment, collection, enforcement or prosecution in respect of taxes which are the subject of this Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

## ARTICLE 28

### TERRITORIAL EXTENSION

(1) This Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those to which this 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 for this purpose.

(2) Unless otherwise agreed by both Contracting States, the termination of this Convention shall terminate the application of this Convention to any territory to which it has been extended under the provisions of this Article.

## ARTICLE 29

### ENTRY INTO FORCE



## The Laws of Zambia

(1) This Convention shall come into force on the date when the last of all such things shall have been done in the United Kingdom and Zambia as are necessary to give the Convention the force of law in the United Kingdom and Zambia respectively and shall thereupon have effect-

(a) in the United Kingdom-

(i) as respects income tax, surtax and capital gains tax, for any year of assessment beginning on or after 6th April, 1972;

(ii) as respects corporation tax, for any financial year beginning on or after 1st April, 1972;

(b) in Zambia-

as respects income for any charge year beginning on or after 1st April, 1972.

(2) The Governments of the Contracting States shall, as soon as possible, inform one another in writing of the date when the last of all such things shall have been done as are necessary to give the Convention the force of law in the United Kingdom and Zambia respectively. The date specified by the last Government to fulfil this requirement, being the date on which the Convention shall come into force in accordance with paragraph (1), shall be confirmed in writing by the Government so notified.

(3) Subject to the provisions of paragraph (4) of this Article the existing Agreement shall cease to have effect as respects taxes to which this Convention in accordance with the provisions of paragraph (1) of this Article applies.

(4) Where any provision of the existing Agreement would have afforded any greater relief from tax any such provision as aforesaid shall continue to have effect for any year of assessment or financial year or charge year beginning before the entry into force of this Convention.

(5) The existing Agreement shall terminate on the last date on which it has effect in accordance with the foregoing provisions of this Article.

(6) The termination of the existing Agreement as provided in paragraph (5) of this Article shall not revive the Arrangement made in 1947 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Northern Rhodesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income. Upon the entry into force of this Convention that Arrangement shall terminate.

(7) In this Article the term "the existing Agreement" means the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Zambia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, that is to say the continuation, with effect from the dissolution of the Federation of Rhodesia and Nyasaland on 1st January, 1964, in force subject to certain modifications between the Government of the United Kingdom and the Government of Northern Rhodesia and from the 24th October, 1964, when Northern Rhodesia became an independent Republic under the name of Zambia, between the Government of the United Kingdom and the Government of Zambia, of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the former Federation of Rhodesia and Nyasaland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on 25th November, 1955, as amended by the Supplementary Agreement between the Government of the United Kingdom and the Government of Zambia which was signed at Lusaka on 6th April, 1968.

## ARTICLE 30

## TERMINATION

The Laws of Zambia

(1) This Convention shall continue in effect indefinitely but the Government of either Contracting State may, on or before the thirtieth day of September in any calendar year after the year 1972, give notice of termination to the Government of the other Contracting State and, in such event, the Convention shall cease to be effective-

(a) in the United Kingdom-

(i) as respects income tax, surtax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;

(ii) as respects corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given;

(b) in Zambia-

as respects income for any charge year beginning on or after 1st April in the calendar year next following that in which the notice is given.

(2) The termination of this Convention shall not have the effect of reviving any agreement or arrangement terminated by this Convention.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at Lusaka this 22nd day of March, 1972.

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

J.S.R. DUNCAN

*For the Government of the Republic of Zambia:*

J.M. MWANAKATWE

The Laws of Zambia

SECTION 74-THE DOUBLE TAXATION RELIEF (TAXES ON INCOME) (IRELAND) ORDER

*Statutory Instrument*  
178 of 1973

*Order by the President*

**1.** This Order may be cited as the Double Taxation Relief (Taxes on Income) (Ireland) Order. Title

**2.** It is hereby declared that the Convention, the text of which is set out in the Schedule to this Order, being a Convention relating to relief from double taxation on income made between the Government of the Republic of Zambia and the Government of Ireland shall have effect in Zambia in accordance with section *seventy-four* of the Income Tax Act. Convention

Made at Lusaka this 22nd day of July, 1973.

The Laws of Zambia

SCHEDULE

CONVENTION BETWEEN THE REPUBLIC OF ZAMBIA AND IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Zambia and the Government of Ireland,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

ARTICLE I

1. The taxes which are the subject of this Convention are-

- (a) in Ireland-  
the income tax (including surtax) and the corporation profits tax (hereinafter referred to as "Irish tax");
- (b) in Zambia-  
the income tax (hereinafter referred to as "Zambian tax").

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

ARTICLE II

## The Laws of Zambia

1. In this Convention, unless the context otherwise requires:
  - (a) the terms "a Contracting State" and "the other Contracting State" mean Zambia and Ireland, as the context requires;
  - (b) the term "person" includes an individual and any body of persons corporate or not corporate;
  - (c) the term "company" means any body corporate or entity which is treated as a body corporate for tax purposes;
  - (d) the term "tax" means Zambian tax or Irish tax, as the context requires;
  - (e) the term "resident of Ireland" means-
    - (i) any company whose business is managed and controlled in Ireland. Provided that nothing in this paragraph shall affect any provisions of the law of Ireland regarding the imposition of corporation profits tax in the case of a company incorporated in Ireland;
    - (ii) any other person who is resident in Ireland for the purposes of Irish tax and not resident in Zambia for the purposes of Zambian tax;
  - (f) the term "resident of Zambia" means-
    - (i) any company whose business is managed and controlled in Zambia;
    - (ii) any other person who is resident in Zambia for the purpose of Zambian tax and not resident in Ireland for the purposes of Irish tax;
  - (g) the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of Zambia or a person who is a resident of Ireland, as the context requires;
  - (h) the terms "Zambian enterprise" and "Irish enterprise" mean respectively an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking or any like enterprise or undertaking carried on by a resident of Zambia and in industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking or any like enterprise or undertaking carried on by a resident of Ireland;
  - (i) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean a Zambian enterprise or an Irish enterprise, as the context requires;
  - (j) the term "international traffic" includes traffic between places in one country in the course of a journey which extends over more than one country;
  - (k) the term "taxation authority" means:
    - (i) in the case of Zambia, the Commissioner-General of Taxes or his authorised representative;
    - (ii) in the case of Ireland, the Revenue Commissioner-Generals or their authorised representative.

2. Where any Article of this Convention provides (with or without conditions) that income derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in the first-mentioned State or entitled to a reduced rate of tax in the other State and, under the law in force in that first-mentioned State, the said income is subject to tax by reference to the amount thereof which is remitted to or received in that State and not by reference to the full amount thereof, then the exemption or reduction in rate in the other State resulting from such Article shall apply only to so much of the income as is remitted to or received in the first-mentioned State.

3. In the application of the provisions of this Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

## ARTICLE III

## The Laws of Zambia

1. For the purposes of this Convention the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, oil well, quarry or other place of extraction of natural resources;
  - (g) a building site or construction or assembly project which exists for more than twelve months.
3. The term "permanent establishment" shall not be deemed 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 for collecting information for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other Contracting State for more than twelve months in connection with a construction, installation, or assembly project which is being undertaken in that other Contracting State.
5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of independent status to whom paragraph 6 applies-shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent, or any other agent of independent status, where such person is acting in the ordinary course of his business.
7. 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 IV

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case 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 professional services.

## ARTICLE V

## The Laws of Zambia

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. 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for 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 laid down 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 purpose 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 provision of those Articles shall not be affected by the provisions of this Article.

## ARTICLE VI

Notwithstanding the provisions of Articles III and V, profits of an enterprise from the the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

## ARTICLE VII

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 VIII

## The Laws of Zambia

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State who is beneficially entitled thereto shall be exempt from any tax in that first-mentioned State which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

2. The provisions of paragraph 1 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the dividends shall remain taxable in that other Contracting State according to its own law.

3. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State shall not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on 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 IX

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State who is beneficially entitled thereto shall be taxable only in that other State.

2. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated, by the taxation law of the State in which the income arises, to income from money lent.

3. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the interest shall remain taxable in that other Contracting State according to its own law.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE X

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State who is beneficially entitled thereto shall be taxable only in that other State.

2. 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 films for use in connection with television or video tapes for use in connection therewith or tapes for use in connection with radio) 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.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties shall remain taxable in that other Contracting State according to its own law.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE XI



## The Laws of Zambia

1. Gains from the sale, transfer or exchange of capital assets derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in first-mentioned State.

2. The provisions of paragraph 1 shall not apply where a resident of a Contracting State carries on a trade or business in the other Contracting State through a permanent establishment situated therein and such gains are attributable to that permanent establishment. In such a case, the gains shall remain taxable in that other Contracting State according to its own law.

## ARTICLE XII

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless 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 Contracting State but only so much of it as is attributable to that fixed base.

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 XIII

1. Subject to the provisions of Articles XIV, XV and XVI, 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 first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

4. Notwithstanding the provisions of paragraphs 1 and 2, remuneration for personal services performed aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

5. Notwithstanding anything contained in this Convention, income derived by public entertainers such as theatre, motion picture, radio or television artistes and musicians and by athletes from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

## ARTICLE XIV

## The Laws of Zambia

1. Remuneration (other than pensions) paid by, or out of funds created by a Contracting State or local authority thereof to any individual in respect of services rendered to that State or local authority thereof in the discharge of governmental functions shall be exempt from tax in the other Contracting State if the individual is not ordinarily resident in that State or is ordinarily resident in that State solely for the purpose of rendering these services.

2. Pensions paid by, or out of funds created by a Contracting State or local authority thereof to any individual in respect of services rendered to that State or local authority thereof in the discharge of governmental functions shall be exempt from tax in the other Contracting State.

3. This Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting States for purposes of profit.

4. In the case of Zambia, pensions paid out of the Central African Pension Fund shall be exempt from tax in Ireland.

5. In this Article, "pension" means any pensions, annuity, gratuity, compensation, repayment of contributions, retiring allowance or other like benefit and "individual" includes the individual's widow or child.

## ARTICLE XV

Subject to the provisions of Article XIV, any pension derived from sources within a Contracting State in consideration of past employment by an individual who is a resident of the other Contracting State and subject to tax in respect thereof in that other Contracting State shall be exempt from tax in the first-mentioned State.

## ARTICLE XVI

1. The remuneration which an individual from a Contracting State receives for undertaking study or research at a high level or for teaching, during a period of temporary residence not exceeding two years at a university, research institute, school, college or other similar establishment in the other Contracting State shall not be taxable in the latter State.

2. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other Contracting State, provided that such payments are made to him from sources outside that other Contracting State.

3. Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State for the purposes of practical training for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned shall not be taxed in that other State.

## ARTICLE XVII

Items of income, which are not expressly mentioned in the foregoing Articles of this Convention, derived by a resident of a Contracting State from sources within the other Contracting State and subject to tax in the first-mentioned State shall be exempt from tax in the second-mentioned State.

## ARTICLE XVIII

1. Individuals who are residents of Zambia may claim the same personal allowances, reliefs and reductions for the purposes of Irish tax as Irish citizens who are not resident in Ireland.

2. Individuals who are residents of Ireland may claim the same personal allowances, reliefs and reductions for the purposes of Zambian tax as Zambian citizens who are not resident in Zambia.

## ARTICLE XIX

## The Laws of Zambia

1. The laws of the Contracting State shall continue to govern the taxation of income arising in either of the Contracting States except where express provision to the contrary is made in this Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. Subject to the provisions of the law of Ireland regarding the allowances as a credit against Irish tax of tax payable in a territory outside Ireland, Zambian tax payable, whether directly or by deduction, in respect of income from sources within Zambia shall be allowed as a credit against Irish tax payable in respect of that income. For this purpose, the recipient of a dividend paid by a company which is a resident of Zambia shall be deemed to have paid the Zambian income tax appropriate to such dividend.

3. For the purposes of paragraph 2, "Zambian tax payable" shall be deemed to include any amount which would have been payable as Zambian tax, but for an exemption or reduction for tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or any other Zambian law of similar purpose and effect.

4. Subject to the provisions of the law of Zambia regarding the allowance as a credit against Zambian tax of tax payable in any country outside Zambia, Irish tax payable, whether directly or by deduction, in respect of income from sources within Ireland shall be allowed as a credit against Zambian tax payable in respect of that income. For this purpose-

- (i) the recipient of a dividend paid by a company which is a resident of Ireland shall be deemed to have paid the Irish income tax appropriate to such dividend;
- (ii) where the income from sources within Ireland is an ordinary dividend paid by a company which is a resident of Ireland, the credit shall take into account (in addition to any Irish income tax appropriate to the dividend) the corporation profits tax payable in respect of its profits by the company paying the dividend and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the corporation profits tax so payable by the company shall likewise be taken into account insofar as the dividend exceeds that fixed rate.

5. (1) For the purposes of paragraph 4, "Irish tax payable" shall be deemed to include-

- (a) the Irish tax which would have been payable on any profits granted tax incentive exemption or relief in Ireland but for such tax incentive exemption or relief;
- (b) the Irish income tax which would have been deductible from any dividend paid out of profits granted tax incentive exemption or relief in Ireland but for such tax incentive exemption or relief.

(2) For the purposes of the foregoing provisions of this paragraph-

- (a) "profits granted tax incentive exemption or relief in Ireland" means profits which were not taken into account for the purposes of Irish tax or which were exempted or relieved from Irish tax by reason of the provisions of one or more of the enactments set out in (c) below;
- (b) "dividend paid out of profits granted tax incentive exemption or relief in Ireland" means a dividend received from a company resident in Ireland and paid out of profits granted tax incentive exemption or relief in Ireland by reason of the provisions of one or more of the enactments set out in (c) below;
- (c) (i) The Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No. 8 of 1956), as amended;
- (ii) Parts II and III of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), as amended;
- (iii) Parts II of the Finance (Miscellaneous Provisions) Act, 1958 (No. 28 of 1958); and
- (iv) Part XXV of the Income Tax Act, 1967 (No. 6 of 1967) as amended.

6. Where an individual who is resident in Ireland for the purposes of Irish tax and is also resident in Zambia for the purposes of Zambian tax derives income from sources outside both Zambia and Ireland, tax may be imposed on that income in each of the Contracting States (subject to the law in force in that Contracting State and to any Convention for the avoidance of double taxation of income which may exist between that Contracting State and the territory from which the income is derived) but there shall be allowed against the tax imposed by each Contracting State on so much of that income as is subjected to tax in both Contracting States-a credit which bears the same proportion to the amount of that tax (as reduced by any credit allowed in respect of tax payable in the country from which the income is derived) or to the amount of the tax imposed by the other Contracting State (reduced as aforesaid), whichever is the less, as the former amount (before any such reduction) bears to the sum of both amounts (before any such reduction).

7. For the purposes of paragraph 4 and notwithstanding the provisions of paragraph 6, income derived from sources in the United Kingdom by an individual who is resident in Ireland shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom income tax.

8. For the purposes of this Article, profits or remuneration arising from the exercise of a profession or employment in one of the Contracting States shall be deemed to be income from sources within that Contracting State, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of a Contracting State shall be deemed to be performed in that Contracting State.

## The Laws of Zambia

### ARTICLE XX

1. The 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. The term "nationals" means-

- (a) in relation to Zambia, all nationals of Zambia and all legal persons, partnerships and associations deriving their status as such from the law in force in Zambia;
- (b) in relation to Ireland, all citizens of Ireland and all legal persons, partnerships and associations deriving their status as such from the law in force in Ireland.

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. 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents, nor as obliging Ireland to grant to any company other than a company incorporated in Ireland and resident therein for the purposes of income tax, any relief or exemption allowed in accordance with the provisions of-

- (a) the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No. 8 of 1956), as subsequently amended; or
- (b) Part II of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), as subsequently amended; or
- (c) Chapter II or Chapter III of Part XXV of the Income Tax Act, 1967 (No. 6 of 1967), as subsequently amended.

6. In this Article the term "taxation" means the taxes which are the subject of this Convention.

### ARTICLE XXI

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 this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the taxation authority of the Contracting State of which he is a resident.

2. The taxation authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the taxation authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The taxation 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 taxation authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the taxation authorities of the Contracting States.

### ARTICLE XXII

## The Laws of Zambia

1. The taxation authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall not be disclosed to any persons or authorities other than persons, including a court or other adjudicating authority, concerned with assessment or collection of those taxes or the determination of appeals in relation thereto.

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 or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are 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.

## ARTICLE XXIII

This Convention shall come into force on the date when the last of all such things shall have been done in Ireland and Zambia as are necessary to give the Convention the force of law in Ireland and Zambia respectively, and shall thereupon have effect:

- (a) In Ireland-
  - (i) as respects income tax (including surtax), for any year of assessment beginning on or after the 6th April, 1967;
  - (ii) as respects corporation profits tax, for any accounting period beginning on or after the 1st April, 1967, and for the unexpired portion of any accounting period current at that date;
- (b) In Zambia-  
as respects income tax, for any charge year beginning on or after the 1st April, 1967.

## ARTICLE XXIV

This Convention shall remain in force indefinitely but, either of the Contracting States may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1971. In such event the Convention shall cease to have effect:

- (a) in Ireland-
  - (i) as respects income tax (including surtax), for any year of assessment beginning on or after the 6th April in the calendar year next following that in which such notice is given;
  - (ii) as respects corporation profits tax, for any accounting period beginning on or after the 1st April in the calendar year next following that in which such notice is given and for the unexpired portion of any accounting period current at that date;
- (b) in Zambia-  
as respects income tax, for any charge year beginning on or after the 1st April in the calendar year next following that in which such notice is given.

In witness whereof the undersigned being duly authorised thereto have signed this Convention and have affixed thereto their seals.

Done at London this 29th day of March, 1971, in duplicate in the English language.

*For Zambia:*  
A. I. PHIRI

*For Ireland:*  
D. O'SULLIVAN

CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION-HOLLAND

*Government Notice*  
463 of 1964

*Order by the President*

An arrangement has been made with the Government of the United Kingdom of Great Britain and Northern Ireland whereby the Convention between the Government and the Government of Holland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income has been extended to the former Protectorate by and incorporating the terms of the Despatch and reply thereto set out in the Schedule.

The Laws of Zambia

SCHEDULE

223

BRITISH EMBASSY,  
THE HAGUE.  
December 7, 1963.

Your Excellency,

I have the honour, upon instructions from Her Majesty's Principal Secretary of State for Foreign Affairs, to refer to the Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Netherlands dated the 20th December and 27th December 1962 extending to the Federation of Rhodesia and Nyasaland, on the basis therein specified, the provisions of the Convention between the United Kingdom and the Netherlands for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on the 15th October, 1948.

The Governments of Southern Rhodesia, Northern Rhodesia and Nyasaland have requested the United Kingdom Government to address the Netherlands Government regarding the arrangements to obtain immediately after dissolution of the Federation, the target date of which, as agreed at the Victoria Falls Conference, is the 31st December, 1963.

As it is particularly undesirable to have any hiatus in double taxation agreements I have the honour to propose on behalf of the Government of the United Kingdom that on dissolution of the Federation of Rhodesia and Nyasaland the extension provided for in the above-mentioned Exchange of Notes should be regarded as continuing in force in relation to Southern Rhodesia, Northern Rhodesia and Nyasaland individually and that references therein to the Federation should be construed accordingly.

I should be grateful if Your Excellency would let me know, if possible before the 31st December, whether the Netherlands Government sees any objection to this proposal. I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

A. N. NOBLE.

Dr. J. M. A. H. Luns,  
Minister for Foreign Affairs.

MINISTRY OF FOREIGN AFFAIRS,  
THE HAGUE.  
The Hague, December 23, 1963.

Treaty Department  
DVE/VB-184938

Sir,

I have the honour to acknowledge receipt of Your Excellency's letter number 223 of 7th December, 1963, regarding the Exchange of Notes between the Government of the Kingdom of the Netherlands and the Government of the United Kingdom of Great Britain and Northern Ireland dated the 20th December and the 27th December, 1962, extending to the Federation of Rhodesia and Nyasaland, on the basis therein specified, the provisions of the Convention between the Netherlands and the United Kingdom for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on 15th October, 1948.

In reply to your letter I would inform Your Excellency that the Government of the Kingdom of the Netherlands sees no objection to the proposal contained therein and that therefore, on the dissolution of the Federation of Rhodesia and Nyasaland, the extension provided for in the above-mentioned Exchange of Notes will be regarded as continuing in force in relation to the Kingdom, on the one hand, and the countries of Southern Rhodesia, Northern Rhodesia and Nyasaland individually, on the other.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

For the Minister of Foreign Affairs

(Signed) BARON S. J. VAN TUYLL VAN SEROOSKERKEN,  
*Secretary-General.*

His Excellency,  
Sir Andrew Noble,  
Ambassador Extraordinary and Plenipotentiary of Her Britannic Majesty,  
THE HAGUE.

ANNEXURE

The Laws of Zambia

CONVENTION BETWEEN HIS MAJESTY IN RESPECT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND HER MAJESTY THE QUEEN OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas and Her Majesty the Queen of the Netherlands,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have appointed for that purpose as their Plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas:

For the United Kingdom of Great Britain and Northern Ireland:

The Right Honourable Ernest Bevin, M.P., His Principal Secretary of State for Foreign Affairs;

Her Majesty the Queen of the Netherlands:

For the Kingdom of the Netherlands:

His Excellency Jonkheer E. Michiels van Verduynen, Her Ambassador Extraordinary and Plenipotentiary in London;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows:

ARTICLE I

1. The taxes which are the subject of the present Convention are-

(a) In the Netherlands:

The income tax, the wages tax, the company tax, the dividends tax and the tax on fees of directors and managers of companies (hereinafter referred to as "Netherlands tax");

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax").

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in the Netherlands or the United Kingdom subsequently to the date of signature of the present Convention.

ARTICLE II



## The Laws of Zambia

1. In the present Convention, unless the context otherwise requires-
  - (a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;
  - (b) The term "Netherlands" means the Kingdom of the Netherlands in Europe;
  - (c) The terms "one of the territories" and "the other territory" mean the United Kingdom or the Netherlands, as the context requires;
  - (d) The term "tax" means United Kingdom tax or Netherlands tax as the context requires;
  - (e) The term "person" includes any body of persons, corporate or not corporate;
  - (f) The term "company" means any body corporate, and any partnership the capital of which is wholly or partly represented by shares;
  - (g) The terms "resident of the United Kingdom" and "resident of the Netherlands" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in the Netherlands for the purposes of Netherlands tax, and any person who is resident in the Netherlands for the purposes of Netherlands tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in the Netherlands if its business is managed and controlled in the Netherlands;
  - (h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of the Netherlands, as the context requires;
  - (i) The terms "United Kingdom enterprise" and "Netherlands enterprise" mean respectively an industrial or commercial enterprise carried on by a resident of the United Kingdom and an industrial or commercial enterprise carried on by a resident of the Netherlands, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Netherlands enterprise, as the context requires;
  - (j) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;
  - (k) The term "permanent establishment" when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection-
    - ii(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;
    - i(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
    - (iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.
2. In the application of the provisions of the present Convention by one of the High Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

## ARTICLE III

## The Laws of Zambia

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Netherlands tax unless the enterprise carries on a trade or business in the Netherlands through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the Netherlands, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Netherlands enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

4. Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

## ARTICLE IV

Where-

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

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 V

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

## ARTICLE VI

1. Dividends paid by a company resident in one of the territories to a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from any tax in that first-mentioned territory which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

2. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

## ARTICLE VII

## The Laws of Zambia

1. Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this Article-

- (a) The term "interest" includes interest on a debenture or on any other form of indebtedness, except in so far as such other indebtedness is secured by way of mortgage of immovable property;
- (b) The term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

3. Where any interest or royalty exceeds a fair and reasonable consideration in respect of the indebtedness or rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest or royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory, who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

## ARTICLE VIII

Income from immovable property interest (other than debenture interest) from any mortgage of such property, and royalties in respect of the operation of a mine or quarry or of any other extraction of a natural resource, shall be subject to tax in accordance with the law in force in the territory in which such immovable property, mine, quarry or natural resource is situated.

## ARTICLE IX

1. Remuneration, including pensions, paid by, or out of funds created by, one of the High Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other High Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

2. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the High Contracting Parties for purposes of profit.

## ARTICLE X

## The Laws of Zambia

1. An individual who is a resident of the United Kingdom shall be exempt from Netherlands tax on profits or remuneration in respect of personal (including professional) services performed within the Netherlands in any year of assessment, if-

- (a) he is present within the Netherlands for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a resident of the United Kingdom, and
- (c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of the Netherlands shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if-

- (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a resident of the Netherlands, and
- (c) the profits or remuneration are subject to Netherlands tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artists, musicians and athletes.

## ARTICLE XI

1. Any pension (other than a pension of the kind referred to in paragraph 1 of Article IX) and any annuity, derived from sources within the Netherlands by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Netherlands tax.

2. Any pension (other than a pension of the kind referred to in paragraph 1 of Article IX) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of the Netherlands and subject to Netherlands tax in respect thereof, shall be exempt from United Kingdom tax.

3. 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.

## ARTICLE XII

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

## ARTICLE XIII

A student, student-trainee or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

## ARTICLE XIV

1. Individuals who are residents of the Netherlands shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom income tax as British subjects not resident in the United Kingdom.

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances and reliefs for the purposes of Netherlands tax as Netherlands nationals not resident in the Netherlands.

## The Laws of Zambia

### ARTICLE XV

1. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Netherlands tax payable, whether directly or by deduction, in respect of income from sources within the Netherlands shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is a dividend paid by a company resident in the Netherlands to a company resident in the United Kingdom which controls, directly or indirectly, not less than one-half of the voting power in the former company, the credit shall take into account, in addition to any Netherlands tax payable in respect of the dividend, the Netherlands tax payable by the former company in respect of its profits.

2. As far as may be in accordance with the provisions of Netherlands law, United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom shall be allowed as a credit against any Netherlands tax payable in respect of that income: provided that for the purposes of this paragraph and of the aforesaid provision of Netherlands law, the Netherlands tax payable in respect of such income (before allowance of any credit) shall be deemed to be an amount which bears the same proportion to the total Netherlands tax payable (before allowance of any credit) by the person entitled to such income as such income bears to that person's total income subject to Netherlands tax, and the credit shall not exceed the amount so determined.

3. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

### ARTICLE XVI

1. The taxation authorities of the High Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. As used in this Article, the term "taxation authorities" means, in the case of the United Kingdom, the Commissioner-Generals of Inland Revenue or their authorised representatives; in the case of the Netherlands, the "Directeur-Generaal der Belastingen" or his authorised representative; and, in the case of any territory to which the present Convention is extended under Article XIX, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

### ARTICLE XVII

The following agreements between the United Kingdom and the Kingdom of the Netherlands shall not have effect for any year or period for which the present Convention has effect, that is to say,

- (a) the agreement dated 20th May, 1926, for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping;
- (b) the convention dated 6th June, 1935, for reciprocal exemption from taxes in certain cases; and
- (c) the agreement constituted by exchange of notes dated 27th August, 1936, for reciprocal exemptions from certain taxation in respect of the business of air transport.

### ARTICLE XVIII

## The Laws of Zambia

1. The nationals of one of the High Contracting Parties shall not be subjected in the territory of the other High Contracting Party to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory are or may be subjected in respect of the like profits.

3. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one of the High Contracting Parties to grant to nationals of the other High Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to His own nationals.

4. In this Article the term "nationals" means-

(a) in relation to the Netherlands:

(i) all Netherlands nationals;

(ii) all Netherlands subjects residing in the Netherlands;

(iii) as regards any Netherlands territory to which the present Convention applies by reason of extension made under Article XIX, all Netherlands subjects who reside in such territory or who derive their status as Netherlands subjects from birth in, or origin from, such territory;

(iv) all legal persons, partnerships and associations deriving their status as such from the law in force in any Netherlands territory to which the present Convention applies;

(b) in relation to the United Kingdom, all British subjects and British protected persons residing in or belonging to the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XIX, and all legal persons, partnerships and associations deriving their status as such from the law in force in any British territory to which the present Convention applies.

5. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

## ARTICLE XIX

1. The present Convention may be extended, either in its entirety or with modifications, to any territory of one of the High Contracting Parties to which this Article applies and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and 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 High Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of the Netherlands or the United Kingdom of the present Convention under Article XXI shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

3. The territories to which this Article applies are-

(a) in relation to His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas:

Any territory other than the United Kingdom for whose foreign relations the United Kingdom is responsible;

(b) in relation to Her Majesty the Queen of the Netherlands:

Any territory other than the Netherlands for whose foreign relations the Netherlands is responsible.

## ARTICLE XX

## The Laws of Zambia

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.
2. Upon exchange of ratifications the present Convention shall have effect:
  - (a) In the United Kingdom:
    - as respects income tax for any year of assessment beginning on or after the 6th April, 1948;
    - as respects surtax for any year of assessment beginning on or after the 6th April, 1947; and
    - as respects profits tax (not being profits tax apportionable to so much of any chargeable accounting period as falls before the 1st January, 1947), in respect of the following profits:
      - (i) profits arising in any chargeable accounting period beginning on or after the 1st April, 1948;
      - (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
      - (iii) profits not so arising or attributable by reference to which income tax is, or but for the present Agreement would be, chargeable for any year of assessment beginning on or after the 6th April, 1948;
  - (b) In the Netherlands:
    - as respects income tax for any year of assessment beginning after the 31st December, 1947;
    - as respects the company tax for any chargeable accounting period beginning after the 31st December, 1947; and for the unexpired portion of any chargeable accounting period current at that date; and as respects any other taxes for the calendar year 1948 and subsequent years.

## ARTICLE XXI

The present Convention shall continue in effect indefinitely but either of the High Contracting Parties may, on or before the 30th June in any calendar year not earlier than the year 1952, give to the other High Contracting Party through diplomatic channels, written notice of termination and, in such event, the present Convention shall cease to be effective:

- (a) In the United Kingdom:
  - as respects income tax for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;
  - as respects surtax for any year of assessment beginning on or after the 6th April in the calendar year in which the notice is given; and
  - as respects profits tax in respect of the following profits:
    - (i) profits arising in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;
    - (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
    - (iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the next following calendar year;
- (b) In the Netherlands:
  - as respects income tax for any year of assessment beginning after the end of the calendar year in which the notice is given;
  - as respects the company tax for any chargeable accounting period beginning after the end of the calendar year in which the notice is given, and for the unexpired portion of any chargeable accounting period current at the end of that year; and
  - as respects any other taxes for any calendar year following that in which the notice is given.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at London in duplicate, in the English and Netherlands languages, both texts being equally authentic, on the fifteenth day of October, 1948.

(L.S.)  
(L.S.)  
VERDUYNEN.

ERNEST BEVIN.  
E. MICHIELS VAN

The Laws of Zambia

SCHEDULE

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE KINGDOM OF THE NETHERLANDS EXTENDING THE CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME OF THE 15TH OCTOBER, 1948, TO THE FEDERATION OF RHODESIA AND NYASALAND.

The Hague, December 20th, 1962

No. 1

Her Britannic Majesty's Embassy's Note with Annex to the Minister of Foreign Affairs of Her Majesty the Queen of the Netherlands.

BRITISH EMBASSY,  
THE HAGUE.  
20th December, 1962.

Your Excellency,

I have the honour, upon instructions from Her Majesty's Principal Secretary of State for Foreign Affairs, to refer to the Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on the 15th October, 1948.

I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XIX, the above-mentioned Convention should be extended to the Federation of Rhodesia and Nyasaland in the manner, subject to the modifications, and with effect from the dates specified in the Annex to the present Note.

If the foregoing proposal is acceptable to the Government of the Kingdom of the Netherlands, I have the honour to suggest that the present Note with its Annex, and Your Excellency's reply to that effect should be regarded as constituting an Exchange of Notes as provided for in the first paragraph of Article XIX of the above-mentioned Convention and as placing on record the agreement reached between the two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

A. N. NOBLE.

His Excellency, Dr. J. M. A. H. Luns,  
Minister of Foreign Affairs,  
The Hague.



The Laws of Zambia

ANNEX

PART I

APPLICATION

- (a) The said Convention as modified by the present Annex shall apply-
- (1) as if the contracting parties were the Government of the Kingdom of the Netherlands and the Government of the Federation of Rhodesia and Nyasaland;
  - (2) as if the term "United Kingdom" (except where the context otherwise required) meant the Federation of Rhodesia and Nyasaland;
  - (3) as if the taxes concerned in the Federation of Rhodesia and Nyasaland were the income tax, supertax and undistributed profits tax: provided that for the purposes only of the application of paragraph 2 of Article XV of the Convention, the taxes concerned shall include the territorial surcharges charged in Northern Rhodesia, Nyasaland and Southern Rhodesia; and
  - (4) as if references to "the date of signature of the present Convention" were references to the date of the Exchange of Notes to which the present Annex is appended.
- (b) When the last of these measures shall have been taken in the Federation of Rhodesia and Nyasaland necessary to give the present extension the force of law in the Federation, the present extension shall have effect-
- (1) In the Netherlands:  
as respects income tax for any year of assessment beginning after 31st December, 1954;  
as respects the company tax for any chargeable accounting period beginning after 31st December, 1954, and for the unexpired portion of any chargeable accounting period current at that date; and  
as respects any other taxes for the calendar year 1955 and for subsequent years;
  - (2) In the Federation of Rhodesia and Nyasaland as respects tax for the year of assessment beginning on 1st April, 1955, and for subsequent years of assessment.
- (c) The Government of the United Kingdom shall inform the Government of the Kingdom of the Netherlands in writing when the last of the measures necessary, as indicated in paragraph (b), have been taken in the Federation of Rhodesia and Nyasaland.
- (d) Except as specified in Part II modification (a) below, the present extension shall remain in force indefinitely and shall continue to remain in force notwithstanding that the Convention may have been terminated by either of the High Contracting Parties in accordance with Article XXI thereof. Either High Contracting Party may, however, on or before the 30th June in any calendar year not earlier than the year 1964 give to the other Contracting Party through the diplomatic channel written notice of termination and in such event the present extension shall cease to have effect-
- (1) In the Netherlands: as respects income tax for any year of assessment beginning after the end of the calendar year in which the notice is given;  
as respects the company tax for any chargeable accounting period beginning after the end of the calendar year in which such notice is given and for the unexpired portion of any chargeable accounting period current at the end of that year; and as respects any other taxes for any calendar year following that in which the notice is given;
  - (2) In the Federation of Rhodesia and Nyasaland as respects tax for any year of assessment beginning on or after the 1st April in the calendar year next following the date of such notice.

PART II

MODIFICATIONS

The Laws of Zambia

The said Convention shall apply with the modifications that-

- (a) Article VI shall cease to be applicable on the 1st January, 1963; and
- (b) Article IX shall be amended by the addition of the following new paragraph:  
"3. For the purposes of this Article any reference to the Government of the Federation of Rhodesia and Nyasaland shall include a reference to the Governments of its constituent territories."

No. 2

Note to Her Britannic Majesty's Ambassador at The Hague from the Minister of Foreign Affairs of Her Majesty the Queen of the Netherlands.

Ministry of Foreign Affairs,

The Hague.

Treaty Department

THE HAGUE,  
27th December, 1962.

Sir,

I have the honour to acknowledge receipt of Your Excellency's Note of the 20th December, 1962, with Annex, which reads as follows:

"I have the honour, upon instructions from Her Majesty's Principal Secretary of State for Foreign Affairs, to refer to the Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of the Netherlands for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on the 15th October, 1948.

I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XIX, the above-mentioned Convention should be extended to the Federation of Rhodesia and Nyasaland in the manner, subject to the modifications, and with effect from the dates specified in the Annex to the present Note.

If the foregoing proposal is acceptable to the Government of the Kingdom of the Netherlands, I have the honour to suggest that the present Note with its Annex, and Your Excellency's reply to that effect should be regarded as constituting an Exchange of Notes as provided for in the first paragraph of Article XIX of the above-mentioned Convention and as placing on record the agreement reached between the two Governments in this matter".

In reply I have the honour to inform you that the Government of the Kingdom of the Netherlands accept the foregoing proposal and agree to regard your Note, together with the present reply, as constituting an Exchange of Notes as provided for in the first paragraph of Article XIX of the above-mentioned Convention, and as placing on record the agreement reached between the two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

DR. J. M. A. H. LUNS.

His Excellency, Sir Andrew Noble,  
British Ambassador at The Hague.

Ministry of Foreign Affairs.

The Hague.

ANNEX

PART I

The Laws of Zambia

APPLICATION

- (a) The said Convention as modified by the present Annex shall apply-
  - (1) as if the contracting parties were the Government of the Kingdom of the Netherlands and the Government of the Federation of Rhodesia and Nyasaland;
  - (2) as if the term "United Kingdom" (except where the context otherwise required) meant the Federation of Rhodesia and Nyasaland;
  - (3) as if the taxes concerned in the Federation of Rhodesia and Nyasaland were the income tax, supertax and undistributed profits tax: provided that for the purposes only of the application of paragraph 2 of Article XV of the Convention, the taxes concerned shall include the territorial surcharges charged in Northern Rhodesia, Nyasaland and Southern Rhodesia; and
  - (4) as if references to "the date of signature of the present Convention" were references to the date of the Exchange of Notes to which the present Annex is appended.

The Laws of Zambia

SECTION 74-THE DOUBLE TAXATION RELIEF (TAXES ON INCOME) (NORWAY) ORDER

*Statutory Instrument*  
187 of 1973

*Order by the President*

**1.** This Order may be cited as the Double Taxation Relief (Taxes on Income) (Norway) Order. Title

**2.** It is hereby declared that the Convention, the text of which is set out in the Schedule to this Order, being a Convention relating to relief from double taxation on income made between the Government of the Republic of Zambia and the Government of the Kingdom of Norway shall have effect in Zambia in accordance with section *seventy-four* of the Income Tax Act. Convention

Made at Lusaka this 22nd day of July, 1973.

The Laws of Zambia

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA 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.

The Government of the Republic of Zambia and the Government of the Kingdom of Norway,

Desiring to conclude a new Convention for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income,

Have agreed as follows:

ARTICLE I

PERSONAL SCOPE

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

ARTICLE II

TAXES COVERED

1. The taxes which are the subject of this Convention are-
  - (a) in Zambia-
    - (i) the income tax;
    - (ii) the mineral tax;
    - (iii) the personal levy (hereinafter referred to as "Zambian tax");
  - (b) in Norway-
    - (i) the national and municipal taxes on income;
    - (ii) the national dues on the salaries of non-resident artistes;
    - (iii) the special tax in aid of developing countries;
    - (iv) the seamen's tax (hereinafter referred to as "Norwegian tax").
2. This Convention shall also apply to any identical or substantially similar taxes which are imposed in addition to, or in place of, the existing taxes subsequent to the date of signature of this Convention.
3. At the end of each year the taxation authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

ARTICLE III

GENERAL DEFINITIONS

## The Laws of Zambia

1. In this Convention, unless the context otherwise requires-

- (a) the term "Zambia" means the Republic of Zambia;
- (b) the term "Norway" means the Kingdom of Norway, including any area adjacent to the territorial waters of Norway which by Norwegian legislation, and in accordance with international law, has been or may be hereafter designated as an area within which the rights of Norway with respect to the sea bed and sub-soil and their natural resources may be exercised; the term does not comprise Svalbard (Spitsbergen, including Bear Island), Jan Mayen and the Norwegian dependencies outside Europe;
- (c) the terms "a Contracting State" and "the other Contracting State" means Zambia or Norway, as the context requires;
- (d) the term "tax" means Zambian tax or Norwegian tax as the context requires;
- (e) the term "company" means any body corporate, or any entity which is treated as a body for tax purposes;
- (f) the term "person" includes an individual and any body of persons corporate or not corporate;
- (g) the term "resident of Zambia" means any person who is resident in Zambia for the purposes of Zambian tax and not resident in Norway for the purposes of Norwegian tax;
- (h) the term "resident of Norway" means any person who is resident in Norway for the purposes of Norwegian tax and not resident in Zambia for the purposes of Zambian tax;
- (i) the terms "resident of a Contracting State" and "resident of the other Contracting State" means a person who is a resident of Zambia or a person who is a resident of Norway as the context requires;
- (j) the terms "Zambian enterprise" and "Norwegian enterprise" mean respectively an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking or any like enterprise or undertaking carried on by a resident of Zambia and an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking or any like enterprise or undertaking carried on by a resident of Norway;
- (k) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean a Zambian enterprise or a Norwegian enterprise, as the context requires;
- (l) the term "international traffic" includes traffic between places in one country in the course of a journey which extends over more than one country;
- (m) the term "taxation authority" means-
  - (i) in the case of Zambia, the Commissioner-General of Taxes or his authorised representative;
  - (ii) in the case of Norway, the Minister of Finance and Customs or his authorised representative.

2. In the application of the provisions of this Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

## ARTICLE IV

### FISCAL DOMICILE

1. Where an individual is a resident of both Contracting States, his residence shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of neither Contracting State, the taxation authorities of the Contracting States shall settle the question by mutual agreement.

2. Where a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

The Laws of Zambia

ARTICLE V

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially-

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, oil well, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than six months.

3. The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation, or assembly project which is being undertaken in that other Contracting State.

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of independent status to whom paragraph 6 applies-shall be deemed to be a permanent establishment in the first-mentioned Contracting State, if he has and habitually exercises in that Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent, or any other agent of independent status, where such person is acting in the ordinary course of his business.

7. 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 Contracting State (whether through a permanent establishment or otherwise), shall not itself constitute either company a permanent establishment of the other.

ARTICLE VI

INCOME FROM IMMOVABLE PROPERTY

## The Laws of Zambia

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case 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. In the determining of the income from immovable property which a resident of a Contracting State has in the other Contracting State expenses (including interest on debt-claims) which are incurred for the purposes of such property shall be allowed as deductions on the same conditions as are provided for residents of that other Contracting State.
5. The provisions of paragraphs 1, 3 and 4 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

## ARTICLE VII

### BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to the permanent establishment.
2. 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 permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere. If the information available to the taxation authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this paragraph shall affect the application of the law of either Contracting State in relation to the liability of the permanent establishment to pay tax on an amount determined by the making of an estimate by the taxation authorities of that Contracting State; provided that each estimate shall be made so far as the information available to the taxation authorities permits, in accordance with the principles stated in paragraph 4.
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 to 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 laid down 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 VIII

### SHIPPING AND AIR TRANSPORT



## The Laws of Zambia

Notwithstanding the provisions of Articles V and VII, profits of an enterprise from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

### ARTICLE IX

#### 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 X

#### 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 Contracting State.

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that Contracting State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. The taxation authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. Notwithstanding the provisions of paragraph 1, dividends paid by a company which is a resident of Zambia to a resident of Norway shall be exempt from tax in Norway to the same extent that the dividends would have been exempt from tax in accordance with the Norwegian law if that company had been resident in Norway, provided that the dividends are not deductible in determining the assessable income of that company for the purposes of Zambian tax.

4. The term "dividends" means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the law of the Contracting State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article VII shall apply.

6. 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 to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

### ARTICLE XI

#### INTEREST

## The Laws of Zambia

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The taxation authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and 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 Government or local authority shall be exempt from tax in the first-mentioned Contracting State.

4. The term "interest" means income from Government securities, from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and from debt-claims of every kind, and any excess of the amount repaid in respect of such debt-claims over the amount lent, as well as all other income assimilated to income from money lent by the law of the Contracting State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article VII shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE XII

### ROYALTIES

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

2. However, such royalties may be taxed in the Contracting State in which they arise, such royalties may be taxed in the Contracting State in which they arise, and in accordance with the law of that Contracting State, but tax so charged shall not exceed 15 per cent of the gross amount of the royalties. The taxation authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" 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, video tapes for use in connection with television or tapes for use in connection with radio), 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 recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article VII shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or resident of that Contracting 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE XIII

## The Laws of Zambia

### CAPITAL GAINS

1. Gains from the sale, transfer or exchange of immovable property, as defined in paragraph 2 of Article VI, may be taxed in the Contracting State in which such property is situated.
2. Gains from the sale, transfer or exchange of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in 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 professional services, including such gains from the sale or exchange of such a permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in that other Contracting State.
3. Notwithstanding the provisions of paragraph 2, gains derived by an enterprise of a Contracting State from the sale, transfer or exchange of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the sale, transfer or exchange of any property other than those mentioned in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

### ARTICLE XIV

#### INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that Contracting State unless 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 Contracting State but only so much of it as is attributable to that fixed base.
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 XV

#### EMPLOYMENTS

1. Subject to the provisions of articles XVI, XVIII, XIX and XX, 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 Contracting 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 Contracting 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 first-mentioned Contracting State if:
  - (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State; and
  - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.
3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

The Laws of Zambia

ARTICLE XVI

DIRECTORS' FEES

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

ARTICLE XVII

ARTISTES AND ATHLETES

Notwithstanding anything contained in this Convention, income derived by public entertainers such as theatre, motion picture, radio or television artistes and musicians and by athletes from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

ARTICLE XVIII

PENSIONS

Subject to the provisions of paragraph 1 of Article XIX, any pension or similar remuneration derived from sources within a Contracting State in consideration of past employment by an individual who is a resident of the other Contracting State and subject to tax in respect thereof in that other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

ARTICLE XIX

GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by or out of funds created by a Contracting State or a local authority thereof to any individual in respect of services rendered to that Contracting State or local authority thereof in the discharge of functions of a governmental nature may be taxed in that Contracting State.

2. The provisions of Articles XV, XVI and XVII shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a local authority thereof.

ARTICLE XX

RESEARCH PERSONNEL AND STUDENTS

## The Laws of Zambia

1. The remuneration which an individual who is or was formerly a resident of a Contracting State receives for undertaking study or research at a high level during a period of temporary residence not exceeding two years at a university, research institute, school, college or other similar establishment in the other Contracting State shall not be taxable in that other Contracting State.

2. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other Contracting State, provided that such payments are made to him from sources outside that other Contracting State.

3. Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State shall not be taxed in that other Contracting State provided that such employment is directly related to his studies or training or is undertaken for the sole purpose of his maintenance.

## ARTICLE XXI

### INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that Contracting State.

## ARTICLE XXII

### PERSONAL ALLOWANCES

1. Individuals who are residents of Norway may claim the same personal allowances, reliefs and reductions for the purposes of Zambian tax as Zambian nationals who are not residents of Zambia.

2. Individuals who are residents of Zambia may claim the same personal allowances, reliefs and reductions for the purpose of Norwegian tax as nationals who are not residents of Norway.

## ARTICLE XXIII

### ELIMINATION OF DOUBLE TAXATION

## The Laws of Zambia

### 1. *Credit Method-Zambia*

- (a) Where a resident of Zambia derives income from Norway which may be taxed in Norway in accordance with the provisions of this Convention, the amount of Norwegian tax payable in respect of that income shall be allowed as a credit against Zambian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Zambian tax which is appropriate to that income, before allowing the credit.
- (b) Where the income derived from Norway is a dividend paid by a company which is a resident of Norway, the credit shall take into account the Norwegian tax payable in respect of its profits by the company paying the dividend.

### 2. *Exemption Method-Norway*

- (a) Where a resident of Norway derives income from Zambia which may be taxed in Zambia in accordance with the provisions of this Convention, Norway shall, subject to the provisions of sub-paragraph (b), exempt such income from tax may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.
- (b) Where a resident of Norway derives income from Zambia which may be taxed in Zambia in accordance with the provisions of Articles X, XI and XII, the amount of the Zambian tax payable in respect of that income shall be allowed as a credit against Norwegian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Norwegian tax which is appropriate to that income, before allowing the credit.
- (c) The provisions of sub-paragraph (b) do not apply insofar as dividends paid by a company which is a resident of Zambia to a resident of Norway are exempt from Norwegian tax in accordance with the provisions of paragraph 3 of Article X.

3. For the purposes of paragraph 2 the term "may be taxed in Zambia" shall be deemed to include any amount which would have been payable as Zambian tax, but for an exemption or reduction for tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or any other Zambian law of similar purpose and effect.

4. For the purposes of this Article, profits or remuneration arising from the exercise of a profession or employment in one of the Contracting States shall be deemed to be income from sources within that Contracting State, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of a Contracting State shall be deemed to be performed in that Contracting State.

## ARTICLE XXIV

### NON-DISCRIMINATION

1. The 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 Contracting State in the same circumstances are or may be subjected.

2. The term "nationals" means-

- (a) in relation to Zambia, all citizens of Zambia and all legal persons, partnerships and associations deriving their status as such from the law in force in Zambia;
- (b) in relation to Norway all citizens of Norway and all legal persons, partnerships and associations deriving their status as such from the law in force in Norway.

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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

4. 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

5. The provisions of this Article shall not be construed as obliging a Contracting State to grant residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

6. The provisions of this Article shall not be construed as obliging Norway to grant to nationals of Zambia the exceptional tax relief which is accorded to Norwegian nationals or persons born in Norway of parents having Norwegian nationality pursuant to section 22 of the Norwegian Taxation Act for the Rural Districts and section 17 of the Norwegian Taxation Act for the Urban Districts.

7. In this Article the term "taxation" means taxes of every kind and description.

The Laws of Zambia

ARTICLE XXV

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 this Convention, he may, notwithstanding the remedies provided by the national laws of those Contracting States, present his case to the taxation authority of the Contracting State of which he is a resident.

2. The taxation authority shall endeavour, if the objection appears to be justified and if it is not able to arrive at an appropriate solution, to resolve the case by mutual agreement with the taxation authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention.

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

4. The taxation authorities of the Contracting States may communicate with the other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the taxation authorities of the Contracting States.

ARTICLE XXVI

EXCHANGE OF INFORMATION

1. The taxation authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall not be disclosed to any persons or authorities other than persons, including a court or other adjudicating authority, concerned with the assessment or collection of those taxes or the determination of appeals in relation thereto.

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 or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are 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.

ARTICLE XXVI

DIPLOMATIC AND CONSULAR OFFICIALS

## The Laws of Zambia

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

2. Insofar as, due to fiscal privileges granted to diplomatic or consular officials under the general rules of international law or under the provisions of special international treaties, income is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

3. An individual who is a member of a diplomatic or consular mission (except honorary consuls) or permanent delegation of a Contracting State which is situated in the other Contracting State or a third State, shall for the purposes of this Convention be deemed to be a resident of the sending State if-

- (a) he is not a national of the receiving State; and
- (b) in accordance with international law he cannot be taxed in the receiving State on any income from sources outside that State.

## ARTICLE XXVIII

### TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any area of the territory of Norway which has expressly been excepted from the scope of this Convention under the provisions of sub-paragraph (b) of paragraph 1 of Article III, in which taxes are imposed, identical or substantially similar in character to those to which this Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of this Convention by one of the Contracting States under Article XXX shall also terminate the application of this Convention to any territory to which it has been extended under this Article.

## ARTICLE XXIX

### ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

2. This Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

- (a) in Zambia-  
as respects income for any charge year beginning on or after 1st April, 1970;
- (b) in Norway-  
as respect income for any income year (charge year) beginning on or after 1st January, 1970, (including any accounting period closed in such year).

3. Upon the entry into force of this Convention, the Convention between the Government of Norway and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on 2nd May, 1951, extended with certain modifications to the former Federation of Rhodesia and Nyasaland by an Exchange of Notes, dated 12th and 24th October, 1961, and to the former Protectorate of Northern Rhodesia by an Exchange of Notes, dated 13th and 21st December, 1963, and continued by Zambia, shall cease to have effect.

## ARTICLE XXX

### TERMINATION



## The Laws of Zambia

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination. In such event, the Convention shall cease to have effect:

- (a) in Zambia-  
as respects income for any charge year beginning on or after 1st April of the calendar year following the year in which such notice is given;
- (b) in Norway-  
as respect income for any income year (charge year) beginning on or after 1st January of the calendar year following the year in which such notice is given (including any accounting period closed in such year).

In witness whereof the undersigned being duly authorised thereto have signed this Convention and have affixed thereto their seals.

Done at Oslo, this 14th day of July, 1971, in duplicate in the English language.

*For the Government of the Kingdom of Norway:*  
A. CAPPELES

*For the Government of the Republic of Zambia:*  
M. NKAMA

## PROTOCOL

At the moment of signing the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, this day concluded between Zambia and Norway, the undersigned Plenipotentiaries have agreed that the following provisions shall form an integral part of the Convention.

### I. AD ARTICLES VIII AND XIII

The provisions of Article VIII and paragraph 3 of Article XIII shall be applied respectively to profits or capital gains derived by the joint Norwegian, Danish and Swedish air transport organisation, Scandinavian Airlines System (SAS), but only insofar as profits and gains so derived by Det Norske Luftfartselskap A/S (DNL), the Norwegian partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

### II. AD ARTICLE XV

1. Remuneration as mentioned in paragraph 2 of Article XV may be taxed in the Contracting State in which the employment is exercised if the recipient of such remuneration is present in that State for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned as from the outset of such period or periods.

2. Remuneration as mentioned in paragraph 3 of Article XV in respect of an employment exercised aboard an aircraft operated in international traffic by the joint Norwegian, Danish and Swedish air transport organisation, Scandinavian Airlines System (SAS), and derived by a resident of Norway shall be taxable only in Norway.

Done at Oslo, this 14th day of July, 1971, in duplicate in the English language.

A. CAPPELES

*For the Government of the Kingdom of Norway:*

M. NKAMA

*For the Government of the Republic of Zambia:*

CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION- SWEDEN

*Government Notice*  
465 of 1964

*Order by the President*

An arrangement has been made with the Government of the United Kingdom of Great Britain and Northern Ireland whereby the Convention between that Government and the Government of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income has been extended to the former Protectorate by and incorporating the terms of the Despatch and reply thereto set out in the Schedule.

The Laws of Zambia

SCHEDULE

BRITISH EMBASSY,  
STOCKHOLM,  
21st December, 1963.

YOUR EXCELLENCY,

I have the honour, upon instructions from Her Majesty's Principal Secretary of State for Foreign Affairs, to refer to the Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Sweden dated the 28th May, 1958, extending to the Federation of Rhodesia and Nyasaland on the basis therein specified the provisions of the Convention between the United Kingdom and Sweden for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on the 30th March, 1949.

2. I have the honour to propose on behalf of the Government of the United Kingdom that on dissolution of the Federation of Rhodesia and Nyasaland the extension provided for in the above-mentioned Exchange of Notes should be regarded as continuing in force in relation to Southern Rhodesia, Northern Rhodesia and Nyasaland individually and that references therein to the Federation should be construed accordingly.

3. If the foregoing proposal is acceptable to the Government of Sweden, I have the honour to suggest that the present Note, and your reply to that effect, should be regarded as constituting an Agreement reached between the two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

P. M. CROSTHWAITE,  
*Her Majesty's Ambassador.*

HIS EXCELLENCY  
MR. TORSTEN NILSSON,  
THE MINISTER FOR FOREIGN AFFAIRS  
OF SWEDEN.

STOCKHOLM,  
December 21, 1963.

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of December 21, 1963, which reads as follows:

"I have the honour, upon instructions from Her Majesty's Principal Secretary of State for Foreign Affairs, to refer to the Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Sweden dated the 28th May, 1958, extending to the Federation of Rhodesia and Nyasaland on the basis therein specified the provisions of the Convention between the United Kingdom and Sweden for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on the 30th March, 1949.

2. I have the honour to propose on behalf of the Government of the United Kingdom that on dissolution of the Federation of Rhodesia and Nyasaland the extension provided for in the above-mentioned Exchange of Notes should be regarded as continuing in force in relation to Southern Rhodesia, Northern Rhodesia and Nyasaland individually and that references therein to the Federation should be construed accordingly.

3. If the foregoing proposal is acceptable to the Government of Sweden, I have the honour to suggest that the present Note, and your reply to that effect, should be regarded as constituting an Agreement reached between the two Governments in this matter."

In reply, I have the honour to state that the Government of Sweden considers that Your Excellency's Note and the present reply constitute an Agreement between the two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) TORSTEN NILSSON.

HIS EXCELLENCY  
SIR MOORE CROSTHWAITE, K.C.M.G.,  
HER BRITANNIC MAJESTY'S AMBASSADOR EXTRAORDINARY  
AND PLENIPOTENTIARY, etc., etc., etc.

ANNEXURE

CONVENTION BETWEEN HIS MAJESTY IN RESPECT OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND AND HIS MAJESTY THE KING OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

## The Laws of Zambia

London, 30th March, 1949

His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas and His Majesty the King of Sweden,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have appointed for that purpose as their Plenipotentiaries:

His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas:

For the United Kingdom of Great Britain and Northern Ireland:

Sir William Strang, K.C.B., K.C.M.G., M.B.E., Permanent Under-Secretary of State for Foreign Affairs;

His Majesty the King of Sweden:

His Excellency Monsieur Bo Gunnar Richardsson Hagglof, His Majesty's Ambassador Extraordinary and Plenipotentiary in London;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows:

### ARTICLE I

1. The taxes which are the subject of the present Convention are-

(a) In Sweden:

The State income tax (including coupon tax) and the tax on the undistributed profits of companies (Erstatningsskatt), and for the purposes of Articles XXII, paragraph 3, and XXIII to XXV inclusive, the State capital tax (hereinafter referred to as "Swedish tax");

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax").

2. The present Convention shall also any other taxes of a substantially similar character imposed in the United Kingdom or Sweden subsequently to the date of signature of the present Convention.

### ARTICLE II

## The Laws of Zambia

### 1. In the present Convention, unless the context otherwise requires-

- (a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;
- (b) The terms "one of the territories" and "the other territory" mean the United Kingdom or Sweden, as the context requires;
- (c) The term "tax" means United Kingdom tax or Swedish tax, as the context requires;
- (d) The term "person" includes any body of persons, corporate or not corporate;
- (e) The term "company" means any body corporate;
- (f) The terms "resident of the United Kingdom" and "resident of Sweden" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Sweden for the purposes of Swedish tax, and any person who is resident in Sweden for the purposes of Swedish tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Sweden if it is incorporated under the laws of Sweden and its business is not managed and controlled in the United Kingdom, or if it is not so incorporated but its business is managed and controlled in Sweden;
- (g) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Sweden, as the context requires;
- (h) The terms "United Kingdom enterprise" and "Swedish enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Sweden, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Swedish enterprise, as the context requires;
- (i) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;
- (j) The term "permanent establishment" when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, a mine, quarry or any other place of natural resources subject to exploitation. It also includes a place where building construction is carried on by contract for a period of at least one year, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection-
  - (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;
  - (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
  - (iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. Where under this Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

3. In the application of the provisions of the present Convention by one of the High Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

## ARTICLE III

## The Laws of Zambia

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Swedish tax unless the enterprise carries on a trade or business in Sweden through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Sweden, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Swedish enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

4. Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

## ARTICLE IV

Where-

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory;

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 V

1. The industrial and commercial profits of a Swedish enterprise shall, so long as undistributed profits of United Kingdom enterprises are effectively charged to United Kingdom profits tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom profits tax only at that lower rate.

2. Where a company which is a resident of Sweden controls, directly or indirectly, not less than 50 per centum of the entire voting power of a company which is a resident of the United Kingdom, distributions by the latter company to the former company shall be left out of account in computing United Kingdom profits tax effectively chargeable on the latter company at the rate appropriate to distributed profits.

## ARTICLE VI

Notwithstanding the provisions of Articles III, IV and V, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

## ARTICLE VII

## The Laws of Zambia

1. (a) Dividends paid by a company which is a resident of the United Kingdom to a resident of Sweden, who is subject to tax in Sweden in respect thereof and does not carry on a trade or business in the United Kingdom through a permanent establishment situated therein, shall be exempt from United Kingdom surtax.

(b) The Swedish coupon tax on dividends paid by a company which is a resident of Sweden to a resident of the United Kingdom, who is subject to tax in the United Kingdom in respect thereof and does not carry on a trade or business in Sweden through a permanent establishment situated therein, shall not exceed 5 per centum:

Provided that where the resident of the United Kingdom is a company which controls, directly or indirectly, not less than 50 per centum of the entire voting power of the company paying the dividends, the dividends shall be exempt from coupon tax.

2. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

## ARTICLE VIII

1. Any interest derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this Article, the term "interest" includes interests on bonds, securities, notes, debentures or any other form of indebtedness.

3. Where any interest exceeds a fair and reasonable consideration in respect of the indebtedness for which it is paid, the exemption provided by the present Article shall apply only to so much of the interest as represents such fair and reasonable consideration.

## ARTICLE IX

1. Any royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

2. In this Article, the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade mark, or other like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

3. Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

4. Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

## ARTICLE X

#### The Laws of Zambia

1. Income of whatever nature derived from real property within the territory of the United Kingdom (other than income from mortgages or bonds secured by the real property) by a resident of Sweden who is subject to tax in the United Kingdom in respect thereof shall be exempt from tax in Sweden.

2. Any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources within the territory of the United Kingdom to a resident of Sweden who is subject to tax in the United Kingdom in respect thereof, shall be exempt from tax in Sweden.

3. Swedish tax payable in respect of income of the kind referred to in the preceding paragraphs, derived from sources within Sweden by a resident of the United Kingdom who is liable to tax in the United Kingdom in respect thereof, shall in accordance with Article XIX be allowed as a credit against the United Kingdom tax payable in respect of that income.

#### ARTICLE XI

1. Where under the provisions of this Convention a resident of the United Kingdom is exempt or entitled to relief from Swedish tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of the United Kingdom.

2. Swedish tax on the undivided estate of a deceased person shall, in so far as the income accrues to a beneficiary who is resident in the United Kingdom, be allowed as a credit under Article XIX.

#### ARTICLE XII

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt in that other territory from any tax on gains from the sale, transfer, or exchange of capital assets.

#### ARTICLE XIII

1. Remuneration or pensions paid by, or out of funds created by, one of the High Contracting Parties to any individual in respect of services rendered to that Party in the discharge of governmental functions shall be exempt from tax in the territory of the other High Contracting Party, unless the individual is a national of that other Party without being also a national of the first-mentioned Party.

2. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the High Contracting Parties for purposes of profit.

#### ARTICLE XIV



## The Laws of Zambia

1. An individual who is a resident of the United Kingdom shall be exempt from Swedish tax on profits or remuneration in respect of personal (including professional) services performed within Sweden in any year of assessment if-

- (a) he is present within Sweden for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a resident of the United Kingdom, and
- (c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of Sweden shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if-

- (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a resident of Sweden, and
- (c) the profits or remuneration are subject to Swedish tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artists, musicians and athletes.

## ARTICLE XV

1. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XIII) and any annuity, derived from sources within Sweden by an individual who is a resident of the United Kingdom and subject to United Kingdom tax in respect thereof, shall be exempt from Swedish tax.

2. Any pension (other than a pension of the kind referred to in paragraph 1 of Article XIII) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Sweden and subject to Swedish tax in respect thereof, shall be exempt from United Kingdom tax.

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

## ARTICLE XVI

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college or other establishment for further education in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

## ARTICLE XVII

A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

## ARTICLE XVIII

1. Individuals who are residents of Sweden shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Swedish tax as those to which Swedish nationals not resident in Sweden may be entitled.

## The Laws of Zambia

### ARTICLE XIX

1. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Swedish tax payable under the laws of Sweden and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Sweden shall be allowed as a credit against any United Kingdom tax payable in respect of that income. Where such income is an ordinary dividend paid by a company which is a resident of Sweden the credit shall take into account (in addition to any Swedish tax appropriate to the dividend) the Swedish tax payable by the company in respect of its profits and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Swedish tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

2. Income from sources within the United Kingdom which under the laws of the United Kingdom and in accordance with this Convention is subject to tax in the United Kingdom either directly or by deduction shall be exempt from Swedish tax:

Provided that where such income is a dividend paid by a company being a resident of the United Kingdom to a person resident in Sweden, not being a company, whether or not he is also resident in the United Kingdom, Swedish tax may be charged on the amount of the dividend after deduction of United Kingdom income tax, but the amount of Swedish tax chargeable shall be reduced by a sum equal to 20 per centum of the amount of the dividend so charged.

3. Where income is derived from sources outside both the United Kingdom and Sweden by a person who is resident in the United Kingdom for the purposes of United Kingdom tax and also resident in Sweden for the purposes of Swedish tax, the income may be taxed in both countries (subject to any Convention which may exist between either of the High Contracting Parties and the territory or territories from which the income is derived), but the Swedish tax on that income shall be limited to tax on the proportion of such income represented by the proportion which such person's income from sources in Sweden bears to the sum of his income from sources in Sweden and of his income from sources in the United Kingdom, and the United Kingdom tax on that income shall be reduced by a credit, in accordance with paragraph 1 of this Article, for the Swedish tax on the proportion of that income so computed.

4. The special tax payable in Sweden by public entertainers such as theatre and radio artists, musicians and athletes (bevillningsavgift f"r vissa offentliga f"restallningar) shall be regarded, for the purposes of this Article, as Swedish tax.

5. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

6. The graduated rate of Swedish tax to be imposed on residents of Sweden may be calculated as though income exempted under this Convention were included in the amount of the total income.

### ARTICLE XX

1. The taxation authorities of the High Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. As used in this Article the term "taxation authorities" means, in the case of the United Kingdom, the Commissioner-Generals of Inland Revenue, in the case of Sweden, the Finance Ministry, and, in the case of any territory to which the present Convention is extended under Article XXIII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

### ARTICLE XXI

## The Laws of Zambia

The following agreements between the United Kingdom and Sweden shall not have effect for any period for which the present Convention has effect, that is to say-

- (a) the agreement dated 19th December, 1924, for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping;
- (b) the agreement dated 6th July, 1931, for the reciprocal exemption from taxes in certain cases of profits arising through agencies.

## ARTICLE XXII

1. The nationals of one of the High Contracting Parties shall not be subjected in the territory of the other High Contracting Party to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected.

2. The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprise of that other territory are or may be subjected in respect of the like profits.

3. An individual or company being a resident of one of the territories shall not be subject to any tax on capital in the other territory which is other, higher or more burdensome than the tax on capital to which an individual or, as the case may be, a company, being a resident of that other territory is or may be subjected.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one of the High Contracting Parties to grant to nationals of the other High Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to His own nationals.

5. In this Article the term "nationals" means-

- (a) in relation to Sweden, all Swedish subjects and all legal persons, partnerships and associations deriving their status as such from the law in force in Sweden;
- (b) in relation to the United Kingdom, all British subjects and British protected persons residing in the United Kingdom or any British territory to which the present Convention applies by reason of extension made under Article XXIII and all legal persons, partnerships and associations deriving their status as such from the law in force in any British territory to which the present Convention applies.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

## ARTICLE XXIII

1. The present Convention may be extended, either in its entirety or with modifications, to any territory for whose foreign relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and 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 High Contracting Parties in notes to be exchanged for this purpose.

2. The termination in respect of Sweden or the United Kingdom of the present Convention under Article XXV shall, unless otherwise expressly agreed by both High Contracting Parties, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

## ARTICLE XXIV

The Laws of Zambia

1. The present Convention shall be ratified by the High Contracting Parties. Ratification by His Majesty the King of Sweden shall be subject to the consent of the Riksdag.
2. The instruments of ratification shall be exchanged at Stockholm as soon as possible.
3. Upon exchange of ratifications the present Convention shall have effect-
  - (a) In Sweden:
    - as respects tax on income which is assessed in or after the calendar year beginning on 1st January, 1950, being income for which preliminary tax is payable during the period 1st March, 1949, to 28th February, 1950; or any succeeding period;
    - as respects coupon tax payable on or after 1st January, 1949;
    - as respects capital tax which is assessed in or after the calendar year beginning on 1st January, 1950;
  - (b) In the United Kingdom:
    - as respects income tax for any year of assessment beginning on or after 6th April, 1949;
    - as respects surtax for any year of assessment beginning on or after 6th April, 1948; and
    - as respects profits tax in respect of the following profits:
      - (i) profits arising in any chargeable accounting period beginning on or after 1st April, 1949;
      - (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
      - (iii) profits not so arising or attributable by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after 6th April, 1949.

ARTICLE XXV

The Laws of Zambia

The present Convention shall continue in effect indefinitely but either of the High Contracting Parties may, on or before 30th June in any calendar year not earlier than the year 1953, give to the other High Contracting Party, through diplomatic channels, written notice of termination and, in such event, the present Convention shall cease to be effective-

- (a) In Sweden:
- as respects tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which the notice is given;
  - as respects coupon tax payable on or after 1st January in the calendar year next following that in which the notice is given;
  - as respects capital tax assessed in or after the second calendar year following that in which the notice is given;
- (b) In the United Kingdom:
- as respects income tax for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;
  - as respects surtax for any year of assessment beginning on or after 6th April in the calendar year in which the notice is given; and
  - as respects profits tax in respect of the following profits:
    - (i) profits arising in any chargeable accounting period beginning on or after 1st April in the calendar year next following that in which the notice is given;
    - (ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
    - (iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after 6th April in the next following calendar year.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at London, in duplicate, in the English and Swedish languages, both texts being equally authentic, on the thirtieth day of March, one thousand nine hundred and forty-nine.

(L.S.) GUNNAR HAGGLOF.  
(L.S.) WILLIAM STRANG.

GUNNAR HAGGLOF.  
WILLIAM STRANG.  
"A"

BRITISH EMBASSY,  
STOCKHOLM.  
May 28, 1958.

Your Excellency,

I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on the 30th March, 1949.

I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XXIII, the above-mentioned Convention should be extended to the territories named in the Annex to the present Note in the manner, subject to the modifications, and with effect from the dates, specified therein.

If the foregoing proposal is acceptable to the Swedish Government, I have the honour to suggest that the present Note with its Annex, and Your Excellency's reply to that effect, should be regarded as constituting the agreement reached between the two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

R. M. A. HANKEY,  
*Her Britannic Majesty's Ambassador.*

His Excellency,  
Mr. Osten Undén,  
The Royal Swedish Ministry for Foreign Affairs,  
Stockholm.

The Laws of Zambia

ANNEX

I-TABLE OF TERRITORIES TO WHICH THE CONVENTION OF THE 30TH MARCH, 1949, FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME IS TO BE EXTENDED IN ACCORDANCE WITH ARTICLE XXIII OF THE SAID CONVENTION SUBJECT TO THE CONDITIONS SET OUT IN PARAGRAPHS II AND III OF THIS ANNEX.

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
Kenya	The Income Tax (including Surtax) and the Personal Tax.	1st January, 1955
Rhodesia and Nyasaland, Federation of Tanganyika	The Income Tax, Supertax and Undistributed Profits Tax.	1st April, 1955
	The Income Tax (including Surtax) and the Non-Native Poll Tax or Personal Tax.	1st January, 1955
Uganda	The Income Tax (including Surtax) and the non-African Poll Tax.	1st January, 1955
Zanzibar	The Income Tax (including Surtax).	1st January, 1955

II-APPLICATION

## The Laws of Zambia

(a) The said Convention as modified by the present Annex shall apply in the case of each territory mentioned in Column (1) of the above Table,

- (1) as if the Contracting Parties were the Government of Sweden and the Government of that territory;
- (2) as if the taxes concerned in the case of each territory were those mentioned opposite the name of that territory in Column (2) of the above Table;
- (3) as if references to "the date of signature of the present Convention" were references to the date of the Exchange of Notes to which the present Annex is appended.

(b) When the last of those measures shall have been taken in Sweden and in any territory named in the above Table necessary to give the present extension the force of law in Sweden and in such territory, respectively, the present extension shall have effect-

- (1) in Sweden:
  - as respects tax on income for which preliminary tax is payable after the 29th February, 1956;
  - as respects coupon tax payable on or after the 1st January, 1956;
  - as respects capital tax assessed in or after the calendar year 1957;
- (2) in such territory: as respects tax for the year, year of assessment or year of income beginning on the date specified opposite its name in Column (3) of the above Table and for subsequent years, years of assessment or years of income.

(c) The Government of Sweden shall inform the Government of the United Kingdom in writing when the last of the measures necessary, as indicated in paragraph (b), have been taken in Sweden. The Government of the United Kingdom shall inform the Government of Sweden in writing when the last of the measures necessary, as indicated in paragraph (b), have been taken in all or any of the territories named in the above Table.

(d) The present extension shall continue in effect indefinitely but either of the Contracting Parties may, or or before the 30th June in any calendar year not earlier than the year 1960, give to the other Contracting Party through the diplomatic channel written notice of termination which may apply to any or all of the territories named in the above Table and in such event the present extension shall cease to have effect-

- (1) in Sweden:
  - as respects tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which the notice is given;
  - as respects coupon tax payable on or after the 1st January in the calendar year next following that in which the notice is given;
  - as respects capital tax assessed in or after the second calendar year next following that in which the notice is given;
- (2) in such of the territories named in the above Table as are concerned: as respects tax for any year, year of assessment or year of income beginning on or after the 1st January in the calendar year in which the notice is given.

### III-MODIFICATIONS

## The Laws of Zambia

The said Convention as modified by the present Annex shall apply-

- (a) for the purposes of the extension to Kenya, Tanganyika, Uganda and Zanzibar, with the following exceptions:
- (1) The following words shall be inserted at the end of sub-paragraph (c) of paragraph 1 of Article II:  
"but shall not include any tax which is payable in respect of any default or omission in relation to the taxes to which this Convention as extended applies or which represents a penalty imposed under the law of the territory concerned relating to those Taxes";
  - (2) The following sub-paragraph shall be substituted for sub-paragraph (i) of paragraph 1 of Article II:  
"(i) The term 'industrial or commercial profits' does not include income in the form of dividends, interest, rents or royalties (other than rents or royalties in respect of cinematograph films), management charges or remuneration for personal services";
  - (3) Sub-paragraph (j) of paragraph 1 of Article II shall be amended by deleting-
    - (i) the full-stop after the word "exploitation", and
    - (ii) the words "It also includes a place where building construction is carried on by contract for a period of at least one year";
  - (4) Nothing in paragraph 2 of Article III shall affect any provisions of the law of those territories regarding the taxation of income from the business of insurance;
  - (5) The following words shall be inserted at the end of paragraph 3 of Article III:  
"and the profits so attributed shall be deemed to be income derived from sources in that other territory";
  - (6) Paragraph 4 of Article III shall be deleted;
  - (7) The following Article shall be substituted for Article V:

## ARTICLE V

If the industrial and commercial profits of a company which is a resident of Sweden become chargeable to a form of [United Kingdom] tax under which, in the case of companies which are residents of [the United Kingdom], the undistributed or undistributable income is charged to tax at a lower rate than the distributed or distributable income of such companies, these industrial and commercial profits shall be charged to [United Kingdom] tax only at the lower rate";

- (8) Articles VIII, XVI and XVIII shall be deleted;
  - (9) Article XX shall be amended as follows:
    - (i) by deleting the words "or for the prevention of fraud or for the administration of statutory provisions against legal avoidance";
    - (ii) by inserting after "assessment and collection of" the words "or the hearing of appeals in relation to";
- (b) for the purposes of the extension to the Federation of Rhodesia and Nyasaland, with the following exceptions:
- (1) In Article VII 1 (a), for the words "shall be exempt from United Kingdom surtax" there shall be substituted "shall be exempt from Federal supertax";
  - (2) Article XIII shall apply to remuneration including pensions paid by, or out of funds created by, the Government of each of the Territories constituting the Federation to any individual in respect of services rendered to that Government in the discharge of governmental functions as it applies to similar payments by, or out of funds created by, the Government of the Federation;
  - (3) In the proviso to Article XIX 2, for the words "after deduction of United Kingdom income tax" there shall be substituted "after deduction of Federal income tax and of the Territorial Surcharge charged in Northern Rhodesia, Nyasaland and Southern Rhodesia".

"B"  
STOCKHOLM,  
May 28th, 1958.  
1 encl.

ROYAL MINISTRY  
FOR  
FOREIGN AFFAIRS



The Laws of Zambia

Your Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of May 28, 1958, which reads as follows:

"I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on the 30th March, 1949.

I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XXIII, the above-mentioned Convention should be extended to the territories named in the Annex to the present Note in the manner, subject to the modifications, and with effect from the dates, specified therein.

If the foregoing proposal is acceptable to the Swedish Government, I have the honour to suggest that the present Note with its Annex, and Your Excellency's reply to that effect, should be regarded as constituting the agreement reached between the two Governments in this matter."

I reply, I have the honour to state that the Government of Sweden considers that Your Excellency's Note with its Annex and the present reply to which a copy of the Annex is attached constitute an agreement between the two Governments.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

...STEN UNDÉN.

His Excellency,

The Honorable Sir Robert Hankey, K.C.M.G., K.C.V.O.,  
Her Britannic Majesty's Ambassador Extraordinary and  
Plenipotentiary, etc., etc., etc.,  
Stockholm.

The Laws of Zambia

ANNEX

I-TABLE OF TERRITORIES TO WHICH THE CONVENTION OF THE 30TH MARCH, 1949, FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME IS TO BE EXTENDED IN ACCORDANCE WITH ARTICLE XXIII OF THE SAID CONVENTION SUBJECT TO THE CONDITIONS SET OUT IN PARAGRAPHS II AND III OF THIS ANNEX

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
Kenya	The Income Tax (including Surtax) and the Personal Tax.	1st January, 1955
Rhodesia and Nyasaland, Federation of Tanganyika	The Income Tax, Supertax and Undistributed Profits Tax.	1st April, 1955
	The Income Tax (including Surtax) and the Non-Native Poll Tax or Personal Tax.	1st January, 1955
Uganda	The Income Tax (including Surtax) and the Non-African Poll Tax.	1st January, 1955
Zanzibar	The Income Tax (including Surtax).	1st January, 1955

II-APPLICATION

## The Laws of Zambia

- (a) The said Convention as modified by the present Annex shall apply in the case of each territory mentioned in Column (1) of the above Table,
- (1) as if the Contracting Parties were the Government of Sweden and the Government of that territory;
  - (2) as if the taxes concerned in the case of each territory were those mentioned opposite the name of that territory in Column (2) of the above Table;
  - (3) as if references to "the date of signature of the present Convention" were references to the date of the Exchange of Notes to which the present Annex is appended.
- (b) When the last of those measures shall have been taken in Sweden and in any territory named in the above Table necessary to give the present extension the force of law in Sweden and in such territory, respectively, the present extension shall have effect-
- (1) in Sweden:
    - as respects tax on income for which preliminary tax is payable after the 29th February, 1956;
    - as respects coupon tax payable on or after the 1st January, 1956;
    - as respects capital tax assessed in or after the calendar year 1957;
  - (2) in such territory: as respects tax for the year, year of assessment or year of income beginning on the date specified opposite its name in Column (3) of the above Table and for subsequent years, years of assessment or years of income.
- (c) The Government of Sweden shall inform the Government of the United Kingdom in writing when the last of the measures necessary, as indicated in paragraph (b), have been taken in Sweden. The Government of the United Kingdom shall inform the Government of Sweden in writing when the last of the measures necessary, as indicated in paragraph (b), have been taken in all or any of the territories named in the above Table.
- (d) The present extension shall continue in effect indefinitely but either of the Contracting Parties may, on or before the 30th June in any calendar year not earlier than the year 1960, give to the other Contracting Party through the diplomatic channel written notice of termination which may apply to any or all of the territories named in the above Table and in such event the present extension shall cease to have effect-
- (1) in Sweden:
    - as respects tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which the notice is given; as respects coupon tax payable on or after the 1st January in the calendar year next following that in which the notice is given;
    - as respects capital tax assessed in or after the second calendar year next following that in which the notice is given;
  - (2) in such of the territories named in the above Table as are concerned: as respects tax for any year, year of assessment or year of income beginning on or after the 1st January in the calendar year in which the notice is given.

### III-MODIFICATIONS

## The Laws of Zambia

The said Convention as modified by the present Annex shall apply-

- (a) for the purposes of the extension to Kenya, Tanganyika, Uganda and Zanzibar, with the following exceptions:
- (1) The following words shall be inserted at the end of sub-paragraph (c) of paragraph 1 of Article II:  
"but shall not include any tax which is payable in respect of any default or omission in relation to the taxes to which this Convention as extended applies or which represents a penalty imposed under the law of the territory concerned relating to those Taxes";
  - (2) The following sub-paragraph shall be substituted for sub-paragraph (i) of paragraph 1 of Article II:  
"(i) The term 'industrial or commercial profits' does not include income in the form of dividends, interest, rents or royalties (other than rents or royalties in respect of cinematograph films), management charges or remuneration for personal services";
  - (3) Sub-paragraph (j) of paragraph 1 of Article II shall be amended by deleting-
    - (i) the full-stop after the word "exploitation", and
    - (ii) the words "It also includes a place where building construction is carried on by contract for a period of at least one year";
  - (4) Nothing in paragraph 2 of Article III shall affect any provisions of the law of those territories regarding the taxation of income from the business of insurance;
  - (5) The following words shall be inserted at the end of paragraph 3 of Article III:  
"and the profits so attributed shall be deemed to be income derived from sources in that other territory";
  - (6) Paragraph 4 of Article III shall be deleted;
  - (7) The following Article shall be substituted for Article V:

### "ARTICLE V

If the industrial and commercial profits of a company which is a resident of Sweden become chargeable to a form of [United Kingdom] tax under which, in the case of companies which are residents of [the United Kingdom], the undistributed or undistributable income charged to tax at a lower rate than the distributed or distributable income of such companies, these industrial and commercial profits shall be charged to [United Kingdom] tax only at the lower rate";

- (8) Articles VIII, XVI and XVIII shall be deleted;
  - (9) Article XX shall be amended as follows
    - (i) by deleting the words "or for the prevention of fraud or for the administration of statutory provisions against legal avoidance";
    - (ii) by inserting after "assessment and collection of" the words "or the hearing of appeals in relation to";
- (b) for the purposes of the extension to the Federation of Rhodesia and Nyasaland, with the following exceptions:
- (1) In Article VII 1 (a), for the words "shall be exempt from United Kingdom surtax" there shall be substituted "shall be exempt from Federal supertax";
  - (2) Article XIII shall apply to remuneration including pensions paid by, or out of funds created by, the Government of each of the Territories constituting the Federation to any individual in respect of services rendered to that Government in the discharge of governmental functions as it applies to similar payments by, or out of funds created by, the Government of the Federation;
  - (3) In the proviso to Article XIX 2, for the words "after deduction of United Kingdom income tax" there shall be substituted "after deduction of Federal income tax and of the Territorial Surcharge charged in Northern Rhodesia, Nyasaland and Southern Rhodesia".

CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION- SWITZERLAND

*Government Notice*  
462 of 1964

*Order by the President*

An arrangement has been made with the Government of the United Kingdom of Great Britain and Northern Ireland whereby the Convention between that Government and the Swiss Federal Council for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income has been extended to the former Protectorate by and incorporating the terms of the Despatch and reply thereto set out in the Schedule.

The Laws of Zambia

SCHEDULE

BRITISH EMBASSY,  
BERNE.  
13th December, 1963.

1170/63

Monsieur le Conseiller Federal,

I have the honour, upon instructions from Her Majesty's Principal Secretary of State for Foreign Affairs, to refer to the Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council dated the 30th May, 1961, extending to the Federation of Rhodesia and Nyasaland on the basis therein specified, the provisions of the Convention between the United Kingdom and Switzerland for the Avoidance of Double Taxation with respect to Taxes on Income, signed at London on the 30th September, 1954.

I have the honour to inform you that on dissolution of the Federation of Rhodesia and Nyasaland the extension provided for in the above-mentioned exchange of notes will continue in force in relation to Southern Rhodesia, Northern Rhodesia and Nyasaland individually, and that references therein to the Federation should be construed accordingly, since the three territories will individually assume the responsibilities under the agreement which are now held by the Federation.

I avail myself of this opportunity to renew to you, Monsieur le Conseiller Federal, the assurances of my highest consideration.

PAUL GREY.

MONSIEUR LE CONSEILLER FEDERAL  
FRIEDRICH WAHLEN,  
FEDERAL POLITICAL DEPARTMENT,  
BERNE.

DEPARTMENT POLITIQUE FEDERAL,

BERNE,

le 18 décembre 1963.

s.B.34.12.GB.5.4.(U'Ch)

Monsieur l'Ambassadeur,

J'ai eu l'honneur de recevoir la note du 13 décembre 1963 par laquelle Votre Excellence, se fondant sur l'échange de notes du 30 mai 1961 entre la Suisse et le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord concernant la convention en vue d'éviter les doubles impositions en matière d'impôts sur le revenu du 30 septembre 1954, a bien voulu me faire savoir qu'après dissolution de la Fédération de Rhodésie et Nyassaland, la Rhodésie du Sud, la Rhodésie du Nord et le Nyassaland continueront à appliquer à titre individuel les dispositions prévues par l'échange de notes précité. Je remercie Votre Excellence de cette obligeante communication, dont j'ai pris bonne note.

Je saisis cette occasion pour vous renouveler, Monsieur l'Ambassadeur, l'assurance de ma haute considération.

FRIEDRICH WAHLEN.

SON EXCELLENCE SIR PAUL GREY,  
AMBASSADEUR EXTRAORDINAIRE ET PLENIPOTENTIAIRE  
DE SA MAJESTE BRITANNIQUE,  
BERNE.

ANNEXURE

CONVENTION BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE SWISS  
CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME.

The Laws of Zambia

The Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council,  
Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,  
Have appointed for that purpose as their respective Plenipotentiaries:

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

Alfred Douglas Dodds-Parker, Esquire, Parliamentary Under-Secretary of State for Foreign Affairs;

The Swiss Federal Council:

Monsieur Erwin Bernath, Swiss Charg, d'Affaires *ad interim* in London;

Who, having communicated to one another their full powers, found in good and due form, have agreed as follows:

ARTICLE I

1. The taxes which are the subject of the present Convention are-
  - (a) In the United Kingdom:  
The income tax (including surtax), the profits tax and the excess profits levy (hereinafter referred to as "United Kingdom tax");
  - (b) In Switzerland:  
The federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, etc.), but not including the Federal coupon tax except where expressly mentioned (hereinafter referred to as "Swiss tax").
2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Switzerland subsequently to the date of signature of the present Convention.

ARTICLE II

## The Laws of Zambia

1. In the present Convention, unless the context otherwise requires-
  - (a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;
  - (b) The term "Switzerland" means the Swiss Confederation;
  - (c) The terms "one of the territories" and "the other territory" mean the United Kingdom or Switzerland, as the context requires;
  - (d) The term "tax" means United Kingdom tax or Swiss tax, as the context requires;
  - (e) The term "person" includes any individual, company, unincorporated body of persons, and any other entity with or without juridical personality;
  - (f) The term "company" means in relation to the United Kingdom any body corporate, and in relation to Switzerland any entity with juridical personality;
  - (g) The term "resident of the United Kingdom" means:
    - (i) any company or partnership whose business is managed and controlled in the United Kingdom;
    - (ii) any other person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax;
  - (h) The term "resident of Switzerland" means:
    - (i) any company or partnership ("société simple", "société en nom collectif" or "société en commandite") created or organised under Swiss law, if its business is not managed and controlled in the United Kingdom;
    - (ii) any other person who is resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax and not resident in the United Kingdom for the purposes of United Kingdom tax;
  - (i) The terms "resident of one of the territories" and "resident of the other territory" mean a resident of the United Kingdom or a resident of Switzerland, as the context requires;
  - (j) The terms "United Kingdom enterprise" and "Swiss enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Switzerland, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Swiss enterprise, as the context requires;
  - (k) The term "permanent establishment" means a branch, management, office, factory, workshop or other fixed place of business, and a farm, mine, quarry or other place of natural resources subject to exploitation. It also includes a place where building construction is carried on by contract for a period of at least one year, but does not include an agency unless the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of an enterprise of one of the territories. In this connection-
    - (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker, general commission agent or other independent agent acting in the ordinary course of his business as such;
    - (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
    - (iii) The fact that an enterprise of one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of the enterprise of the former territory;
  - (l) The term "industrial or commercial profits" includes manufacturing, mercantile, mining, farming, financial and insurance profits, and rents and royalties in respect of cinematograph films, but does not include income in the form of dividends, interest or royalties (other than cinematograph royalties) except any such income which, under the laws of one of the territories and in accordance with Article III of the present Convention, is attributable to a permanent establishment situated therein;
  - (m) The term "competent authority" means, in the case of the United Kingdom, the Commissioner-Generals of Inland Revenue or their authorised representative; in the case of Switzerland, the Director of the Federal Tax Administration or his authorised representative; and in the case of any territory to which the present Convention is extended under Article XXI, the competent authority for the administration in such territory of the taxes to which the Convention applies.
2. Where the present Convention provides that income from a source within Switzerland shall be exempt from, or entitled to a reduced rate of, tax in Switzerland if (with or without other conditions) it is subject to tax in the United Kingdom, and under the law in force in the United Kingdom the said income is subject to tax by reference to the amount thereof which is remitted to or received in the United Kingdom and not by reference to the full amount thereof, then the exemption or reduction in rate to be allowed under the Convention in Switzerland shall apply only to so much of the income as is remitted to or received in the United Kingdom.
3. Where under any provision of the present Convention a partnership is entitled to exemption from United  
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## The Laws of Zambia

### ARTICLE III

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Swiss tax unless the enterprise is engaged in trade or business in Switzerland through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Switzerland, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Swiss enterprise shall not be subject to United Kingdom tax unless the enterprise is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

4. Where an enterprise of one of the territories, from sales of goods or merchandise stocked in a warehouse in the other territory, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within the other territory by the enterprise.

6. In the determination of the industrial or commercial profits of a permanent establishment there shall be allowed as deductions all expenses which are reasonably applicable to the permanent establishment, including executive and general administrative expenses so applicable, whether incurred in the territory in which the permanent establishment is situated or elsewhere.

### ARTICLE IV

Where-

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory;

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 V

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft, including profits of that resident from the sale of tickets for passages by such ships or aircraft, shall be exempt from tax in the other territory.

### ARTICLE VI

## The Laws of Zambia

1. Dividends (other than dividends which, under the laws of the United Kingdom and in accordance with Article III of this Convention, are attributable to a permanent establishment situated in the United Kingdom) paid by a company which is a resident of the United Kingdom to a resident of Switzerland who is subject to Swiss tax in respect thereof shall be exempt from United Kingdom surtax.

2. The industrial and commercial profits of a Swiss enterprise engaged in trade or business through a permanent establishment in the United Kingdom shall, so long as undistributed profits of United Kingdom enterprises are effectively charged to United Kingdom profits tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom profits tax only at that lower rate.

3. Where not less than 50 per centum of the entire voting power of a company which is a resident of the United Kingdom is controlled, directly or indirectly, by a company which is a resident of Switzerland, the distributions by the former company to the latter company, and to any other company which is a resident of Switzerland and which beneficially owns not less than 10 per centum of the entire share capital of the company paying the dividends, shall be left out of account in computing United Kingdom profits tax effectively chargeable on that company at the rate appropriate to distributed profits.

4. (a) The Swiss anticipatory tax may be charged in respect of dividends paid by any company created under Swiss law to a resident of the United Kingdom, but, in the case of any such resident who is subject to United Kingdom tax in respect thereof, the rate of anticipatory tax shall be reduced in accordance with the following provisions of this paragraph (unless the dividends are, under the laws of Switzerland and in accordance with Article III of this Convention, attributable to a permanent establishment situated in Switzerland).

- (b) If that resident is an individual whose effective rate of United Kingdom tax does not exceed 5 per centum the anticipatory tax shall not be charged.
- (c) If that resident is an individual whose effective rate of United Kingdom tax exceeds 5 per centum, the anticipatory tax shall be charged only at the rate which, when added to the rate of Federal coupon tax, equals that effective rate.
- (d) If that resident is a company which controls, directly or indirectly, not less than 95 per centum of the entire voting power of the company paying the dividends, the anticipatory tax shall be reduced by an amount equal to 20 per centum of the dividend.
- (e) If that resident is a company which controls, directly or indirectly, less than 95 per centum but not less than 50 per centum of the entire voting power of the company paying the dividends, the anticipatory tax shall be reduced by an amount equal to 10 per centum of the dividend.
- (f) If that resident is a company which beneficially owns not less than 10 per centum of the entire share capital of the company paying the dividends, and the provisions of either sub-paragraph (d) or sub-paragraph (e) of this paragraph apply to some part of the dividends paid by the latter company, the anticipatory tax shall be reduced by an amount equal to 10 per centum of the dividend.

5. If at any time distributed profits of companies become chargeable to United Kingdom profits tax at a rate other than 20 per centum above the rate at which undistributed profits are effectively chargeable to that tax, the competent authorities of the two Contracting Parties may consult together in order to determine whether it is necessary for this reason to amend sub-paragraphs (d), (e) and (f) of the preceding paragraph. After such consultation has taken place either of the Contracting Parties may give to the other Contracting Party through the diplomatic channel written notice of termination of the provisions of paragraph 3 and of sub-paragraphs (d), (e) and (f) of paragraph 4 of this Article, and, in such event, those provisions shall cease to be effective from the date on which the relevant change in the rates of United Kingdom profits tax took effect.

6. Subject to the provisions of sub-paragraph (a) of paragraph 4 of this Article, where a company which is resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

## ARTICLE VII

## The Laws of Zambia

1. Any interest or royalty derived from sources within one of the territories by a resident of the other territory, who is subject to tax in that other territory in respect thereof, shall be exempt from tax in that first territory.
2. In this Article-
  - (a) The term "interest" means interest on bonds, securities, notes, debentures or on any other form of indebtedness (including mortgages or bonds secured on real property);
  - (b) The term "royalty" means any royalty or other amount paid as consideration for the right to use any copyright, artistic or scientific work, patent, model, design, secret process or formula, trade mark, or other like property or right (including rentals and like payments for the use of industrial or commercial machinery or plant or scientific apparatus), but does not include any royalty or other amount paid in respect of the operation of mines, quarries or other natural resources.
3. Any capital sum derived from sources within one of the territories from the sale of property or rights mentioned in sub-paragraph (b) of paragraph 2 of this Article by a resident of the other territory shall be exempt from tax in the first territory.
4. Where there is a special relationship between debtor and creditor or both debtor and creditor have a special relationship with a third person or persons, and in consequence the amount paid is greater than would have been agreed upon if debtor and creditor had been at arm's length, the exemption provided by this Article shall not apply to the excess.
5. Any interest or royalty exempted from United Kingdom tax by this Article shall be allowed as a deduction for profits tax and excess profits levy purposes from the profits or income of the person paying the interest or royalty, whatever the relationship between that person and the person receiving the interest or royalty may be.
6. The exemptions from tax in one of the territories provided for in this Article shall not apply to interest, royalties or capital sums which, under the laws of that territory and in accordance with Article III of this Convention, are attributable to a permanent establishment situated therein.

## ARTICLE VIII

1. A resident of one of the territories shall be exempt in the other territory from any tax on gains from the sale, transfer or exchange of capital assets (other than gains which, under the laws of that other territory and in accordance with Article III of this Convention, are attributable to a permanent establishment situated therein).
2. In this Article, the term "capital assets" means any movable property, whether corporeal or incorporeal.

## ARTICLE IX

1. Income derived from real property situated in one of the territories by a resident of the other territory shall be subject to tax in accordance with the laws of the first-mentioned territory. Where the income is also subject to tax in the other territory, relief from double taxation shall be given in accordance with the provisions of Article XV.
2. In this Article, the term "income from real property" means income of whatever nature derived from real property, including gains derived from the sale or exchange of such property, and it also includes royalties in respect of the operation of mines, quarries or other natural resources. It does not however include interest from mortgages or bonds secured on such property.

## ARTICLE X

## The Laws of Zambia

1. Remuneration, including pensions, paid by, or out of funds created by, the Government of the United Kingdom to an individual in respect of services rendered to that Government in the discharge of governmental functions shall be exempt from Swiss tax: provided that the exemption shall not apply to remuneration, other than a pension, paid to a Swiss citizen who is not also a British subject.

2. Remuneration, including pensions, paid by, or out of funds created by, the Swiss Confederation or by any Swiss canton to an individual in respect of services rendered to Switzerland in the discharge of governmental functions shall be exempt from United Kingdom tax: provided that the exemption shall not apply to remuneration, other than a pension, paid to a British subject who is not also a Swiss citizen.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either Contracting Party or by any Swiss canton for purposes of profit.

4. The provisions of this Convention shall not be construed as denying or affecting in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to them.

## ARTICLE XI

1. An individual who is a resident of the United Kingdom shall be exempt from Swiss tax on profits or remuneration in respect of personal (including professional) services performed within Switzerland in any year of assessment if-

- (a) he is present within Switzerland for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) (i) in the case of a directorship or employment, the services are performed for or on behalf of a resident of the United Kingdom,  
(ii) in other cases, he has no office or other fixed place of business in Switzerland, and
- (c) the profits or remuneration are subject to United Kingdom tax.

2. An individual who is a resident of Switzerland shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment if-

- (a) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) (i) in the case of a directorship or employment, the services are performed for or on behalf of a resident of Switzerland,  
(ii) in other cases, he has no office or other fixed place of business in the United Kingdom, and
- (c) the profits or remuneration are subject to Swiss tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture, radio or television artists, musicians and athletes.

## ARTICLE XII

1. Any pension (other than a pension of the kind referred to in Article X) and any annuity, derived from sources within one of the territories by an individual who is a resident of the other territory and subject to tax in that other territory in respect thereof, shall be exempt from tax in the first territory.

2. In this Article-

- (a) The term "pension" means periodic payments made in consideration of past services or by way of compensation for injuries received;
- (b) 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.

## ARTICLE XIII

## The Laws of Zambia

1. A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

2. A student or business apprentice from one of the territories, who is receiving full-time education or training in the other territory, shall be exempt from tax in that other territory on payments made to him by persons outside that other territory for the purposes of his maintenance, education or training.

## ARTICLE XIV

1. Individuals who are residents of Switzerland shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

2. Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Swiss tax as Swiss nationals resident in the United Kingdom.

## ARTICLE XV

1. The laws of the Contracting Parties shall continue to govern the taxation of income arising in either of the territories, except where express provision to the contrary is made in the present Convention. Where income is subject to tax in both territories, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Swiss tax payable, whether directly or by deduction, in respect of income from sources within Switzerland shall be allowed as a credit against the United Kingdom tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Switzerland to a company which controls, directly or indirectly, not less than 50 per centum of the entire voting power of the former company, the credit shall take into account (in addition to any Swiss tax appropriate to the dividend) the Swiss tax payable by the former company in respect of its profits. For the purpose of this paragraph, the term "Swiss tax" shall include the Federal coupon tax, but shall not include the communal taxes.

3. Income (other than dividends) from sources within the United Kingdom which under the laws of the United Kingdom and in accordance with this Convention is subject to tax in the United Kingdom either directly or by deduction shall be exempt from Swiss tax.

4. In the case of a person (other than a company or partnership) who is resident in the United Kingdom for the purposes of United Kingdom tax and is also resident (by reason of domicile or sojourn) in Switzerland for the purposes of Swiss tax, the provisions of paragraph 2 of this Article shall apply in relation to income which that person derives from sources within Switzerland, and the provisions of paragraph 3 of this Article shall apply in relation to income which that person derives from sources within the United Kingdom. If such person derives income from sources outside both the United Kingdom and Switzerland, tax may be imposed on that income in both the territories (subject to the laws in force in the territories and to any Convention which may exist between either of the Contracting Parties and the territory from which the income is derived) but the Swiss tax on so much of that income as is subjected to tax in both the territories shall be limited to one-half of the tax on such income, and the United Kingdom tax on that income shall be reduced by a credit, in accordance with paragraph 2 of this Article, for the Swiss tax so computed.

5. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, except that the remuneration of a director of a company shall be deemed to be income from sources within the territory in which the company is resident, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

## ARTICLE XVI

## The Laws of Zambia

1. Where it is provided in this Convention that relief from tax in respect of any kind of income shall be allowed in the territory from which such income is derived, that provision shall not be construed as requiring that income to be paid without deduction of tax at source at the full rate. Where tax has been deducted at source from such income the taxation authorities of the territory in which relief from tax is required to be given shall, when the tax-payer in receipt of the income shows to their satisfaction and within the time limits prescribed in that territory that he is entitled to the relief, arrange for the appropriate repayment of tax.

2. Where any income is exempted from tax by any provision of this Convention, it may nevertheless be taken into account in computing the tax on other income or in determining the rate of such tax.

3. For the purpose of calculating the reliefs due under Articles VI and XIV, the income of a partnership shall be regarded as that of its individual members.

## ARTICLE XVII

1. The provisions of the present Convention shall not be construed as restricting in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws in force in the territory of one of the Contracting Parties in the determination of the tax imposed in such territory.

2. The provisions of the present Convention shall not be construed as derogating from any right or privilege conferred upon taxpayers by the Agreement of the 17th October, 1931, between the Government of the United Kingdom and the Swiss Federal Council for reciprocal exemption from taxation on profits or gains arising through an agency.

## ARTICLE XVIII

1. The nationals of one Contracting Party shall not be subjected in the territory of the other Contracting Party to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the nationals of the latter Party are or may be subjected in similar circumstances.

2. The enterprises of one of the territories, whether carried on by a company, a body of persons or by individuals alone or in partnership, shall not be subjected in the other territory, in respect of income, profits or capital attributable to their permanent establishments in that other territory to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory, similarly carried on are or may be subjected in respect of the like income, profits or capital.

3. The income, profits and capital of an enterprise of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by a resident or residents of the other territory, shall not be subjected in the first territory to any taxation which is other, higher or more burdensome than the taxation to which other like enterprises of that first territory are or may be subjected in similar circumstances in respect of the like income, profits and capital.

4. Nothing in paragraph 1 or paragraph 2 of this Article shall be construed as obliging one Contracting Party to grant to nationals of the other Contracting Party who are not resident in the territory of the former Party the same personal allowances, reliefs and reductions for tax purposes as are granted to its own nationals.

5. In this Article the term "nationals" means-

(a) in relation to Switzerland, all Swiss citizens wherever residing and all entities with or without juridical personality created under Swiss law;

(b) in relation to the United Kingdom, all British subjects and British protected persons-

(i) residing in the United Kingdom or any territory to which the present Convention is extended under Article XXI, or

(ii) deriving their status as such from connection with the United Kingdom or any territory to which the present Convention is extended under Article XXI, and all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in the United Kingdom or any territory to which the Convention is extended under Article XXI.

6. In this Article the term "taxation" means taxes of every kind and description levied on behalf of any authority whatsoever.

## ARTICLE XIX

## The Laws of Zambia

1. Where a taxpayer shows to the satisfaction of the competent authority of the Contracting Party of which he is a national or in whose territory he is a resident that he has not received the treatment in the other territory to which he is entitled under any provision of this Convention, that competent authority shall consult with the competent authority of the other Party with a view to the avoidance of the double taxation in question.

2. The competent authorities of the two Contracting Parties may communicate with each other directly for the purpose of giving effect to the provisions of this Convention (and in particular the provisions of Articles III and IV) and for resolving any difficulty or doubt as to the application or interpretation of the Convention.

## ARTICLE XX

1. The competent authorities of the Contracting Parties shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention in relation to the taxes which are the subject of the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

2. In no case shall the provisions of this Article be construed as imposing upon either of the Contracting Parties the obligation to carry out administrative measures at variance with the regulations and practice of either Contracting Party or which would be contrary to its sovereignty, security or public policy or to supply particulars which are not procurable under its own legislation or that of the Party making application.

## ARTICLE XXI

1. The present Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the Convention, and 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 Parties in notes to be exchanged for this purpose.

2. The termination in respect of the United Kingdom or Switzerland of the present Convention under Article XXIV shall, unless otherwise expressly agreed by the Contracting Parties, terminate the application of the Convention to any territory to which it has been extended under this Article.

## ARTICLE XXII

1. The present Convention shall be ratified and the instruments of ratification shall be exchanged at Berne as soon as possible.

2. The present Convention shall enter into force upon the exchange of ratifications.

## ARTICLE XXIII

The Laws of Zambia

1. Upon the entry into force of the present Convention in accordance with Article XXII, the provisions of the Convention shall have effect-

- (a) In the United Kingdom:
  - as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April, 1953;
  - as respects profits tax and excess profits levy in respect of the following profits-
    - (i) profits by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after the 6th April, 1953;
    - (ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after 1st April, 1953, or are attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;
- (b) In Switzerland:
  - for any taxable year beginning on or after the 1st January, 1953.

2. The exemption from tax provided in Article V shall have effect for any year of assessment beginning on or after the 6th April, 1946.

ARTICLE XXIV

The present Convention shall continue in effect indefinitely but either Contracting Party may, on or before the 30th June in any calendar year not earlier than the year 1957, give to the other Contracting Party, through the diplomatic channel, written notice of termination and, in such event, the Convention shall cease to be effective-

- (a) In the United Kingdom:
  - as respects income tax (including surtax) for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;
  - as respects profits tax in respect of the following profits-
    - (i) profits by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in the calendar year next following that in which the notice is given;
    - (ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given or are attributable to so much of any chargeable accounting period falling partly before and partly after the date as falls after that date;
- (b) In Switzerland:
  - for any taxable year beginning on or after the 1st January of the calendar year next following that in which the notice is given.

In witness whereof the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done in duplicate at London, the thirtieth day of September, one thousand nine hundred and fifty-four, in the English and French languages, both texts being equally authoritative.

(L.S.)  
(L.S.)

DOUGLAS DODDS-PARKER.  
E. BERNATH.



The Laws of Zambia  
SCHEDULE

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND  
NORTHERN IRELAND AND THE SWISS FEDERAL COUNCIL EXTENDING THE CONVENTION FOR THE AVOIDANCE  
OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME OF 30TH SEPTEMBER 1954 TO THE FEDERATION  
OF RHODESIA AND NYASALAND.

Berne, 30th May, 1961

No. 1

Her Britannic Majesty's Embassy's Note with Annex to the Swiss Federal Political Department.

BRITISH EMBASSY,  
BERNE.  
30th May, 1961.

Your Excellency,

I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council for the Avoidance of Double Taxation with respect to Taxes on Income, signed at London on the 30th September, 1954.

I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XXI, the above-mentioned Convention should be extended to the Federation of Rhodesia and Nyasaland in the manner, subject to the modifications, and with effect from the dates specified in the Annex to the present Note.

If the foregoing proposal is acceptable to the Swiss Government, I have the honour to suggest that the present Note with its Annex and Your Excellency's reply to that effect should be regarded as constituting the Agreement reached between the two Governments in this matter.

I have the honour to be,  
With the highest consideration,  
Your Excellency's obedient Servant,  
PAUL GREY.

SON EXCELLENCE MONSIEUR LE CONSEILLER FEDERAL  
MAX EDOUARD PETITPIERRE,  
DEPARTMENT POLITIQUE FEDERAL,  
BERNE.

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ANNEX

PART I

APPLICATION

- (1) The said Convention as modified by the present Annex shall apply-
- (a) as if the Contracting Parties were the Swiss Federal Council and the Government of the Federation of Rhodesia and Nyasaland;
  - (b) as if the taxes concerned in the Federation of Rhodesia and Nyasaland were the income tax, supertax and undistributed profits tax; and
  - (c) as if references to "the date of signature of the present Convention" were references to the date of the Exchange of Notes to which the present Annex is appended.
- (2) When the last of those measures shall have been taken in Switzerland and in the Federation of Rhodesia and Nyasaland necessary to give the present extension the force of law in Switzerland and in the Federation respectively, the present extension shall have effect-
- (a) in Switzerland: for any taxable year beginning on or after the first day of January, 1959; and
  - (b) in the Federation of Rhodesia and Nyasaland: as respects taxes charged for the year of assessment beginning on the first day of April, 1959, and for subsequent years of assessment.
- (3) The Swiss Federal Council shall inform the Government of the United Kingdom in writing through the diplomatic channel when the last of the measures necessary, as indicated in paragraph (2), have been taken in Switzerland. The Government of the United Kingdom shall inform the Swiss Federal Council in writing through the diplomatic channel when the last of the measures necessary, as indicated in paragraph (2), have been taken in the Federation of Rhodesia and Nyasaland.
- (4) The present extension shall continue in effect indefinitely but either the Government of the United Kingdom or the Swiss Federal Council may, on or before the thirtieth day of June in any calendar year not earlier than the year 1962, give to the other through the diplomatic channel written notice of termination and in such event the present extension shall cease to have effect-
- (a) in Switzerland: for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice is given; and
  - (b) in the Federation of Rhodesia and Nyasaland: as respects taxes charged for any year of assessment beginning on or after the first day of April in the calendar year next following that in which the notice is given.

PART II

MODIFICATIONS

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The said Convention shall, for the purposes of the extension to the Federation of Rhodesia and Nyasaland, apply with the following modifications:

- (a) Article VI shall be replaced by the following provision:

Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived: provided, however, that the Swiss coupon tax and the Swiss anticipatory tax may be charged in respect of dividends paid by any company created or organised under Swiss law.

- (b) Article X shall apply to remuneration including pensions paid by, or out of funds created by, the Government of each of the Territories constituting the Federation of Rhodesia and Nyasaland to any individual in respect of services rendered to that Government in the discharge of governmental functions as it applies to similar payments by, or out of funds created by, the Government of the Federation.
- (c) References to the laws of the United Kingdom shall be understood to mean "the laws of the Federation of Rhodesia and Nyasaland".

No. 2

The President of the Swiss Confederation to Her Britannic Majesty's Ambassador  
in Berne.

Berne,  
30th May, 1961.

Monsieur l'Ambassadeur,

I have had the honour to receive your Note of today's date by which your Excellency made known to me the following:

"I am instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Swiss Federal Council for the Avoidance of Double Taxation with respect to Taxes on Income, signed at London on the 30th September, 1954.

I have the honour to propose on behalf of the Government of the United Kingdom that, in accordance with the provisions of Article XXI, the above-mentioned Convention should be extended to the Federation of Rhodesia and Nyasaland in the manner, subject to the modifications, and with effect from the dates specified in the Annex to the present Note.

If the foregoing proposal is acceptable to the Swiss Government, I have the honour to suggest that the present Note with its Annex and Your Excellency's reply to that effect should be regarded as constituting the Agreement reached between the two Governments in this matter."

I confirm to your Excellency, that with reference to Article XXI of the preceding Convention, the Swiss Federal Council has approved the contents of your Note. In consequence, your Note and the present reply together with their annexes constitute an Agreement in this matter between our two Governments.

I take this opportunity to renew to you, Monsieur l'Ambassadeur, the assurance of my highest consideration.

MAX PETITPIERRE.

SON EXCELLENCE MONSIEUR PAUL FRANCIS GREY,  
AMBASSADEUR EXTRAORDINAIRE ET PLENIPOTENTIAIRE DE SA MAJESTE BRITANNIQUE,  
BERNE.

The Laws of Zambia

SECTION 74-THE DOUBLE TAXATION RELIEF (TAXES ON INCOME) (INDIA) ORDER

*Statutory Instrument*  
159 of 1983

*Order by the President*

**1.** This Order may be cited as the Double Taxation Relief (Taxes on Income) (India) Order. Title

**2.** It is hereby declared that the Convention, the text of which is set out in the Schedule hereto, being a Convention relating to relief from double taxation on income made between the Government of the Republic of Zambia and the Government of the Republic of India, shall have effect in Zambia in accordance with section *seventy-four* of the Income Tax Act. Convention

The Laws of Zambia

SCHEDULE

(Paragraph 2)

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA AND THE GOVERNMENT OF THE  
REPUBLIC OF INDIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of Zambia and the Government of the Republic of India.

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

CHAPTER I

SCOPE OF THE CONVENTION

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 taxes to which this Convention shall apply are:

(a) In the case of India:

(i) the income-tax including any surcharge thereon imposed under the Income-tax Act, 1961 (43 of 1961);  
and

(ii) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (7 of 1964);  
(hereinafter referred to as "Indian tax").

(b) In the case of Zambia:

(i) the income tax;

(ii) the mineral royalty tax; and

(iii) the personal levy

(hereinafter referred to as "Zambian tax").

2. The Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Convention in addition to, or in place of, the taxes referred to in paragraph 1 of this Article.

3. At the end of each year, the competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws which are the subject of this Convention, and furnish copies of relevant enactments and regulations.

The Laws of Zambia

CHAPTER II

DEFINITIONS

ARTICLE 3

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

- (a) the terms " a Contracting State" and "the other Contracting State" mean India or Zambia, as the context requires;
- (b) the term "tax" means Indian tax or Zambian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Convention applies or which represents a penalty imposed relating to those taxes;
- (c) the term "person" includes individuals, companies and all other entities which are treated as taxable units under the taxation laws in force in the respective Contracting States;
- (d) the term "company" means any body corporate or any entity which is treated as a company under the taxation laws in force in the respective Contracting State;
- (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;
- (f) the term "competent authority" means the in the case of India, the Central Government in the Ministry of Finance (Department of Revenue); and in the case of Zambia, the Commissioner-General of Taxes or his authorised representative;
- (g) the term "nationals" means:
  - (1) in respect of India:

all individuals possessing the nationality of India and all legal persons, partnerships and associations deriving their status from the law in force in India;
  - (2) in respect of Zambia:

all individuals possessing the nationality of Zambia and all legal persons, partnerships and associations deriving their status as such from the law in force in Zambia.

2. In the application of the provisions of this Convention by one of the Contracting States, any term not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subject of this Convention.

ARTICLE 4

FISCAL DOMICILE

## The Laws of Zambia

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of similar nature.

2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his residential status for the purposes of this Convention shall be determined in accordance with the following rules:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (hereinafter referred to as his "centre of vital interests");
- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting 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 the Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

## ARTICLE 5

### PERMANENT ESTABLISHMENT

## The Laws of Zambia

1. For the purpose of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include:
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, a quarry, an oil field or other place of extraction of natural resources;
  - (g) a farm, plantation or other place where agricultural, forestry, plantation or related activities are carried on;
  - (h) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or supervisory activity continues for a period of more than 9 months;
  - (i) a warehouse or other facilities for the maintenance of a stock of goods or merchandise belonging to the enterprise from which orders are filled.
3. The term "permanent establishment" shall not be deemed to include:
  - (a) the use of facilities solely for the purpose of storage or display 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 or display;
  - (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 for collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information or for scientific research, being activities solely of a preparatory or auxiliary character, in the trade or business of the enterprise.
4. A person acting in a Contracting State for or on behalf of an enterprise of the other Contracting State-other than an agent of an independent status to whom the provisions of paragraph 6 apply-shall be deemed to be a permanent establishment of that enterprise in the first mentioned State if:
  - (i) he has, and habitually exercises in that State, an authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
  - (ii) he has no such authority but he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to that enterprise from which he regularly fulfils orders on behalf of the enterprise.
5. An insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a representative who is not an agent of independent status within the meaning of paragraph 6.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he would not be considered an agent of an independent status within the meaning of this paragraph.
7. 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 Contracting State (whether through a permanent establishment or otherwise), shall not, of itself, constitute for either company a permanent establishment of the other.
8. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on a business which consists of providing the services of public entertainers (such as theatre, motion picture, radio or television artistes and musicians) or athletes in that Contracting State unless the enterprise is directly or indirectly supported wholly or substantially, from the public funds of the Government of the first-mentioned Contracting State in connection with the provision of such services.

## CHAPTER III



The Laws of Zambia  
TAXATION OF INCOME

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law and usage of the Contracting State in which the property is situated. The term shall in any case 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, oilwells, quarries and other places of extraction of 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 professional services.

ARTICLE 7

BUSINESS PROFITS

## The Laws of Zambia

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.

2. If an enterprise of a Contracting State, which has a permanent establishment in the other Contracting State, sells goods or merchandise of the same or similar kind as those sold by the permanent establishment or renders services of the same or similar kind as those rendered by the permanent establishment, the profits of such activities may be attributed to the permanent establishment unless the enterprise proves that such sales or services are not attributable to the activity of the permanent establishment.

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. In any case, where the correct amount of profits attributable to a permanent establishment is incapable of determination or the ascertainment thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be estimated on a reasonable basis.

4. In so far 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 the total profits of the enterprise to its various parts, nothing in paragraph 3 shall preclude that Contracting State from determining the profits to be 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 laid down in this Article.

5. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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, but this does not include any expenses which, under the law of that State, would not be allowed to be deducted by an enterprise of that State.

6. 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 purpose of export to the enterprise of which it is the permanent establishment.

7. 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.

8. The term "business profits" means income derived by an enterprise from the carrying on of trade or business; but does not include income in the form of rents, royalties (including rents or royalties in respect of cinematographic films or video tapes for television), fees for technical services, management charges, or remuneration or fees for providing services of technical or other personnel, interests, dividends, capital gains, remuneration for labour or personal (including professional) services or income from the operation of ships or aircraft.

## ARTICLE 8

### AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. The provisions of paragraph 1 of this Article shall also apply to a share of profits from the operation of aircraft in international traffic derived by an enterprise of a Contracting State through participation in a pooled service, in a joint air transport operation or in an international operating agency.

3. For the purpose of paragraph 1, interest on funds connected with the operation of aircraft in international traffic shall be regarded as income from the operation of such aircraft, and the provisions of Article 11 shall not apply in relation to such interest.

## ARTICLE 9

### ASSOCIATED ENTERPRISES

## The Laws of Zambia

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 the enterprise and taxed accordingly.

## ARTICLE 10

### DIVIDENDS

**1.** Dividends paid by a company which is 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 law of that State, but the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the recipient is a company which owns at least 25 per cent of the shares of the company paying the dividends during the period of six months immediately preceding the date of payment of the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

**3.** The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares or any other item which is deemed to be a dividend or distribution of a company 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 recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 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 to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

## ARTICLE 11

### INTEREST

## The Laws of Zambia

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 law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State or local authority thereof, the Central Bank of that other Contracting State, or any agency wholly owned by that Government or local authority shall be exempt from tax of the first-mentioned Contracting State. The competent authorities of the Contracting States may determine by mutual agreement any other governmental institution to which this paragraph shall apply.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law 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 law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

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 and films or tapes for radio or television 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 recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 13

The Laws of Zambia  
CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6 may be taxed in the Contracting State in which such property is situated.
2. 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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other State.
3. Notwithstanding the provisions of paragraph 2, gains derived by an enterprise of a Contracting State from the alienation of ships and aircraft which it operates in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that State.
4. Gains derived by a resident of a Contracting State from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3 shall be taxable only in that State.
5. The term "alienation" means the sale, exchange, transfer, or relinquishment of the property or the extinguishment of any rights therein or the compulsory acquisition thereof under any law in force in the respective Contracting States.

ARTICLE 14

MANAGEMENT AND CONSULTANCY FEES

1. Management and consultancy fees 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 fees may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the fees.
3. The term "management and consultancy fees" as used in this Article means payments of any kind of any person, other than to an employee of the person making the payments, in consideration for any services of a managerial, technical or consultancy nature.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the management and consultancy fees, being a resident of a Contracting State, has in the other Contracting State in which the fees arise a permanent establishment with which the services giving rise to the fees are effectively connected. In such a case, the provisions of Article 7 shall apply.
5. Management and consultancy fees shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the fees, whether he is a resident of that State or not, has in a Contracting State permanent establishment in connection with which the liability to pay the fees was incurred and such fees are borne by such permanent establishment, then such fees shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the management and consultancy fees paid, having regard to the services for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 15

INDEPENDENT PERSONAL SERVICES

## The Laws of Zambia

1. Subject to the provisions of Article 16, income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar 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 purposes of performing his activities, in which case so much of the income may be taxed in that other State as is attributable to that fixed base; or
- (b) he is present in the other Contracting State for the purpose of performing his activities for a period or periods exceeding in the aggregate 183 days in the relevant "previous year" in the case of India and in the relevant "charge year" in the case of Zambia and in which case so much of the income may be taxed in that other State as is attributable to the activities performed in that other State;
- (c) his remuneration for his services or activities in the other Contracting State derived from residents of that Contracting State exceeds K10,000 or its equivalent in Indian currency in the taxable year (not including travel expenses directly related to the services or activities in the other Contracting State), notwithstanding that his stay in that State is for a period or periods amounting to less than 183 days during the taxable year.

2. The term "professional services" includes independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

## ARTICLE 16

### DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 18, 19, 20, 21 and 22, 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 Contracting 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 first-mentioned Contracting State if:

- (a) the recipient is present in the other Contracting State for a period not exceeding in the aggregate 183 days in the fiscal year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of employment exercised aboard a ship or aircraft in international traffic may be taxed only in the Contracting State in which the place of effective management of the enterprise is situated.

## ARTICLE 17

### DIRECTORS' FEES

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

## ARTICLE 18

### ARTISTES AND ATHLETES

## The Laws of Zambia

1. Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers (such as theatre, motion picture, radio or television artistes and musicians) or athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised:

Provided that such income shall not be taxed in the said Contracting State if the visit of the public entertainers or athletes to that State is supported wholly or substantially, from the public funds of the Government of the other Contracting State.

2. For the purposes of this Article, the term "Government" includes a State Government, a political sub-division, or a local or statutory authority of either Contracting State.

## ARTICLE 19

### GOVERNMENTAL FUNCTIONS

1. Remuneration paid by or out of funds created by a Contracting State, a political sub-division or a local authority thereof, to a citizen of that State in respect of an employment shall be taxable only in that State.

2. Any pension paid by or out of funds created by a Contracting State, a political sub-division, or a local authority thereof, to any individual may be taxed in that Contracting State.

3. The provisions of paragraph 1 of this Article shall not apply to payments in respect of services rendered in connection with any business carried on by the Government of either of the Contracting States for the purposes of profit.

4. For the purposes of this Article, the term "Government" shall include any State Government or local authority of either Contracting State and in particular the Reserve Bank of India and the Bank of Zambia.

## ARTICLE 20

### NON-GOVERNMENT PENSIONS AND ANNUITIES

1. Any pension (other than a pension referred to in Article 9) or annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned Contracting State.

2. The term "pension" means a periodic payment made in consideration of services rendered in the past or by way of compensation for injuries received in the course of performance of services.

3. The term "annuity" means a stated sum payable periodically at stated times, during the 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.

## ARTICLE 21

### RESEARCH PERSONNEL, STUDENTS AND BUSINESS APPRENTICES

## The Laws of Zambia

1. (a) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State for the primary purpose of:

- (i) studying at a University or other recognised educational institution in that other Contracting State, or
- (ii) securing training required to qualify him to practice a profession or professional speciality, or
- (iii) studying or doing research as a recipient of a grant, allowance, or award from a Governmental, religious charitable, scientific, literary, or educational organisation,

shall be exempt from tax by that other Contracting State with respect to amounts described in sub-paragraph (b) for a period not exceeding 5 taxable years from the date of his arrival in that other Contracting State.

(b) The amounts referred to in sub-paragraph (a) are-

- (i) gifts abroad for the purpose of his maintenance, education, study, research, or training;
- (ii) the grant, allowance, or award; and
- (iii) income from personal services performed in that other Contracting State in an amount not in excess of 1,500 Zambian Kwacha or its equivalent Indian Rupees for any taxable year.

2. An individual who is a resident of one of the Contracting States and who is temporarily present in that other Contracting State as an employee of, or under contract with, a resident of the first-mentioned Contracting State, for the primary purpose of-

- (a) acquiring technical, professional, or business experience from a person other than that resident of the first-mentioned Contracting State or other than a person, related to such resident; or
- (b) studying at a University or other recognised educational institution in that other Contracting State;

shall be exempt from tax in that other Contracting State for a period not exceeding 1 year with respect to his income from personal services in an aggregate amount not in excess of 2,500 Zambian Kwacha or its equivalent Indian Rupees.

3. An individual who is a resident of one of the Contracting States and who is temporarily present in that other Contracting State for a period not exceeding 1 year, as a participant in a programme sponsored by the Government of that other Contracting State, for the primary purpose of training, research, or study shall be exempt from tax in that other Contracting State with respect to his income from personal services in respect of such training, research, or study performed in that other Contracting State in an aggregate amount not in excess of 3,500 Zambian Kwacha or its equivalent Indian Rupees.

## ARTICLE 22

### PROFESSORS AND TEACHERS

1. A professor or teacher who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State, a resident of the other Contracting State and who is present in the first-mentioned State for a period not exceeding two years for the purpose of carrying out advanced study or research or for teaching at a university, college, school or other educational institution shall be exempt from tax in the first-mentioned State in respect of any remuneration which he receives for such work provided that such remuneration is derived by him from outside that State.

2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purposes of this Article and Article 21, an individual shall be deemed to be a resident of a Contracting State if he is resident in that Contracting State in the "previous year" or the "charge year", as the case may be, in which he visits the other Contracting State or in the immediately preceding "previous year" or the "charge year".

## ARTICLE 23

### INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State, wherever arising' not dealt with in the foregoing Articles of this Convention shall be taxable only in that State except that if such income arises in the other Contracting State, it may also be taxed in that other State.



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CHAPTER IV

METHOD FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 24

AVOIDANCE OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States will continue to govern the taxation of income in the respective Contracting States except where provisions to the contrary are made in this Convention.

2. (a) The amount of Zambian tax payable, under the laws of Zambia and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of India, in respect of income from sources within Zambia which has been subjected to tax both in India and Zambia, shall be allowed as a credit against the Indian tax payable in respect of such income provided that such credit shall not exceed Indian tax (as computed before allowing any such credit), which is appropriate to the income derived from sources within Zambia; so, however, that where such resident is a company by which surtax is payable in India, the credit aforesaid shall be allowed in the first instance against income-tax payable by the company in India, and as to the balance, if any, against surtax payable by it in India.

(b) For the purpose of the credit referred to in sub-paragraph (a) above, the term "Zambian tax payable" shall be deemed to include any amount which would have been payable as Zambian tax for any year but for any provisions granting an exemption or reduction of tax which the competent authorities of the Contracting States agree to be for the purpose of economic development.

(c) The amount of Indian tax payable, under the laws of India and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of Zambia in respect of income from sources within India which has been subjected to tax both in India and Zambia shall be allowed as a credit against Zambian tax payable in respect of such income provided that such credit shall not exceed the Zambian tax (as computed before allowing any such credit), which is appropriate to the income derived from sources within India.

(d) For the purposes of the credit referred to in sub-paragraph (a) above, the term "Indian tax payable" shall be deemed to include any amount by which Indian tax has been reduced by the special incentive measures set forth in the following sections of the Income-tax Act, 1961:

(i) Section 10 (4)-relating to exemption from tax on interest payable to a non-resident on any security notified by the Government of India;

(ii) Section 10 (4)-relating to exemption from tax on interest payable to a non-resident on moneys in a Non-resident (External) Account;

(iii) Section 10 (15) (iv)-relating to exemption from tax of (a) a non-resident in respect of moneys lent by him to the Government or local authority in India; (b) an approved foreign financial institution in respect of interest on moneys lent by it to an industrial undertaking in India under a loan agreement; and (c) a non-resident in respect of interest on moneys lent or credit facilities allowed by him to an industrial undertaking in India for the purchase outside India of raw materials or capital plant and machinery or for industrial development in India;

(iv) Section 32A-relating to investment allowance in respect of ships, aircrafts, machinery or plant;

(v) Section 33A-relating to development allowance for planting or replanting of tea bushes;

(vi) Section 35C-relating to the agricultural development allowance;

(vii) Section 54E-relating to capital gains;

(viii) Section 80CC-relating to deduction in respect of investment in certain new shares;

(ix) Section 80HH-relating to deduction in respect of profits and gains from newly established industrial undertakings or hotel business in backward areas;

(x) Section 80J-relating to deduction in respect of profits and gains from eligible industrial undertakings or ships or hotels;

(xi) Section 80K-relating to deduction in respect of dividends attributable to profits and gains from eligible industrial undertakings or ships or hotels;

(xii) Any other provisions which may subsequently be enacted granting an exemption or reduction of tax which the competent authorities of the Contracting States agree to be for the purposes of economic development.

3. Income which, in accordance with the provisions of this Convention is not to be subjected to tax in a Contracting State, may be taken into account for calculating the rate of tax to be imposed in that Contracting State.

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CHAPTER V

SPECIAL PROVISIONS

ARTICLE 25

NON-DISCRIMINATION

1. The 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. 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 in the same circumstances.

3. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to persons not resident in that State any personal allowances, reliefs and reductions for taxation purposes which are by law available only to persons who are so resident.

4. 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected in the same circumstances.

5. In this Article, the term "taxation" means taxes which are the subject of this Convention.

ARTICLE 26

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 this Convention, he may notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. This case must be presented within three years of the date of receipt of notice of the action which gives rise to taxation not in accordance with the Convention.

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 appropriate 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 not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the national laws 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 each other 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 reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

ARTICLE 27

EXCHANGE OF INFORMATION

## The Laws of Zambia

1. The competent authorities of the Contracting States shall exchange such information or document as is necessary for carrying out the provisions of this Convention or for the prevention of evasion of taxes which are the subject of this Convention. Any information or documents so exchanged shall be treated as secret but may be disclosed to persons (including a court or other authorities) concerned with the assessment, collection, enforcement, investigation or prosecution in respect of the taxes which are the subject of this Convention, or to persons with respect to whom the information or document relates.

2. The exchange of information or documents shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States shall agree from time to time on the list of the information or documents which shall be furnished on a routine basis.

3. 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 or administrative practice of that or of the other Contracting State;
- (b) to supply information or documents which are 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 or documents 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.

## ARTICLE 28

### DIPLOMATIC AND CONSULAR ACTIVITIES

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

## CHAPTER VI

### FINAL PROVISIONS

## ARTICLE 29

### ENTRY INTO FORCE

1. This Convention shall come into force on the date when the last of all such things shall have been done in India and Zambia as are necessary to give the Convention the force of law in India and Zambia respectively.

2. The Contracting States shall notify each other of the completion of the requirements mentioned in paragraph 1 of this Article. The exchange of diplomatic notes certifying that this requirement has been completed shall take place at Lusaka.

3. Upon the exchange of such diplomatic notes, this Convention shall have effect:

- (a) In India, in respect of income assessable for any assessment year commencing on or after the 1st day of April, 1979.
- (b) In Zambia, in respect of income arising for any charge year commencing on or after the 1st day of April, 1979.

## ARTICLE 30

### TERMINATION

The Laws of Zambia

This Convention shall continue in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State through diplomatic channels, written notice of termination, and in such event this Convention shall cease to be effective:

- (a) in Zambia, in respect of income assessable for the assessment year commencing on the 1st day of April in the second calendar year next following the calendar year in which the notice is given, and subsequent years;
- (b) in India, in respect of income arising for the year of income next following the calendar year in which the notice of termination is given, and subsequent years.

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

Done in duplicate at Lusaka this 5th day of June, one thousand nine hundred and eighty-one in English language.

*For the Government of the Republic of Zambia:*  
K.S.K. MUSOKOTWANE

*For the Government of the Republic of India:*  
KEDAR PANDAY

SECTION 74-THE DOUBLE TAXATION RELIEF (TAXES ON INCOME) (KINGDOM OF DENMARK) ORDER

*Statutory Instrument*  
178 of 1974

*Order by the President*

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Kingdom of Denmark) Order. Title

2. It is hereby declared that the Agreement, the text of which is set out in the Schedule hereto, being an Agreement relating to relief from double taxation on income made between the Government of the Republic of Zambia and the Government of the Kingdom of Denmark, shall have effect in Zambia in accordance with the provisions of section *seventy-four* of the Income Tax Act. Agreement

SCHEDULE

*(Paragraph 2)*

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA  
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 the Republic of Zambia and the Government of the Kingdom of Denmark,

Desiring to conclude a new Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

ARTICLE I

The Laws of Zambia  
PERSONAL SCOPE

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

ARTICLE II

TAXES COVERED

1. The taxes which are the subject of this Convention are-

(a) in Zambia-

- (i) the income tax;
- (ii) the mineral royalty tax;
- (iii) the personal levy; (hereinafter referred to as "Zambian tax");

(b) in Denmark-

- (i) the income taxes to the State:
  - (1) the ordinary income tax to the State;
  - (2) the old age pension contribution;
  - (3) the seamen tax;
  - (4) the special income tax;
  - (5) the tax on dividends;
- (ii) the communal income taxes:
  - (1) the ordinary municipal income tax;
  - (2) the church tax;
  - (3) the municipal income tax to the County;  
(hereinafter referred to as "Danish tax").

2. This Convention shall also apply to any identical or substantially similar taxes which are imposed in addition to, or in place of, the existing taxes subsequent to the date of signature of this Convention.

3. At the end of each year the competent authorities of the Contracting States shall notify to each other any substantial changes which have been made in their respective taxation laws.

ARTICLE III

GENERAL DEFINITIONS

## The Laws of Zambia

1. In this Convention, unless the context otherwise requires-

- (a) the term "Zambia" means the Republic of Zambia;
- (b) the term "Denmark" means the Kingdom of Denmark, including any area within which, under the laws of Denmark and in accordance with international law, the sovereign rights of Denmark with respect to the exploration and exploitation of the natural resources of the continental shelf may be exercised; the term does not comprise the Faroe Islands and Greenland;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Zambia or Denmark as the context requires;
- (d) the term "tax" means Zambian tax or Danish tax, as the context requires;
- (e) the term "company" means any body corporate, or any entity which is treated as a body corporate for tax purposes;
- (f) the term "person" includes an individual and any body of persons corporate or not corporate;
- (g) the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of Zambia or a person who is a resident of Denmark as the context requires;
- (h) the terms "Zambian enterprise" and "Danish enterprise" mean respectively an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking or any like enterprise or undertaking carried on by a resident of Zambia and an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking or any like enterprise or undertaking carried on by a resident of Denmark;
- (i) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean a Zambian enterprise or a Danish enterprise, as the context requires;
- (j) the term "international traffic" means any voyage of a ship or aircraft operated by an enterprise of a Contracting State, except where the voyage is confined solely to places within the other Contracting State;
- (k) the term "competent authority" means-
  - i(i) in the case of Zambia, the Commissioner-General of Taxes or his authorised representative;
  - (ii) in the case of Denmark, the Minister of Finance or his authorised representative;

2. In the application of the provisions of this Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

## ARTICLE IV

### FISCAL DOMICILE

1. For the purpose of this Convention, the term "resident of a Contracting State" means, subject to the provisions of paragraphs 2 and 3 of this Article, any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. The terms "resident of Zambia" and "resident of Denmark" shall be construed accordingly.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting 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 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State, in which its place of effective management is situated.

The Laws of Zambia

ARTICLE V

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially-
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, oil well, quarry or other place of extraction of natural resources;
  - (g) a building site or construction or assembly project which exists for more than six months.
3. The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation, or assembly project which is being undertaken in that other Contracting State.
5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of independent status to whom paragraph 6 applies-shall be deemed to be a permanent establishment in the first-mentioned Contracting State, if he has and habitually exercises in that Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent, or any other agent of independent status, where such person is acting in the ordinary course of his business.
7. 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the other.

ARTICLE VI

INCOME FROM IMMOVABLE PROPERTY

## The Laws of Zambia

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case 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. In the determining of the income from immovable property which a resident of a Contracting State has in the other Contracting State expenses (including interest on debt-claims) which are incurred for the purposes of such property shall be allowed as deductions on the same conditions as are provided for residents of that other Contracting State.
5. The provisions of paragraphs 1, 3 and 4 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

## ARTICLE VII

### BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.
2. 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere. If the information available to the competent authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this paragraph shall affect the application of the law of either Contracting State in relation to the liability of the permanent establishment to pay tax on an amount determined by the making of an estimate by the competent authorities of that Contracting State; provided that each estimate shall be made so far as the information available to the competent authorities permits, in accordance with the principles stated in paragraph 4.
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 laid down 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 VIII

### SHIPPING AND AIR TRANSPORT



## The Laws of Zambia

1. Notwithstanding the provisions of Articles V and VII, profits of an enterprise from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is abroad a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

## ARTICLE IX

### 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 X

### 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 Contracting State.

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that Contracting State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 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" means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the 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 recipient of the dividends, being a resident of a Contracting State has in the other Contracting State of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article VII 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 to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

## ARTICLE XI

### INTEREST

## The Laws of Zambia

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State of local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that Government or local authority shall be exempt from tax in the first-mentioned Contracting State.
4. The term "interest" means income from Government securities, from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and from debt-claims of every kind and any excess of the amount repaid in respect of such debt-claims over the amount lent, as well as all other income assimilated to income from money lent by the law of the Contracting State in which the income arises.
5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article VII shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE XII

### ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such royalties may be taxed in the Contracting State in which they arise, and in accordance with the law of that Contracting State, but tax so charged shall not exceed 15 per cent 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" 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, video tapes for use in connection with television or tapes for use in connection with radio), 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 recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article VII shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or resident of that Contracting 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## The Laws of Zambia

### ARTICLE XIII

#### CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article VI, may be taxed in the Contracting State in which such property is situated.

2. 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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in that other Contracting State.

3. Notwithstanding the provisions of paragraph 2, gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

### ARTICLE XIV

#### INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that Contracting State unless 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 Contracting State but only so much of it as is attributable to that fixed base.

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 XV

#### DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles XVI, XVIII, XIX and XX, 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 Contracting 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 Contracting 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 first-mentioned Contracting State if-

- (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the income year or charge year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

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ARTICLE XVI

DIRECTORS' FEES

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

ARTICLE XVII

ARTISTES AND ATHLETES

Notwithstanding anything contained in this Convention, income derived by public entertainers such as theatre, motion picture, radio or television artistes and musicians and by athletes from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

ARTICLE XVIII

PENSIONS

Subject to the provisions of paragraph 1 of Article XIX, any pension or similar remuneration derived from sources within a Contracting State in consideration of past employment by an individual who is a resident of the other Contracting State and subject to tax in respect of that other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

ARTICLE XIX

GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by or out of funds created by a Contracting State or a local authority thereof to any individual in respect of services rendered to that Contracting State or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that Contracting State.

2. The provisions of Articles XV, XVI and XVIII shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a local authority thereof.

ARTICLE XX

RESEARCH PERSONNEL AND STUDENTS

## The Laws of Zambia

1. The remuneration which an individual who is or was formerly a resident of a Contracting State receives for undertaking study or research at a high level during a period of temporary residence not exceeding two years at a university, research institute, school, college or other similar establishment in the other Contracting State shall not be taxable in that other Contracting State.

2. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other Contracting State, provided that such payments are made to him from sources outside that other Contracting State.

3. Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State shall not be taxed in that other Contracting State, provided that such employment is directly related to his studies or training or is undertaken for the sole purpose of his maintenance.

## ARTICLE XXI

### INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that Contracting State.

## ARTICLE XXII

### PERSONAL ALLOWANCES

1. Individuals who are residents of Denmark may claim the same personal allowances, reliefs and reductions for the purposes of Zambian tax as Zambian nationals who are not residents of Zambia.

2. Individuals who are residents of Zambia may claim the same personal allowances, reliefs and reductions for the purposes of Danish tax as Danish nationals who are not residents of Denmark.

## ARTICLE XXIII

### ELIMINATION OF DOUBLE TAXATION (CREDIT METHOD)

1. (a) Where a resident of Zambia derives income from Denmark which may be taxed in Denmark in accordance with the laws of Denmark and the provisions of this Convention, the amount of Danish tax payable in respect of that income shall be allowed as a credit against Zambian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Zambian tax payable under the laws of Zambia which is appropriate to that income, before allowing the credit.

(b) Where the income derived from Denmark is a dividend paid by a company which is a resident of Denmark, the credit shall take into account the Danish tax payable in respect of its profits by the company paying the dividend.

2. (a) Where a resident of Denmark derives income from Zambia which may be taxed in Zambia in accordance with the laws of Zambia and the provisions of this Convention, the amount of Zambian tax payable in respect of that income shall be allowed as a credit against Danish tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Danish tax payable under the laws of Denmark which is appropriate to that income, before allowing the credit.

(b) Where the income derived from Zambia is a dividend paid by a company which is a resident of Zambia, the credit shall take into account the Zambian tax payable in respect of its profits by the company paying the dividend.

3. For the purposes of paragraph 2 the term "may be taxed in Zambia" shall be deemed to include any amount which would have been payable as Zambian tax, but for an exemption or reduction for tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or any other Zambian law of similar purpose and effect.

The Laws of Zambia

ARTICLE XXIV

NON-DISCRIMINATION

1. The 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 Contracting State in the same circumstances are or may be subjected.

2. The term "nationals" means-

- (a) all individuals possessing the nationality of a Contracting State;
- (b) all legal persons, partnerships and associations deriving their status as such from the law 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

4. 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

5. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident, nor as obliging Zambia to grant to non-nationals the relief available to Zambian nationals under section 42C of the Zambian Income Tax Act, 1966.

6. In this Article the term "taxation" means taxes of every kind and description.

ARTICLE XXV

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 this Convention, he may, notwithstanding the remedies provided by the national laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to be justified and if it is not able to arrive at an appropriate 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 not in accordance with this Convention.

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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE XXVI

EXCHANGE OF INFORMATION

## The Laws of Zambia

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall not be disclosed to any persons or authorities other than persons, including a court or other adjudicating authority, concerned with the assessment or collection of those taxes or the determination of appeals in relation thereto.

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 or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are 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.

## ARTICLE XXVII

### DIPLOMATIC AND CONSULAR OFFICIALS

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

2. Insofar as, due to fiscal privileges granted to diplomatic or consular officials under the general rules of international law or under the provisions of special international treaties, income is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

3. An individual who is a member of a diplomatic or consular mission (except honorary consuls) or permanent delegation of a Contracting State which is situated in the other Contracting State or a third State, shall for the purposes of this Convention be deemed to be a resident of the sending State if-

- (a) he is not a national of the receiving State; and
- (b) in accordance with international law he cannot be taxed in the receiving State on any income from sources outside that State.

## ARTICLE XXVIII

### TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any area of the territory of Denmark which has expressly been excepted from the scope of this Convention under the provisions of sub-paragraph (b) of paragraph 1 of Article III, in which taxes are imposed, identical or substantially similar in character to those to which this Convention applies. Any such extensions shall take effect from such date and subject to such modifications and conditions as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of this Convention by one of the Contracting States under Article XXX shall also terminate the application of this Convention to any territory to which it has been extended under this Article.

## ARTICLE XXIX

### ENTRY INTO FORCE

## The Laws of Zambia

1. The Convention shall enter into force after the exchange of notes confirming that each of the Contracting States has completed the constitutional procedures required for such entry into force in the respective States and the Convention shall then have effect for the first time-

(a) in Zambia-

as respects income for any charge year beginning on or after 1st April, 1972;

(b) in Denmark-

as respects income for any income year (charge year) beginning on or after 1st January, 1972.

2. Upon the entry into force of this Convention, the Convention between the Government of Denmark and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at London on 27th March, 1950, extended with certain modifications to the former Federation of Rhodesia and Nyasaland by an Exchange of Notes, dated 17th January, 1959, and to the former Protectorate of Northern Rhodesia by an Exchange of Notes, dated 21st January, 1964, and continued by Zambia, shall cease to have effect.

## ARTICLE XXX

### TERMINATION

1. This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.

2. In such event, the Convention shall cease to have effect-

(a) in Zambia-

as respects income for any charge year beginning on or after 1st April of the calendar year following the year in which such notice is given;

(b) in Denmark-

as respects income for any income year (charge year) beginning on or after 1st January of the calendar year following the year in which such notice is given.

In witness whereof the undersigned being duly authorised thereto have signed this Convention and have affixed thereto their seals.

Done at Lusaka this 13th day of September, 1973, in duplicate in the English and Danish languages, both texts being equally authentic.

*For the Government of the Republic of Zambia:*  
J.M. MWANAKATWE

*For the Government of the Kingdom of Denmark:*  
ERIC SKOV

### PROTOCOL



## The Laws of Zambia

At the moment of signing the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, this day concluded between Zambia and Denmark, the undersigned Plenipotentiaries have agreed that the following provisions shall form an integral part of the Convention.

### **I. Ad Articles VIII and XIII**

The provisions of Article VIII and paragraph 3 of Article XIII shall be applied respectively to profits or capital gains derived by the joint Danish, Norwegian and Swedish air transport organisation the Scandinavian Airlines System (SAS), but only insofar as profits and gains so derived by Det Danske Luftfartsselskab A/S (DDL), the Danish partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

### **II. Ad Article XI**

The provisions of paragraph 3 of Article XI shall apply to the following financial institution wholly financed by the Danish Government: The Industrialization Fund for Developing Countries, Copenhagen (Industrialiserings-fonden for udviklingslandene, Kobenhavn).

### **III. Ad Article XV**

1. Remuneration as mentioned in paragraph 2 of Article XV may be taxed in the Contracting State in which the employment is exercised if the recipient of such remuneration is present in that State for a period or periods exceeding in the aggregate 183 days in the income year or charge year concerned, as from the outset of such period or periods.

2. Remuneration as mentioned in paragraph 3 of Article XV in respect of an employment exercised aboard an aircraft operated in international traffic by the joint Danish, Norwegian and Swedish air transport organisation the Scandinavian Airlines System (SAS), and derived by a resident of Denmark shall be taxable only in Denmark.

### **IV. Ad Article XXX**

The termination of the present Convention as provided for in paragraph 2 of Article XXX shall not revive the Convention referred to in paragraph 2 of Article XXIX.

Done at Lusaka this 13th day of September, 1973, in duplicate in the English and Danish languages, both texts being equally authentic.

*For the Government of the Republic of Zambia:*  
J.M. MWANAKATWE

*For the Government of the Kingdom of Denmark:*  
ERIC SKOV

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SECTION 74-THE DOUBLE TAXATION RELIEF (TAXES ON INCOME) (ITALY) ORDER

*Statutory Instrument*  
63 of 1974  
10 of 1983

*Order by the President*

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Italy) Order. Title

2. It is hereby declared that the Agreement, the text of which is set out in the Schedule to this Order, being an Agreement relating to relief from double taxation on income made between the Government of the Republic of Zambia and the Government of the Republic of Italy shall have effect in Zambia in accordance with section *seventy-four* of the Income Tax Act. Agreement

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SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA AND THE GOVERNMENT OF THE  
REPUBLIC OF ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME.

The Government of the Republic of Zambia and the Government of the Republic of Italy,

Desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income,

Have agreed as follows:

CHAPTER I

SCOPE OF THE CONVENTION

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) This Convention shall apply to taxes on income imposed on behalf of each Contracting State or of its administrative sub-divisions or local authorities, paragraph 3 manner in which they are levied.

(2) The taxes which are the subject of this Convention are, in particular:

- (a) in the case of Zambia-
  - (i) the income tax;
  - (ii) the mineral tax;
  - (iii) the personal levy;
  - (iv) the selective employment tax;

even if they are collected by withholding taxes at the source, (hereinafter referred to as "Zambia tax");

- (b) in the case of Italy-
  - (i) the personal income tax (imposta sul reddito delle persone fisiche);
  - (ii) the corporate income tax (imposta sul reddito delle persone giuridiche);
  - (iii) the local income tax (imposta locale sui redditi);

even if they are collected by withholding taxes at the source, (hereinafter referred to as "Italian tax").

(3) This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws.

*(As amended by S.I. No. 10 of 1983)*

The Laws of Zambia

CHAPTER II

DEFINITIONS

ARTICLE 3

GENERAL DEFINITIONS

(1) In this Convention, unless the context otherwise requires-

- (a) the terms "a Contracting State" and "the other Contracting State" mean the Republic of Zambia and the Republic of Italy, as the context requires;
- (b) the term "person" comprises an individual, a company and any other body of persons;
- (c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (d) 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;
- (e) the term "competent authority" means-
  - (i) in the case of Zambia the Commissioner-General of Taxes or his authorised representative;
  - (ii) in the case of Italy the Ministry of Finance.

(2) As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 4

FISCAL DOMICILE

(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 taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

(2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting 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 Contracting State in which its place of effective management is situated.

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ARTICLE 5

PERMANENT ESTABLISHMENT

(1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include especially-

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than nine months;
- (h) supervisory activities for more than nine months on a building site or construction or assembly project.

(3) The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of an independent status to whom paragraph (5) applies-shall be deemed to be a permanent establishment in the first-mentioned Contracting State if he has, and habitually exercises in that Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

(5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, where such person is acting in the ordinary course of his business.

(6) 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 Contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III

TAXATION OF INCOME

ARTICLE 6

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INCOME FROM IMMOVABLE PROPERTY

(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

(2) The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall, in any case, 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 professional services.

ARTICLE 7

BUSINESS PROFITS

(1) The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.

(2) 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for 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 laid down 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.

(8) If the information available to the taxation authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this Article shall affect the application of the law of either Contracting State in relation to the liability of the permanent establishment to pay tax on an amount determined by the making of an estimate by the respective taxation authorities provided that such estimate shall be made in accordance with the principles stated in this Article.

ARTICLE 8

SHIPPING AND AIR TRANSPORT

## The Laws of Zambia

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

## 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 Contracting State.

(2) However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed-

- (a) five per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- (b) in all other cases, 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from 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 recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the dividends are taxable in that other Contracting State according to its own law.

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

## ARTICLE 11

## The Laws of Zambia

### INTEREST

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

(2) However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

(3) Notwithstanding the provisions of paragraph (2), interest arising in a Contracting State and 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 Government or local authority shall be exempt from tax in the first-mentioned Contracting State.

(4) The term "interest" as used in this Article means income from Government securities, from bonds or debentures, whether or not secured by mortgages and whether or not carrying a right to participate in profits, and from debt-claims of every kind, and any excess of the amount repaid in respect of such debt-claims over the amount lent, as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

(5) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the interest is taxable in that other Contracting State according to its own law.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, an administrative sub-division, a local authority or a resident of that Contracting 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

### ARTICLE 12

### ROYALTIES



## The Laws of Zambia

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

(2) However, such royalties may be taxed in the Contracting State in which they arise, and in accordance with the law of that Contracting State, but the tax so charged shall not exceed ten per cent of the gross amount of the royalties. The taxation authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

(3) The term "royalties" 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, video tapes for use in connection with television or tapes for use in connection with radio), 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 recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties are taxable in that other Contracting State according to its own law.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or resident of that Contracting 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 13

### CAPITAL GAINS

(1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article 6, may be taxed in the Contracting State in which such property is situated.

(2) 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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other Contracting State.

(3) Gains from the alienation of any property other than those mentioned in paragraphs (1) and (2) shall be taxable only in the Contracting State of which the alienator is a resident.

## ARTICLE 14

### INDEPENDENT PERSONAL SERVICES

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that Contracting State unless 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 Contracting State but only so much of it as is attributable to that fixed base.

(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

## The Laws of Zambia

### DEPENDENT PERSONAL SERVICES

(1) Subject to the provisions of Articles 16, 18 and 19, 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 Contracting 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 Contracting 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 first-mentioned Contracting State-

- (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and
- (b) the remuneration is paid by or on behalf of an employer who is not a resident of the other Contracting State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

(3) Notwithstanding the provisions of paragraphs (1) and (2), remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

### ARTICLE 16

#### DIRECTORS' FEES

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

### ARTICLE 17

#### ARTISTES AND ATHLETES

Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes and musicians, and by athletes, from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

### ARTICLE 18

#### PENSIONS

Subject to the provisions of paragraph (1) of Article 19, any pension or similar remuneration derived from sources within a Contracting State in consideration of past employment by an individual who is a resident of the other Contracting State and subject to tax in respect thereof in that other Contracting State, shall be exempt from tax in the first-mentioned Contracting State.

### ARTICLE 19

The Laws of Zambia

GOVERNMENTAL FUNCTIONS

(1) Remuneration, including pensions, paid by or out of funds created by a Contracting State or a local authority thereof to any individual in respect of services rendered to that Contracting State or local authority thereof in the discharge of functions of a governmental nature, may be taxed in that Contracting State.

(2) The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a local authority thereof.

ARTICLE 20

RESEARCH PERSONNEL AND STUDENTS

(1) The remuneration which an individual who is or was formerly a resident of a Contracting State receives for undertaking study or research during a period of temporary residence not exceeding two years at a university, research institute, or other similar establishment in the other Contracting State shall not be taxable in that other Contracting State.

(2) Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other Contracting State, provided that such payments are made to him from sources outside that other Contracting State.

ARTICLE 21

INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that Contracting State.

CHAPTER IV

METHODS OF ELIMINATION OF DOUBLE TAXATION

ARTICLE 22

CREDIT METHOD

## The Laws of Zambia

(1) (a) Where a resident of Zambia derives income from Italy which may be taxed in Italy in accordance with the provisions of this Convention, the amount of Italian tax payable in respect of that income shall be allowed as a credit against Zambian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Zambian tax which is appropriate to that income, before allowing the credit.

(b) Where the income derived from Italy is a dividend paid by a company which is a resident of Italy, the credit shall take into account the Italian tax payable in respect of its profits by the company paying the dividend.

(2) Where a resident of Italy owns items of income that are taxable in Zambia, Italy may, in determining its income taxes provided in Article 2 of this Convention, include in the basis upon which such taxes are imposed the mentioned items of income, unless express provisions of this Convention otherwise provide.

In that case, Italy shall deduct from the taxes so calculated the income tax paid in Zambia, but the amount of deduction shall not exceed that proportion of Italian tax which the items of income bear to the entire income.

However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income in accordance with the Italian laws.

(3) For the purposes of paragraph 2; 'the income tax paid in Zambia' shall be deemed to include any amount which would have been paid as Zambian tax but for an exemption or reduction for the tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or any other Zambian law of similar purpose and effect.

*(As amended by S.I. No. 10 of 1983)*

## CHAPTER V

### SPECIAL PROVISIONS

#### ARTICLE 23

#### NON-DISCRIMINATION

(1) The 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 Contracting State in the same circumstances are or may be subjected.

(2) The term "nationals" means-

- (a) all individuals possessing the nationality of a Contracting State;
- (b) all legal persons, partnerships and associations deriving their status as such from the law 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

(4) 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

(5) The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

(6) In the Article, the term "taxation" means taxes of every kind and description.

#### ARTICLE 24

#### MUTUAL AGREEMENT PROCEDURE

## The Laws of Zambia

(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 this Convention, he may, notwithstanding the remedies provided by the national laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to be justified and if it is not able to arrive at an appropriate 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 not in accordance with this Convention.

(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 this Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

*(As amended by S.I. No. 10 of 1983)*

## ARTICLE 25

### EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, including judicial determination, or collection of the taxes which are the subject of this Convention.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation-

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are 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 26

### DIPLOMATIC AND CONSULAR OFFICIALS

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

## CHAPTER VI

### FINAL PROVISIONS

## ARTICLE 27

### ENTRY INTO FORCE

## The Laws of Zambia

- (1) This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.
- (2) This Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect-
- (a) in Zambia-  
as respects income for any charge year commencing on or after the 1st April, 1971;
  - (b) in Italy-  
as respects income assessable for the taxable period commencing on or after the 1st January, 1971.
- (3) Claims for refund or credits arising in accordance with this Convention in respect of any tax payable by residents of either of the Contracting States shall be lodged within two years from the date of entry into force of this Convention or from the date the tax was charged, whichever is later.

## ARTICLE 28

### TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination. In such event the Convention shall cease to have effect-

- (a) in Zambia-  
as respects income for any charge year commencing on or after the 1st April in the calendar year next following that in which such notice is given;
- (b) in Italy-  
as respects income assessable for the taxable period commencing on or after the 1st January in the calendar year next following that in which such notice is given.

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

Done at Lusaka this 27th day of October, 1972, in duplicate in the English and Italian languages, each text being equally authentic.

*For the Government of the Republic of Italy:*  
DR GIROLAMO TROTTA

*For the Government of the Republic of Zambia:*  
J. M. MWANAKATWE

### PROTOCOL

At the signing of the Convention between Zambia and Italy for the Avoidance of Double Taxation and the prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed upon the following provision which shall form an integral part of the said Convention:

Notwithstanding the provisions of paragraph (2) of Article 27, the provisions of Article 8 shall be applicable as respects income derived during the taxable years beginning on or after the first day of January, 1967.

Done in duplicate at Lusaka the 27th day of October, 1972, in the English and Italian languages, each text being equally authentic.

*For the Government of the Republic of Italy:*  
DR GIROLAMO TROTTA

*For the Government of the Republic of Zambia:*  
J. M. MWANAKATWE

The Laws of Zambia

SECTION 74-THE DOUBLE TAXATION RELIEF (TAXES ON INCOME) (REPUBLIC OF GERMANY) ORDER

*Statutory Instrument*  
166 of 1974

*Order by the President*

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Republic of Germany) Order. Title

2. It is hereby declared that the Agreement, the text of which is set out in the Schedule hereto, being an agreement relating to relief from double taxation on income made between the Government of the Republic of Zambia and the Government of the Republic of Germany, shall have effect in Zambia in accordance with the provisions of Section *seventy-four* of the Income Tax Act. Agreement

The Laws of Zambia

SCHEDULE

AGREEMENT BETWEEN THE REPUBLIC OF ZAMBIA AND THE FEDERAL REPUBLIC OF GERMANY FOR THE  
AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Republic of Zambia and the Federal Republic of Germany,  
Desiring to conclude an Agreement for the Avoidance of Double Taxation with respect to Taxes on Income and  
Capital,  
Have agreed as follows:

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

(1) This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of Capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

(3) The existing taxes to which this Agreement shall apply are, in particular-

(a) in the Republic of Germany-

- (i) the Einkommensteuer (income tax) including the Ergnzungsabgabe (surcharge) thereon;
  - (ii) the Krperschaftsteuer (corporation tax) including the Ergnzungsabgabe (surcharge) thereon;
  - (iii) the Vermgensteuer (capital tax); and
  - (iv) the Gewerbesteuer (trade tax);
- (hereinafter referred to as "German tax");

(b) in Zambia-

- (i) the income tax;
  - (ii) the mineral royalty tax; and
  - (iii) the personal levy;
- (hereinafter referred to as "Zambian tax").

(4) This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

(5) The provisions of this Agreement in respect of taxation of income or capital shall likewise apply to the German trade tax, computed on a basis other than income or capital.



The Laws of Zambia

ARTICLE 3

GENERAL DEFINITIONS

(1) In this Agreement, unless the context otherwise requires-

- (a) the term "Federal Republic of Germany", when used in a geographical sense, means the territory in which the Basic Law for the Republic of Germany is in force, as well as any area adjacent to the territorial waters of the Federal Republic of Germany designated, in accordance with international law as related to the rights which the Federal Republic of Germany may exercise with respect to the sea bed and sub-soil and their natural resources, as domestic area for tax purposes;
- (b) the term "Zambia" means the Republic of Zambia;
- (c) the terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or Zambia, as the context requires;
- (d) the term "person" includes an individual or a company;
- (e) the term "company" means any body corporate or any entity, which is treated as a body corporate for tax purposes;
- (f) the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of the Federal Republic of Germany or a person who is a resident of Zambia, as the context requires;
- (g) 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;
- (h) the term "national" means-
  - (aa) in respect of the Federal Republic of Germany any German in the meaning of Article 116, paragraph 1, of the Basic Law for the Federal Republic of Germany and any legal person, partnership and association deriving its status as such from the law in force in the Federal Republic of Germany;
  - (bb) in respect of Zambia any citizen of Zambia and any legal person, partnership and association deriving its status as such from the law in force in Zambia;
- (i) the term "competent authority" means in the case of the Federal Republic of Germany the Federal Minister for Economics and Finance and in the case of Zambia the Commissioner-General of Taxes or his authorised representative.

(2) In the application of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

ARTICLE 4

FISCAL DOMICILE

## The Laws of Zambia

(1) For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) If the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) If he is a national of both Contracting 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 company is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

## ARTICLE 5

### PERMANENT ESTABLISHMENT

## The Laws of Zambia

(1) For the purposes of this Agreement the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include especially-

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, oil well, quarry or other place of extraction of natural resources;
- (g) a building site or construction or assembly project which exists for more than nine months.

(3) The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of an independent status to whom paragraph (5) applies-shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

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

(6) 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 make either company a permanent establishment of the other.

## ARTICLE 6

### IMMOVABLE PROPERTY

(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

(2) The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case 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 incomes 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 professional services.

## ARTICLE 7

The Laws of Zambia

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) 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for 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 laid down 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

SHIPS AND AIRCRAFT

Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

## The Laws of Zambia

### 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 be taxed in the Contracting State of which the company paying the dividends is a resident and according to the law of that State, but the tax so charged shall not exceed-

- (a) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding partnerships) which owns directly at least 25 per cent of the capital of the company paying the dividends;
- (b) in all other cases, 15 per cent of the gross amount of the dividends.

(3) Notwithstanding the provisions of paragraph (2) German tax on dividends paid to a company being a resident of Zambia by a company being a resident of the Federal Republic of Germany, at least 25 per cent of the capital of which is owned directly or indirectly by the former company itself, or by it together with other persons controlling it or being under common control with it, shall not exceed 27 per cent of the gross amount of such dividends as long as the rate of German corporation tax on distributed profits is lower than that on undistributed profits and the difference between those two rates is 15 per centage points or more.

(4) The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident, and income derived by a sleeping partner from his partnership as such and distributions on certificates of an investment-trust.

(5) The provisions of paragraphs (1) to (3) shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

(6) 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 to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on 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

## The Laws of Zambia

(1) Interest derived from a Contracting State by a resident of the other Contracting State shall be taxable in that other State.

(2) However, such interest may be taxed in the Contracting State from which it is derived, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of such interest.

(3) Notwithstanding the provisions of paragraph (2)-

- (a) interest derived from the Federal Republic of Germany and paid to the Zambian Government or the Bank of Zambia shall be exempt from German tax;
- (b) interest derived from Zambia and paid to the German Government, the Deutsche Bundesbank, the Kreditanstalt für Wiederaufbau and the Deutsche Gesellschaft für wirtschaftliche Zusammenarbeit (Entwicklungsgesellschaft) m.b.H. shall be exempt from Zambian tax.

The competent authorities of the Contracting States shall determine by mutual agreement any other governmental institution to which this paragraph shall apply.

(4) The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as other income assimilated to income from money lent by the taxation law of the State from which the income is derived.

(5) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

(6) Interest shall be deemed to be derived from a Contracting State when the payer is that State itself, a political subdivision or 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to be derived from the Contracting State in which the permanent establishment is situated.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

## ARTICLE 12

## ROYALTIES

## The Laws of Zambia

(1) Royalties derived from a Contracting State by a resident of the other Contracting State shall be taxable only in that other State.

(2) However, such royalties may be taxed in the Contracting State from which they are derived, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of such royalties.

(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 copy-right of literary, artistic or scientific work including cinematograph films or tapes for television or 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 paragraph (1) shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

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

(6) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

## ARTICLE 13

### CAPITAL GAINS

(1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article 6, may be taxed in the Contracting State in which such property is situated.

(2) 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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph (3) of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

(3) Gains from the alienation of any property other than those mentioned in paragraphs (1) and (2) shall be taxable only in the Contracting State of which the alienator is a resident.

## ARTICLE 14

### INDEPENDENT PERSONAL SERVICES

## The Laws of Zambia

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent services of a similar 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 services, in which case so much of the income may be taxed in that other State as is attributable to that fixed base; or
- (b) he is present in the other Contracting State for the purpose of performing his services for a period or periods exceeding in the aggregate 183 days in the calendar year concerned, in which case so much of the income may be taxed in that other State as is attributable to the services performed in that other State.

(2) The term "professional services" shall include especially independent scientific, literary, artistic, educational or teaching services, as well as the independent services of physicians, lawyers, engineers, architects, dentists and accountants.

## ARTICLE 15

### DEPENDENT PERSONAL SERVICES

(1) Subject to the provisions of Articles 16, 18 and 19, 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 first-mentioned State if-

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## ARTICLE 16

### DIRECTORS' FEES

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

## ARTICLE 17

### ARTISTS AND ATHLETES



## The Laws of Zambia

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

(2) Notwithstanding anything contained in this Agreement, where the services of a public entertainer or an athlete mentioned in paragraph (1) are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived by that enterprise from providing those services may be taxed in the first-mentioned State.

(3) The provisions of paragraphs (1) and (2) shall not apply to services of public entertainers and athletes, if their visit to a Contracting State is supported wholly or substantially from public funds of the other Contracting State.

## ARTICLE 18

### PUBLIC FUNDS

(1) Remuneration other than pensions paid by, or out of funds created by, a Contracting State, a political subdivision or a local authority to any individual in respect of an employment shall be taxable only in that State. If, however, the employment is exercised in the other Contracting State by a national of that State not being a national of the first-mentioned State, the remuneration shall be taxable only in that other State.

(2) The provision of Articles 15, 16 and 17 shall apply to remuneration in respect of an employment in connection with any business carried on by a Contracting State, a political subdivision or a local authority for the purpose of profits.

(3) The provisions of paragraph (1) shall likewise apply in respect of remuneration paid, under a development assistance programme of a Contracting State, a political subdivision or a local authority, out of funds exclusively supplied by that State, those political subdivisions or local authorities, to any persons seconded to the other Contracting State with the consent of that other State.

## ARTICLE 19

### PENSIONS

Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

## ARTICLE 20

### TEACHERS AND STUDENTS

## The Laws of Zambia

(1) A professor or teacher 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 for a period not exceeding two years for the purpose of carrying out advanced study or research or for teaching at a university, college, school or other educational institution shall be exempt from tax in the first-mentioned State in respect of any remuneration which he receives for such work, provided that such remuneration is derived by him from outside that State.

(2) 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 shall be exempt from tax in the first-mentioned State on-

- (a) payments made to him by persons residing outside that first-mentioned State for the purposes of his maintenance, education or training; and
- (b) remuneration not exceeding 6000 DM or the equivalent in Zambian currency for a calendar year from personal services undertaken in that first-mentioned State to supplement resources available to him for his maintenance and education.

The benefits of this paragraph shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this paragraph for more than three consecutive years.

(3) An individual who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is temporarily present in the first-mentioned State solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his first arrival in the first-mentioned State in connection with that visit, be exempt from tax in that State-

- (a) on the amount of such grant, allowance or award; and
- (b) on all remittances from abroad for the purposes of his maintenance, education or training.

## ARTICLE 21

### INCOME NOT EXPRESSLY MENTIONED

## ARTICLE 22

### CAPITAL

(1) Capital represented by immovable property, as defined in paragraph (2) of Article 6, may be taxed in the Contracting State in which such property is situated.

(2) Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

(3) Ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

## ARTICLE 23

### ELIMINATION OF DOUBLE TAXATION

## The Laws of Zambia

(1) Tax shall be determined in the case of a resident of the Federal Republic of Germany as follows:

- (a) Unless the provisions of sub-paragraph (b) apply, there shall be excluded from the basis upon which German tax is imposed, any item of income derived from Zambia and any item of capital situated within Zambia, which, according to this Agreement, may be taxed in Zambia. In the determination of its rate of tax applicable to any item of income or capital not so excluded, the Federal Republic of Germany will, however, take into account any item of income and any item of capital so excluded.

The foregoing provisions shall likewise apply to dividends paid to a company being a resident of the Federal Republic of Germany by a company being a resident of Zambia if at least 25 per cent of the voting shares of the Zambian company is owned directly by the German company. There shall also be excluded from the basis upon which German tax is imposed any shareholding, the dividends of which, if paid, would be excluded from the basis upon which tax is imposed according to the immediately foregoing sentence.

- (b) Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German income tax and corporation tax, including the surcharge thereon, payable in respect of the following items of income derived from Zambia, the Zambian tax paid under the laws of Zambia and in accordance with this Agreement on-

- (i) dividends to which sub-paragraph (a) does not apply;
- (ii) interest to which paragraph (2) of Article 11 applies;
- (iii) royalties to which paragraph (2) of Article 12 applies;
- (iv) remuneration to which Article 16 applies;
- (v) income to which Article 17 applies.

The credit shall not, however, exceed that part of the German tax, as computed before the credit is given, which is appropriate to such items of income.

(2) Tax shall be determined in the case of a resident of Zambia as follows:

- (a) Where a resident of Zambia derives income from the Federal Republic of Germany which may be taxed in the Federal Republic of Germany in accordance with the provisions of this Agreement, the amount of German tax payable in respect of that income shall be allowed as a credit against Zambian tax which is appropriate to that income, before allowing the credit.
- (b) Where the income from the Federal Republic of Germany is a dividend paid by a company which is a resident of the Federal Republic of Germany, the credit shall take into account the German tax payable in respect of its profits by the company paying the dividend.

## ARTICLE 24

### NON-DISCRIMINATION

(1) The 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) 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.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities or any other personal circumstances which it grants to its own residents.

(3) 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

(4) In this Article the term "taxation" means taxes of every kind and description.

## ARTICLE 25

The Laws of Zambia

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 this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(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 an appropriate 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 not in accordance with this Agreement.

(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 this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying the provisions of this Agreement.

ARTICLE 26

EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any person, authorities or courts other than those concerned with the assessment or collection of the taxes which are the subject of this Agreement or the determination of appeals or the prosecution of offences in relation thereto.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation-

- (a) to carry out administrative measures at variance with the laws or the 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.

ARTICLE 27

DIPLOMATIC AND CONSULAR PRIVILEGES

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

ARTICLE 28

LAND BERLIN

This Agreement shall also apply to Land Berlin, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Republic of Zambia within three months from the date of entry into force of this Agreement.

The Laws of Zambia

ARTICLE 29

ENTRY INTO FORCE

(1) This Agreement shall be ratified and the instruments of ratification shall be exchanged at Lusaka as soon as possible.

(2) This Agreement shall enter into force on the day after the date of exchange of the instruments of ratification and shall have effect-

- (a) in the Federal Republic of Germany for any assessment period beginning on or after 1st January, 1971;
- (b) in Zambia for any charge year commencing on or after 1st April, 1971.

ARTICLE 30

TERMINATION

This Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Agreement shall cease to be effective-

- (a) in the Federal Republic of Germany for any assessment period following that in which the notice of termination is given;
- (b) in Zambia for any charge year following that in which the notice of termination is given.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

Done at Bonn, this thirtieth day of May, 1973, two originals, each in the English and German languages, all the texts being equally authentic.

*For the Republic of Zambia:* HIS EXCELLENCY MOTO NKAMA,  
*Ambassador*

*For the Federal Republic of Germany:* DR PAUL FRANK,  
*State Secretary,  
Foreign Affairs*

DR MANFRED SCHUELER,  
*State Secretary,  
Ministry of Finance*

PROTOCOL

## The Laws of Zambia

The Republic of Zambia and the Federal Republic of Germany have agreed at the signing at Bonn on the thirtieth day of May, 1973, of the Agreement between the two States for the Avoidance of Double Taxation with respect to taxes on income and capital upon the following provisions which shall form an integral part of the said Agreement.

**(1) With reference to Article 5:**

an enterprise shall be deemed to have a permanent establishment in a Contracting State if it carries on supervisory activities in that State for more than nine months in connection with a building site or construction or assembly project, as defined in paragraph (2) (g) which is being undertaken in that State.

**(2) With reference to Articles 6 to 21:**

where any income, other than interest to which paragraph (3) of Article 11 applies, derived from outside of a Contracting State by a resident of that State is not subject to tax in that State by reason of its foreign origin, the provisions of these Articles shall not apply in the other Contracting State in respect of such income.

**(3) With reference to Article 7:**

if the information available to the taxation authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this Article shall affect the application of the law of either Contracting State with respect of making an estimate by the taxation authorities of that Contracting State; provided that such estimate shall be aimed to establish taxation in accordance with the principles stated in this Article.

**(4) With reference to Article 23:**

notwithstanding the provisions of paragraph (1) sub-paragraph (a), of Article 23 of the Agreement, the provisions of paragraph (1) sub-paragraph (b) of that Article shall apply likewise to the profits of, and to the capital represented by property forming part of the business property of, a permanent establishment; to dividends paid by, and to the share-holding in, a company; or to gains referred to in paragraph (2) of Article 13 of the Agreement; provided that the resident of the Federal Republic of Germany concerned does not prove that the receipts of the permanent establishment or company are derived exclusively or almost exclusively-

- (a) from producing or selling goods and merchandise, giving technical advice or rendering engineering services, or doing banking or insurance business, within Zambia, or
- (b) from dividends paid by one or more companies, being residents of Zambia, more than 25 per cent of the capital of which is owned by the first-mentioned company, which themselves derive their receipts exclusively or almost exclusively from producing or selling goods or merchandise, giving technical advice or rendering engineering services, or doing banking or insurance business, within Zambia.

**(5) With reference to Article 24:**

nothing contained in this Article shall be construed nor as obliging Zambia to grant to non-nationals the relief available to Zambian nationals under section 42C of the Zambian Income Tax Act, 1966, nor as conferring any exemption from tax in the Contracting State in respect of dividends paid to a company which is a resident of the other Contracting State.

Done at Bonn this thirtieth day of May, 1973.

*For the Republic of Zambia:* HIS EXCELLENCY MOTO NKAMA,  
*Ambassador*

*For the Federal Republic of Germany:* DR PAUL FRANK,  
*State Secretary,  
Foreign Affairs*

DR MANFRED SCHUELER,  
*State Secretary,  
Ministry of Finance*

The Laws of Zambia

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA AND THE  
GOVERNMENT OF THE REPUBLIC OF KENYA FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

*Statutory Instrument*  
67 of 1970

The Government of the Republic of Zambia and the Government of the Republic of Kenya,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of  
fiscal evasion with respect to taxes on income,

Have agreed as follows:

## The Laws of Zambia

### ARTICLE I

1. The taxes which are the subject of the present Convention are-

(a) in Zambia (and hereinafter referred to as "Zambian tax")-

- (i) the income tax;
- (ii) supertax;
- (iii) the undistributed profits tax; and
- (iv) the personal levy;

(b) in Kenya (and hereinafter referred to as "Kenyan tax")-

- (i) the income tax;
- (ii) corporation tax;
- (iii) the undistributed income tax; and
- (iv) the graduated personal tax.

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in Zambia or Kenya subsequently to the date of signature of the present Convention. At the end of each year the taxation authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

### ARTICLE II

1. In the present Convention, unless the context otherwise requires-

- (a) the term "Zambia" mean the Republic of Zambia;
- (b) the term "Kenya" means the Republic of Kenya;
- (c) the terms "one of the Contracting States" and "the other Contracting State" mean Zambia or Kenya, as the context requires;
- (d) the term "tax" means Zambian tax or Kenyan tax, as the context requires;
- (e) the term "company" means any body corporate, or any entity which is treated as a body corporate for tax purposes;
- (f) the term "person" includes any body of persons corporate or not corporate;
- (g) the term "resident of Zambia" means any person who is resident in Zambia for the purposes of Zambian tax and not resident in Kenya for the purposes of Kenyan tax; the term "resident of Kenya" means any person who is resident in Kenya for the purposes of Kenyan tax and not resident in Zambia for the purposes of Zambian tax, and a company shall be regarded as resident in Zambia if its business is managed and controlled in Zambia and resident in Kenya if its business is managed and controlled in Kenya;
- (h) the terms "resident of one of the Contracting States" and "resident of the other Contracting State" mean a resident of Zambia or a resident of Kenya, as the context requires;
- (i) the terms "Zambian enterprise" and "Kenyan enterprise" mean, respectively, an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking carried on by a resident of Zambia, and an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking carried on by a resident of Kenya;
- (j) the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean a Zambian enterprise or a Kenyan enterprise, as the context requires.

2. In the application of the provisions of the present Convention by the Government of one of the Contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Convention.

### ARTICLE III



## The Laws of Zambia

- 1.** For the purposes of this Convention the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
- 2.** The term "permanent establishment" shall include especially-
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, oil well, quarry or other place of extraction of natural resources;
  - (g) a farm or plantation;
  - (h) a building site or construction or assembly project which exists for more than six months.
- 3.** The term "permanent establishment" shall not be deemed 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 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 for collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
- 4.** An enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if-
  - (a) it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State;
  - (b) it carries on a business which consists of providing the services of public entertainers referred to in Article XIV, in that other Contracting State.
- 5.** A person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State-other than an agent of independent status to whom paragraph 6 applies-shall be deemed to be a permanent establishment in the former Contracting State if-
  - (a) he has, and habitually exercise in that former Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;  
or
  - (b) he maintains in that former Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.
- 6.** An enterprise of one of the Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business.
- 7.** The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## ARTICLE IV

## The Laws of Zambia

1. The industrial and commercial 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, tax may be imposed in that other Contracting State, but only on so much of them as is attributable to the permanent establishment.

2. Where an enterprise of one of the Contracting States carries on business in the other Contracting State through a permanent establishment situated therein-

- (a) 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;
- (b) subject to the provisions of sub-paragraph (a) no industrial or commercial profits derived from sources outside that other Contracting State shall be attributed to that permanent establishment.

3. No part of the profits arising from the sale of goods or merchandise by an enterprise in one of the Contracting States shall be attributed to a permanent establishment situated in the other Contracting State by reason of the mere purchase of the goods or merchandise within that other Contracting State.

4. In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses, including administrative and executive expenses, which would be deductible if the permanent establishment were an independent enterprise in so far as they are reasonably allocatable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

5. Nothing in this Article shall preclude either Contracting State from determining the profits to be attributed to a permanent establishment in that State on the basis of an apportionment of the total profits of the enterprise to its various parts as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

6. Save where expressly provided elsewhere in this Convention, this Article shall not apply, if by reason of its application industrial and commercial profits which would normally be subject to tax in one of the Contracting States, would not be subject to tax in either of the Contracting States.

7. Where industrial and commercial 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.

8. Where-

- (a) an enterprise of one of the Contracting States 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 one of the Contracting States 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 V

1. Income or profits derived by the Government, a local authority or statutory corporation of one of the Contracting States from the operation of ships aircraft or railways, shall be exempt from tax in the other Contracting State.

2. Income or profits derived by a resident of one of the Contracting States from the operation of ships and aircraft shall be exempt from tax in the other Contracting State unless the ship or aircraft is operated wholly or mainly between places within that other Contracting State.

3. (a) A resident of Zambia who derives profits from the operation of overland transport services in Kenya, may be subject to tax in Kenya, on such proportion of those profits that derive from traffic originating in Kenya, but the tax so charged shall be allowed as a credit against any Zambian tax charged in respect of that same income.

(b) A resident of Kenya who derives profits from the operation of overland transport services in Zambia, may be subject to tax in Zambia on such proportion of those profits that derive from traffic originating in Zambia, but the tax so charged shall be allowed as a credit against any Kenya tax charged in respect of that same income.

## ARTICLE VI

## The Laws of Zambia

1. Dividends paid by a company resident in Kenya to a resident of Zambia who is subject to Zambian tax in respect thereof shall be exempt from any tax in Kenya which is chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

2. Dividends paid by a company resident in Zambia to a resident of Kenya who is subject to Kenyan tax in respect thereof shall be exempt from any tax in Zambia which is chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

3. Where a company which is a resident of one of the Contracting States derives profits or income from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company to persons not resident in that other Contracting State, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or part, profits or income so derived.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment, with which the holding by virtue of which the dividends are paid is effectively connected. In such a case Article IV concerning the allocation of profits to permanent establishment shall apply.

5. If the system of taxation applicable in either of the Contracting States to the profits and distributions of companies is altered the taxation authorities may consult each other in order to determine whether it is necessary for this reason to amend the provisions of paragraphs 1 and 2 of this Article.

## ARTICLE VII

1. Any royalty or rent, including royalty or rent in respect of cinematograph or television films or tapes, or any sound recording or advertising matter connected with such films, or any other consideration received by or accrued to a resident of one of the Contracting States by virtue of the use in the other Contracting State, or of the grant of permission to use in that other Contracting State any patent, design, model, plan, trade mark, copyright, secret process, formula or other property of a similar nature, including any amount received or accrued for the imparting of or the undertaking to impart any knowledge directly or indirectly connected with the use of any such films, sound recording, advertising matter, patent design, model, plan, trade mark, copyright, secret process, formula or other property of a similar nature, shall be exempt from tax in the first-mentioned Contracting State if such royalty or rent is subject to tax in the other Contracting State.

2. The term "royalty" as used in this Article includes, *inter alia*, a payment of any kind received as consideration for the use of or the right to use industrial, commercial or scientific experience, but does not include any amount paid in respect of the operation of a mine, oil well or quarry or of any other place of extraction of natural resources.

## ARTICLE VIII

1. Interest from a source in one of the Contracting States derived by a resident in the other Contracting State shall be exempt from tax in that other Contracting State, unless it is not subject to tax in the first-mentioned Contracting State.

2. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

3. Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person the amount of interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case the excess part of the payments shall remain taxable according to the taxation law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE IX

#### The Laws of Zambia

1. Remuneration, other than pensions, paid by the Government of Zambia to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Kenyan tax if the individual is not ordinarily resident in Kenya, or is ordinarily resident in Kenya solely for the purpose of rendering those services.

2. Remuneration, other than pensions, paid by the Government of Kenya to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Zambian tax if the individual is not ordinarily resident in Zambia or is ordinarily resident in Zambia solely for the purpose of rendering those services.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any business carried on by either of the Contracting States for the purposes of profit.

4. For the purposes of this Article the word "Government" shall include any local authority or statutory corporation of either of the Contracting States.

#### ARTICLE X

1. Any pension or annuity paid by the Government of Zambia to any individual for services rendered to the Government of Zambia in the discharge of governmental functions, or paid by the Central African Pension Fund, which is deemed for the purposes of Zambian tax to be derived from a source in Zambia, shall be exempt from Kenyan tax.

2. Any pension or annuity paid by or out of funds created by the Government of Kenya to any individual for services rendered to the Government of Kenya in the discharge of governmental functions which is deemed for the purposes of Kenyan tax to be derived from a source in Kenya shall be exempt from Zambian tax.

3. For the purposes of this Article the word "Government" shall include any political or local authority or statutory corporation of either of the Contracting States.

4. Any pension or annuity, other than a pension referred to in paragraphs 1 and 2 derived from sources within Zambia by an individual who is a resident of Kenya, and subject to Kenyan tax in respect thereof, shall be exempt from Zambian tax.

5. The term "royalty" as used in this Article includes, *inter alia*, a payment of any kind received as consideration for the use of or the right to use industrial, commercial or scientific experience, but does not include any amount paid in respect of the operation of a mine, oil well or quarry or of any other place of extraction of natural resources.

#### ARTICLE XI

## The Laws of Zambia

1. An individual who is resident in Zambia shall be exempt from Kenyan tax on his profits or remuneration in respect of personal, including professional, services unless the services are performed, or the employment is exercised in Kenya. To such extent as the services are performed or the employment is exercised in Kenya his profits or remuneration may be taxed in Kenya, but if-

- (a) he is present within Kenya for a period or periods not exceeding in the aggregate 183 days during any year of assessment; and
- (b) the services are performed for or on behalf of a person who is a resident of Zambia; and
- (c) the remuneration or profits are subject to Zambian tax; and
- (d) the remuneration or profits are not directly deductible from the income for Kenyan tax purposes of a permanent establishment in Kenya of that person;

such profits or remuneration shall be exempt from Kenyan tax.

2. An individual who is resident in Kenya shall be exempt from Zambian tax on his profits or remuneration in respect of personal, including professional, services unless the services are performed, or the employment is exercised in Zambia. To such extent as the services are performed or the employment is exercised in Zambia his profits or remuneration may be taxed in Zambia, but if-

- (a) he is present within Zambia for a period or periods not exceeding in the aggregate 183 days during any year of assessment; and
- (b) the services are performed for or on behalf of a person who is resident in Kenya; and
- (c) the remuneration or profits are subject to Kenyan tax; and
- (d) the remuneration or profits are not directly deductible from the income for Zambian tax purposes of a permanent establishment in Zambia of that person;

such profits or remuneration shall be exempt from Zambian tax.

3. Notwithstanding the preceding provisions of this Article, directors' fees and similar payments derived by a resident of one of the Contracting States in his capacity as a member of the board of directors of a company resident in the other Contracting State, may be taxed in that other Contracting State.

4. Those profits or remuneration for personal services which are dealt with separately in other Articles of this Convention, shall not be affected by the provisions of this Article.

## ARTICLE XII

The remuneration derived by a professor or teacher from one of the Contracting States for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other recognised educational institution in the other Contracting State, shall be exempt from tax in that other Contracting State if such remuneration is subject to tax in the first-mentioned Contracting State.

## ARTICLE XIII

1. A student or business apprentice from one of the Contracting States who is receiving full-time education or training in the other Contracting State, and is temporarily resident there solely for the purpose of such education and training, shall be exempt from tax in that other Contracting State on all payments made to him by persons in the first-mentioned Contracting State for his maintenance, education or training.

2. Any individual from one of the Contracting States who is temporarily present for a period not exceeding two years in the other Contracting State for the purpose of study, research or training, and who is in receipt of a grant, allowance or award, from a scientific, educational religious or charitable organisation, or under a technical assistance programme of the Government of either Contracting State, shall be exempt from tax in that other Contracting State in respect of that grant, allowance or award, and in respect of any remuneration for personal services undertaken in connection with such study, research or training and incidental thereto.

## ARTICLE XIV

## The Laws of Zambia

Income derived by public entertainers, such as theatre, motion picture, radio and television artistes and musicians, and by athletes from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised, provided such income is not derived from a visit sponsored officially by the other Contracting State, the cost of which is borne wholly or mainly out of the public funds of that other Contracting State.

### ARTICLE XV

For the purposes of the present Convention:

1. Dividends paid by a company which is a resident of one of the Contracting States shall be treated as income from a source within that Contracting State.
2. Interest paid by one of the Contracting States, including any local authority or statutory corporation thereof, or by an enterprise of one of the Contracting States shall be treated as income from sources within that Contracting State; except that
  - (a) interest paid by an enterprise of one of the Contracting States with a permanent establishment outside that Contracting State on indebtedness incurred for the use of such permanent establishment in the conduct of its trade and business, and borne by that permanent establishment shall be treated as income from sources within the State in which the permanent establishment is situated; and
  - (b) in the case of an enterprise of one of the Contracting States engaged in the business of banking, interest paid on deposits made with a permanent establishment of that business outside the Contracting State, shall be treated as income from sources within the State where the permanent establishment is situated.
3. Royalties as defined in paragraph 2 of Article VII of this Convention shall be treated as income from sources within the Contracting State in which the property referred to in that paragraph is used.
4. Income from immovable property (including income derived from the alienation of such property) and royalties paid in respect of the operation of a mine, oil well, quarry or of any other place of extraction of natural resources, shall be treated as derived from sources within the Contracting State in which such immovable property, mine, oil well, quarry or place of extraction of natural resources is situated.

### ARTICLE XVI

1. Where a resident of Zambia derives income from sources within Kenya which, in accordance with the provisions of this Convention is exempt from Zambian tax but may be taxed in Kenya, then Zambia may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income derived from sources within Kenya had not been so exempted.
2. Where a resident of Kenya derives income from sources within Zambia which, in accordance with the provisions of this Convention is exempt from Kenyan tax but may be taxed in Zambia, then Kenya may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income derived from sources within Zambia had not been so exempted.
3. Where a resident of one of the Contracting States derives income from sources within the other Contracting State, which apart from the provisions of this Article may be taxed in both Contracting States, then the first-mentioned Contracting State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State. Such deduction, however, shall not exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.
4. For the purposes of paragraph 3 of this Article the term "tax paid" shall be deemed to include any amount which would have been payable either as Zambian tax but for an exemption or reduction of tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or as Kenyan tax but for an exemption or reduction of tax under any equivalent law, or any similar law in either of the Contracting States of like purpose and effect.

### ARTICLE XVII

## The Laws of Zambia

1. Residents of one of the Contracting States 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 residents of that other Contracting State in the same circumstances are or may be subjected.

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

3. Enterprises of one of the Contracting States, 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

4. This Article shall not be construed as obliging either one of the Contracting States to grant to residents of the other Contracting State any personal allowances, abatements, reliefs and reductions for tax purposes which by law are only available to its own residents.

5. In this Article the term "taxation" means taxes of every kind and description.

## ARTICLE XVIII

The taxation authorities of the Contracting States shall exchange such information, being information which is available under their respective taxation laws, as is necessary for the carrying out of the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Convention, or with the determination of appeals in relation thereto. No information shall be exchanged 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.

## ARTICLE XIX

1. Where it appears to the taxation authorities of one of the Contracting States that a taxpayer resident in that Contracting State has not received the treatment to which he is entitled under the provisions of this Convention, so that his income or any part of his income is subjected to double taxation, those taxation authorities shall, on due request by the taxpayer, consult with the taxation authorities of the other Contracting State with a view to the avoidance of the double taxation in question.

2. The taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention and for resolving any difficulty or doubt as to its application or interpretation.

## ARTICLE XX

The present Convention shall come into force on the \*(10)date when the last of all such things shall have been done in Zambia and Kenya as are necessary to give the Convention the force of law in Zambia and Kenya respectively, and shall thereupon have effect-

- (a) in Zambia, in respect of tax for any period of assessment or charge beginning after 1st April, 1964;
- (b) in Kenya, in respect of tax for any period of assessment beginning after 1st January, 1964.

\* Ratified on 29th July, 1969.

## ARTICLE XXI

The Laws of Zambia

1. The present Convention shall continue in effect indefinitely but either of the Contracting States may on or before the last day of March in any calendar year not earlier than 1969 give notice of termination to the other Contracting State and, in such event, the Convention shall cease to be effective-

- (a) in Zambia, in respect of tax for any period of assessment or charge beginning on or after the first day of April in the calendar year next following that in which such notice is given;
- (b) in Kenya, in respect of tax for any period of assessment beginning on or after the first day of January in the calendar year next following that in which such notice is given.

2. The termination of the present Convention shall not have the effect of reviving any convention, agreement or arrangement abrogated by the present Convention.

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

Done in duplicate at Nairobi this 27th day of August, one thousand nine hundred and sixty-eight.

*For the Government of the Republic of Zambia:*  
W. J. PHIRI.

*For the Government of the Republic of Kenya:*  
J. S. GICHURU.



The Laws of Zambia

AGREEMENT FOR THE AVOIDANCE OF DOUBLE TAXATION-SOUTH AFRICA

*Federal Government  
Notices  
178 of 1956  
304 of 1959*

Agreements for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income were concluded between the Government of the former Union of South Africa and the Government of the former Federation on the 22nd May, 1956, and on the 30th October, 1959, incorporating the terms set out in Schedules I and II respectively.

The Laws of Zambia

SCHEDULE I

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNION OF SOUTH AFRICA AND THE GOVERNMENT OF THE FEDERATION OF RHODESIA AND NYASALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

The Government of the Union of South Africa and the Government of the Federation of Rhodesia and Nyasaland desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion in respect of taxes on income, have agreed as follows:

ARTICLE I

1. The taxes which are the subject of the present Agreement are:
  - (a) in the Union of South Africa: the normal tax and supertax (hereinafter referred to as "Union tax");
  - (b) in the Federation of Rhodesia and Nyasaland: the Federal income tax and supertax (hereinafter referred to as "Federal tax").
2. The present Agreement shall also apply to any other taxes of a substantially similar character imposed by either Contracting Government subsequently to the date of signature of the present Agreement.

ARTICLE II

## The Laws of Zambia

1. In this Agreement, unless the context otherwise requires-

- (a) "Union" means the Union of South Africa;
- (b) "the Federation" means the Federation of Rhodesia and Nyasaland;
- (c) "one of the territories" and "the other territory" mean the Union of South Africa or the Federation of Rhodesia and Nyasaland as the case may be;
- (d) "tax" means Union or Federal tax, as the case may be;
- (e) "person" includes any body of persons, corporate or not corporate;
- (f) "company" includes any body corporate;
- (g) "resident of the Union" and "resident of the Federation" mean respectively any person who is ordinarily resident in the Union for the purposes of the Union tax and not ordinarily resident in the Federation for the purposes of the Federal tax and any person who is ordinarily resident in the Federation for the purposes of the Federal tax and not ordinarily resident in the Union for the purposes of the Union tax; and a company shall be regarded as ordinarily resident in the Union if its business is managed and controlled in the Union and ordinarily resident in the Federation if its business is managed and controlled in the Federation;
- (h) "company of one of the territories" and "company of the other territory" means a company which is a resident of the Union or a company which is a resident of the Federation, as the case may be;
- (i) "Union enterprise" and "Federal enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the Union and an industrial or commercial enterprise or undertaking carried on by a resident of the Federation; and  
"enterprise of one of the territories" and "enterprise of the other territory" means a Union enterprise or a Federal enterprise, as the context requires;
- (j) "industrial or commercial enterprise or undertaking" includes an enterprise or undertaking engaged in mining, agricultural or pastoral activities or in the business of banking, insurance or dealing in investments, and  
"industrial or commercial profits" includes profits from such activities or business but does not include income in the form of dividends, interest, rents, royalties (including rent or royalties of cinematograph films), management charges, remuneration for personal services or profits from the operation of transport services;
- (k) "permanent establishment" when used with respect to an enterprise of one of the territories means a branch, depot, management, factory, farm, mine, quarry or other fixed place of business including any place of natural resources subject to exploitation and a place where construction work or the installation of plant or machinery is carried on but does not include any agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connection-
  - (i) an enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;
  - (ii) the fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
  - (iii) the fact that a company which is resident in one of the territories has a subsidiary company which is a resident of the other territory or which is engaged in trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company;
- (l) "profits" means "taxable income" as defined under the laws of the Contracting Governments relating to the taxes which are the subject of this Agreement;
- (m) "taxation authorities" means the Commissioner-General for Inland Revenue or his authorised representative in the case of the Union and the Commissioner-General of Taxes or his authorised representative in the case of the Federation.

2. "Union tax" and "Federal tax" do not include any sum payable in respect of any default or omission in relation to the taxes which are the subject to this Agreement or which represents a penalty imposed under the law of either territory relating to those taxes.

3. In the application of the provisions of the present Agreement by one of the Contracting Governments any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Government relating to the taxes which are the subject of the present Agreement.

## ARTICLE III

## The Laws of Zambia

1. The industrial and commercial profits of an enterprise in one of the territories shall not be subject to tax in the other territory unless the enterprise is engaged in trade or business in the other territory through a permanent establishment in that other territory. If it is so engaged tax may be imposed on those profits by the other territory but only on so much of them as it is attributable to that permanent establishment.

2. Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein-

- (a) there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment;
- (b) subject to the provisions of sub-paragraph (a), no profits derived from sources outside that other territory shall be attributed to that permanent establishment.

3. No portion of any profits arising from the sale of goods or merchandise by an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of the goods or merchandise within that other territory.

4. This Article shall not apply in any case in which its application would have the result that income, which but for such application would be subject to tax in one of the territories, would not be subject to tax in either territory.

## ARTICLE IV

Where-

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory; and
- (c) 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 V

Profits derived by the Government of or by a resident of one of the territories from operating transport services in the other territory shall be exempt from tax in that other territory.

## ARTICLE VI

Any royalty, rent (including rent or royalties of cinematograph films) or other consideration received by or accrued to a resident of one of the territories by virtue of the use in the other territory of, or the grant of permission to use in that other territory any patent, design, trade mark, copyright, secret process, formula or any other property of a similar nature shall be exempt from tax in that first-mentioned territory if such royalty, rent or other consideration is subject to tax in the other territory.

## ARTICLE VII

## The Laws of Zambia

1. Any pension (other than a pension paid by the Government of the Union for services rendered to it in the discharge of governmental functions) and any annuity, derived or deemed to have been derived from sources within the Union by an individual who is a resident of the Federation, shall be exempt from Union tax to the extent that it is included in income for Federal tax purposes.

2. Any pension (other than a pension paid by the Government of the Federation for services rendered to it in the discharge of governmental functions) and any annuity, derived or deemed to have been derived from sources within the Federation by an individual who is a resident of the Union, shall be exempt from Federal tax to the extent that it is included in income for Union tax purposes.

3. 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 consideration of money paid.

## ARTICLE VIII

1. Remuneration (other than pensions) paid by one of the Contracting Governments to any individual for services rendered to that Contracting Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government if the individual is not ordinarily resident in that territory or is ordinarily resident in that territory solely for the purpose of rendering those services.

2. Any pension paid by one of the Contracting Governments to any individual for services rendered to that Contracting Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government, if immediately prior to the cessation of those services the remuneration thereof was exempt from tax in that territory, whether under paragraph 1 of this Article or otherwise, or would have been exempt under that paragraph if the present Agreement had been in force at the time the remuneration was paid.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Governments for purposes of profit.

4. For the purposes of this Article the term "Contracting Government" where it applies to the Government of the Federation of Rhodesia and Nyasaland includes the Governments of the Territories constituting the Federation.

## ARTICLE IX

1. An individual who is a resident of the Union shall be exempt from Federal Tax on profits or remuneration in respect of personal (including professional) services performed within the Federation in any year of assessment if-

- (a) he is present within the Federation for a period or periods not exceeding in the aggregate 183 days during that year; and
- (b) the services are performed for or on behalf of a person resident in the Union; and
- (c) the profits or remuneration are subject to Union tax.

2. An individual who is a resident of the Federation shall be exempt from Union tax on profits or remuneration in respect of personal (including professional) services performed within the Union in any year of assessment if-

- (a) he is present within the Union for a period or periods not exceeding in the aggregate 183 days during that year; and
- (b) the services are performed for or on behalf of a person resident in the Federation; and
- (c) the profits or remuneration are subject to Federal tax.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

## ARTICLE X

The remuneration derived by a professor or teacher who is ordinarily resident in one of the territories, for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory if such remuneration is subject to tax in such first-mentioned territory.

The Laws of Zambia

ARTICLE XI

A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

ARTICLE XII

1. Subject to the provisions of the law in the Federation regarding the allowance of a credit against Federal tax of tax payable in the Union, Union tax payable in respect of profits from sources within the Union shall be allowed as a credit against any Federal tax payable in respect of such profits.

2. Where Federal tax is payable in respect of profits derived from sources within the Federation by a person ordinarily resident in the Union, the Union shall either impose no tax on such profits or, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in the Union, shall allow the Federal tax as a credit against any Union tax payable in respect of such profits.

3. For the purposes of this Article profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be profits from sources within that territory, and the services of an individual whose services are wholly or mainly performed in aircraft or other transport vehicles operated by a resident of one of the territories shall be deemed to be performed in that territory.

4. Where interest is derived by any person from a person (hereinafter referred to as the debtor) who is ordinarily resident in one of the territories and the interest would, but for the provisions of this paragraph, be subject to tax in both territories, that interest shall be subject to tax only in the territory in which the debtor is ordinarily resident;

Provided that if the debtor is ordinarily resident in both territories, the interest shall be subject to tax only in the territory in which that interest is allowable as a deduction in the determination of the debtor's taxable income,

ARTICLE XIII

The taxation authorities of the Contracting Governments shall exchange such information (being information available under the respective taxation laws of the Contracting Governments) as is necessary for carrying out the provisions of the present Agreement or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Agreement. No information shall be exchanged which would disclose any trade secret or trade process.

ARTICLE XIV

The present Agreement shall come into force on the date on which the last of all such things shall have been done in both territories as are necessary to give the Agreement the force of law in each territory and shall thereupon have effect-

- (a) in the Union, in respect of assessments for the year of assessment ended on the thirtieth day of June, 1954, and subsequent years;
- (b) in the Federation, in respect of assessments for the year of assessment ended on the thirty-first day of March, 1954, and subsequent years.

ARTICLE XV

The Laws of Zambia

The present Agreement shall continue in effect indefinitely, but either of the Contracting Governments may, on or before the thirtieth day of September in any calendar year after the year 1956, give notice of termination to the other Contracting Government and, in such event, the present Agreement shall cease to be effective-

- (a) in the Union, in respect of any year of assessment beginning on or after the first day of July in the calendar year next following that in which such notice is given;
- (b) in the Federation, in respect of any year of assessment beginning on or after the first day of April in the calendar year next following that in which such notice is given.

In witness whereof the undersigned plenipotentiaries, being authorised thereto by their respective Governments, have signed this Agreement and have affixed thereto their seals.

Done in duplicate in the English and Afrikaans languages, at Cape Town this twenty-second day of May, 1956.

ERIC H. LOUW,  
For the Government of the Union of South Africa.

A.D. CHATAWAY,  
For the Government of the Federation of Rhodesia and Nyasaland.

SCHEDULE II

NOTE FROM THE HIGH COMMISSIONER-GENERAL FOR THE FEDERATION IN THE UNION OF SOUTH AFRICA TO THE SECRETARY FOR EXTERNAL AFFAIRS OF THE UNION OF SOUTH AFRICA.

P4/2

30th October, 1959.

Sir,

I have the honour to refer to discussions which have taken place between officials of our two Governments and to propose that the Agreement of the 22nd May, 1956, concluded in the English and Afrikaans languages between the Government of the Union of South Africa and the Government of the Federation of Rhodesia and Nyasaland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income be amended in respect of the English text by insertion in Article XII, after paragraph 3, of the following paragraph, the existing paragraph 4 thereby becoming paragraph 5:

"4. Any provision in any law whereby interest is deemed to be derived from a source within one of the territories by virtue of the ordinary residence in that territory of the person from whom the interest is derived shall not be applied in relation to interest which is payable to a person who resides in the other territory, if such interest is subject to tax in that other territory."

In the event of the above proposal being acceptable to you I have the honour to propose that this note and your confirmatory reply be regarded as constituting an agreement between our two Governments which shall have effect-

- (a) in the Union of South Africa, in respect of the year of assessment beginning on or after the first day of July, 1957; and
- (b) in the Federation of Rhodesia and Nyasaland, in respect of the year of assessment beginning on or after the first day of April, 1957.

I have the honour to be,  
Sir,  
Your obedient Servant,  
J.W. MONTAGUE FITT,

*High Commissioner-General for the Federation of Rhodesia and Nyasaland.*

The Secretary for External Affairs  
of the Union of South Africa,  
Pretoria.

NOTE FROM THE SECRETARY FOR EXTERNAL AFFAIRS OF THE UNION OF SOUTH AFRICA TO THE HIGH COMMISSIONER-GENERAL FOR THE FEDERATION IN THE UNION OF SOUTH AFRICA.

41/1/37

Pretoria.

30th October, 1959.

Sir,

I have the honour to acknowledge receipt of your Note, No. P4/2 of today's date reading as follows:

"I have the honour to refer to discussions which have taken place between officials of our two Governments and to propose that the Agreement of the 22nd May, 1956, concluded in the English and Afrikaans languages between the Government of the Union of South Africa and the Government of the Federation of Rhodesia and Nyasaland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income be amended in respect of the English text by insertion in Article XII, after paragraph 3, of the following paragraph, the existing paragraph 4 thereby becoming paragraph 5:

"4. Any provision in any law whereby interest is deemed to be derived from a source within one of the territories by virtue of the ordinary residence in that territory of the person from whom the interest is derived shall not be applied in relation to interest which is payable to a person who resides in the other territory, if such interest is subject to tax in that other territory."

In the event of the above proposal being acceptable to you I have the honour to propose that this note and your confirmatory reply be regarded as constituting an agreement between our two Governments which shall have effect-

- (a) in the Union of South Africa, in respect of the year of assessment beginning on or after the first day of July, 1957; and
- (b) in the Federation of Rhodesia and Nyasaland, in respect of the year of assessment beginning on or after the first day of April, 1957."

In reply thereto, I have the honour to state that the Government of the Union of South Africa are in agreement with the foregoing provisions and that your Note and this confirmatory reply shall be regarded as constituting an agreement between our two Governments.

I have the honour to be,  
Sir,  
Your obedient servant,  
G.P. JOOSTE,  
*Secretary for External Affairs.*

J.W.M. Fitt, Esq., O.B.E.,  
High Commissioner-General for the Federation  
of Rhodesia and Nyasaland,  
Pretoria.

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA AND THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

The Government of the Republic of Zambia and the Government of the United Republic of Tanzania,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

ARTICLE I



## The Laws of Zambia

1. The taxes which are the subject of the present Convention are-

(a) in Zambia (and hereinafter referred to as "Zambian tax")-

- (i) the income tax;
- (ii) supertax;
- (iii) the undistributed profits tax; and
- (iv) the personal levy.

(b) in Tanzania (and hereinafter referred to as "Tanzanian tax")-

- (i) the income tax;
- (ii) corporation tax;
- (iii) the undistributed income tax; and
- (iv) the personal tax.

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in Zambia or Tanzania subsequently to the date of signature of the present Convention. At the end of each year the taxation authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

## ARTICLE II

1. In the present Convention, unless the context otherwise requires-

- (a) the term "Zambia" means the Republic of Zambia;
- (b) the term "Tanzania" means the United Republic of Tanzania;
- (c) the terms "one of the Contracting States" and "the other Contracting State" mean Zambia or Tanzania, as the context requires;
- (d) the term "tax" means Zambian tax or Tanzanian tax, as the context requires;
- (e) the term "company" means any body corporate, or any entity which is treated as a body corporate for tax purposes;
- (f) the term "person" includes any body of persons corporate or not corporate;
- (g) the term "resident of Zambia" means any person who is resident in Zambia for the purposes of Zambian tax and not resident in Tanzania for the purposes of Tanzanian tax; the term "resident of Tanzania" means any person who is resident in Tanzania for the purposes of Tanzanian tax and not resident in Zambia for the purposes of Zambian tax, and a company shall be regarded as resident in Zambia if its business is managed and controlled in Zambia and resident in Tanzania if its business is managed and controlled in Tanzania;
- (h) the terms "resident of one of the Contracting States" and "resident of the other Contracting State" mean a resident of Zambia or a resident of Tanzania, as the context requires;
- (i) the terms "Zambian enterprise" and "Tanzanian enterprise" mean, respectively, an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking carried on by a resident of Zambia, and an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking carried on by a resident of Tanzania;
- (j) the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean a Zambian enterprise or a Tanzanian enterprise, as the context requires.

2. In the application of the provisions of the present Convention by the Government of one of the Contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Convention.

## ARTICLE III

## The Laws of Zambia

1. For the purposes of this Convention the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially-
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, oil well, quarry or other place of extraction of natural resources;
  - (g) a farm or plantation;
  - (h) a building site or construction or assembly project which exists for more than six months.
3. The term " permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. An enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if-
  - (a) it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State;
  - (b) it carries on a business which consists of providing the services of public entertainers referred to in Article XIV, in that other Contracting State.
5. A person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State-other than an agent of independent status to whom paragraph 6 applies-shall be deemed to be a permanent establishment in the former Contracting State if-
  - (a) he has, and habitually exercises in that former Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
  - (b) he maintains in that former Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.
6. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## ARTICLE IV

## The Laws of Zambia

1. The industrial and commercial 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 tax may be imposed in that other Contracting State, but only on so much of them as is attributable to the permanent establishment.

2. Where an enterprise of one of the Contracting States carries on business in the other Contracting State through a permanent establishment situated therein-

- (a) 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;
- (b) subject to the provisions of sub-paragraph (a) no industrial or commercial profits derived from sources outside that other Contracting State shall be attributed to that permanent establishment.

3. No part of the profits arising from the sale of goods or merchandise by an enterprise in one of the Contracting States shall be attributed to a permanent establishment situated in the other Contracting State by reason of the mere purchase of the goods or merchandise within that other Contracting State.

4. In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses, including administrative and executive expenses, which would be deductible if the permanent establishment were an independent enterprise in so far as they are reasonably allocatable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

5. Nothing in this Article shall preclude either Contracting State from determining the profits to be attributed to a permanent establishment in that State on the basis of an apportionment of the total profits of the enterprise to its various parts as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

6. Save where expressly provided elsewhere in this Convention, this Article shall not apply, if by reason of its application industrial and commercial profits which would normally be subject to tax in one of the Contracting States, would not be subject to tax in either of the Contracting States.

7. Where industrial and commercial 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.

8. Where-

- (a) an enterprise of one of the Contracting States 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 one of the Contracting States 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 V

1. Income or profits derived by the Government, a local authority or statutory corporation of one of the Contracting States from the operation of ships, aircraft or railways, shall be exempt from tax in the other Contracting State.

2. Income or profits derived by a resident of one of the Contracting States from the operation of ships and aircraft shall be exempt from tax in the other Contracting State unless the ship or aircraft is operated wholly or mainly between places within that other Contracting State.

3. (a) A resident of Zambia who derives profits from the operation of overland transport services in Tanzania, may be subject to tax in Tanzania on such proportion of those profits that derive from traffic originating in Tanzania but the tax so charged shall be allowed as a credit against any Zambian tax charged in respect of that same income.

- (b) A resident of Tanzania who derives profits from the operation of overland transport services in Zambia, may be subject to tax in Zambia on such proportion of those profits that derive from traffic originating in Zambia but the tax so charged shall be allowed as a credit against any Tanzanian tax charged in respect of that same income.

## ARTICLE VI

## The Laws of Zambia

1. Dividends paid by a company resident in Tanzania to a resident of Zambia who is subject to Zambian tax in respect thereof shall be exempt from any tax in Tanzania which is chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

2. Dividends paid by a company resident in Zambia to a resident of Tanzania who is subject to Tanzanian tax in respect thereof shall be exempt from any tax in Zambia which is chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

3. Where a company which is a resident of one of the Contracting States derives profits or income from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company to persons not resident in that other Contracting State, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or part, profits or income so derived.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment, with which the holding by virtue of which the dividends are paid is effectively connected. In such a case Article IV concerning the allocation of profits to permanent establishments shall apply.

5. If the system of taxation applicable in either of the Contracting States to the profits and distributions of companies is altered the taxation authorities may consult each other in order to determine whether it is necessary for this reason to amend the provisions of paragraphs 1 and 2 of this Article.

## ARTICLE VII

1. Any royalty or rent, including royalty or rent in respect of cinematograph or television films or tapes, or any sound recording or advertising matter connected with such films, or any other consideration received by or accrued to a resident of one of the Contracting States by virtue of the use in the other Contracting State of or the grant of permission to use in that other Contracting State any patent, design, model, plan, trade mark, copyright, secret process, formula or other property of a similar nature, including any amount received or accrued for the imparting of or the undertaking to impart any knowledge directly or indirectly connected with the use of any such films, sound recording, advertising matter, patent, design, model, plan, trade mark, copyright, secret process, formula or other property of a similar nature, shall be exempt from tax in the first-mentioned Contracting State if such royalty or rent is subject to tax in the other Contracting State.

2. The term "royalty" as used in this Article includes, *inter alia*, a payment of any kind received as consideration for the use of or the right to use industrial, commercial or scientific experience, but does not include any amount paid in respect of the operation of a mine, oil well or quarry or of any other place of extraction of natural resources.

## ARTICLE VIII

1. Interest from a source in one of the Contracting States derived by a resident in the other Contracting State shall be exempt from tax in that other Contracting State, unless it is not subject to tax in the first-mentioned Contracting State.

2. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

3. Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person the amount of interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case the excess part of the payments shall remain taxable according to the taxation law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE IX

#### The Laws of Zambia

1. Remuneration, other than pensions, paid by the Government of Zambia to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Tanzanian tax if the individual is not ordinarily resident in Tanzania, or is ordinarily resident in Tanzania solely for the purpose of rendering those services.

2. Remuneration, other than pensions, paid by the Government of Tanzania to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Zambian tax if the individual is not ordinarily resident in Zambia or is ordinarily resident in Zambia solely for the purpose of rendering those services.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any business carried on by either of the Contracting States for the purposes of profit.

4. For the purposes of this Article the word "Government" shall include any local authority or statutory corporation of either of the Contracting States.

#### ARTICLE X

1. Any pension or annuity paid by the Government of Zambia to any individual for services rendered to the Government of Zambia in the discharge of governmental functions, or paid by the Central African Pension Fund, which is deemed for the purposes of Zambian tax to be derived from a source in Zambia, shall be exempt from Tanzanian tax.

2. Any pension or annuity paid by or out of funds created by the Government of Tanzania to any individual for services rendered to the Government of Tanzania in the discharge of governmental functions which is deemed for the purposes of Tanzanian tax to be derived from a source in Tanzania, shall be exempt from Zambian tax.

3. For the purposes of this Article the word "Government" shall include any political or local authority or statutory corporation of either of the Contracting States.

4. Any pension or annuity, other than a pension referred to in paragraphs 1 and 2 derived from sources within Zambia by an individual who is a resident of Tanzania, and subject to Tanzanian tax in respect thereof, shall be exempt from Zambian tax.

5. Any pension or annuity, other than a pension referred to in paragraphs 1 and 2 derived from sources within Tanzania by an individual who is a resident of Zambia, and subject to Zambian tax in respect thereof shall be exempt from Tanzanian tax.

#### ARTICLE XI

## The Laws of Zambia

1. An individual who is resident in Zambia shall be exempt from Tanzania tax on his profits or remuneration in respect of personal, including professional, services unless the services are performed, or the employment is exercised in Tanzania. To such extent as the services are performed or the employment is exercised in Tanzania his profits or remuneration may be taxed in Tanzania, but if-

- (a) he is present within Tanzania for a period or periods not exceeding in the aggregate 183 days during any year of assessment; and
- (b) the services are performed for or on behalf of a person who is a resident of Zambia; and
- (c) the remuneration or profits are subject to Zambian tax; and
- (d) the remuneration or profits are not directly deductible from the income for Tanzanian tax purposes of a permanent establishment in Tanzania of that person;

such profits or remuneration shall be exempt from Tanzanian tax.

2. An individual who is resident in Tanzania shall be exempt from Zambian tax on his profits or remuneration in respect of personal, including professional, services unless the services are performed, or the employment is exercised in Zambia. To such extent as the services are performed or the employment is exercised in Zambia his profits or remuneration may be taxed in Zambia, but if-

- (a) he is present within Zambia for a period or periods not exceeding in the aggregate 183 days during any year of assessment; and
- (b) the services are performed for or on behalf of a person who is resident in Tanzania; and
- (c) the remuneration or profits are subject to Tanzanian tax; and
- (d) the remuneration or profits are not directly deductible from the income for Zambian tax purposes of a permanent establishment in Zambia of that person;

such profits or remuneration shall be exempt from Zambian tax.

3. Notwithstanding the preceding provisions of this Article, directors' fees and similar payments derived by a resident of one of the Contracting States in his capacity as a member of the board of directors of a company resident in the other Contracting State, may be taxed in that other Contracting State.

4. Those profits or remuneration for personal services which are dealt with separately in other Articles of this Convention, shall not be affected by the provisions of this Article.

## ARTICLE XII

The remuneration derived by a professor or teacher from one of the Contracting States for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other recognised educational institution in the other Contracting State, shall be exempt from tax in that other Contracting State if such remuneration is subject to tax in the first-mentioned Contracting State.

## ARTICLE XIII

1. A student or business apprentice from one of the Contracting States who is receiving full time education or training in the other Contracting State, and is temporarily resident there solely for the purpose of such education and training, shall be exempt from tax in that other Contracting State on all payments made to him by persons in the first-mentioned Contracting State for his maintenance, education or training.

2. Any individual from one of the Contracting States, who is temporarily present for a period not exceeding two years in the other Contracting State for the purpose of study, research or training, and who is in receipt of a grant, allowance or award, from a scientific, educational, religious or charitable organisation, or under a technical assistance programme of the Government of either Contracting State, shall be exempt from tax in that other Contracting State in respect of that grant, allowance or award, and in respect of any remuneration for personal services undertaken in connection with such study, research or training and incidental thereto.

## ARTICLE XIV

## The Laws of Zambia

Income derived by public entertainers, such as theatre, motion picture, radio and television artistes and musicians, and by athletes from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised, provided such income is not derived from a visit sponsored officially by the other Contracting State, the cost of which is borne wholly or mainly out of the public funds of that other Contracting State.

## ARTICLE XV

For the purposes of the present Convention-

1. Dividends paid by a company which is a resident of one of the Contracting States shall be treated as income from a source within that Contracting State.
2. Interest paid by one of the Contracting States, including any local authority or statutory corporation thereof, or by an enterprise of one of the Contracting States shall be treated as income from sources within that Contracting State; except that-
  - (a) interest paid by an enterprise of one of the Contracting States with a permanent establishment outside that Contracting State on indebtedness incurred for the use of such permanent establishment in the conduct of its trade and business, and borne by that permanent establishment shall be treated as income from sources within the State in which the permanent establishment is situated; and
  - (b) in the case of an enterprise of one of the Contracting States engaged in the business of banking, interest paid on deposits made with a permanent establishment of that business outside the Contracting State, shall be treated as income from sources within the State where the permanent establishment is situated.
3. Royalties as defined in paragraph 2 of Article VII of this Convention shall be treated as income from sources within the Contracting State in which the property referred to in that paragraph is used.
4. Income from immovable property (including income derived from the alienation of such property) and royalties paid in respect of the operation of a mine, oil well, quarry or of any other place of extraction of natural resources, shall be treated as derived from sources within the Contracting State in which such immovable property, mine, oil well, quarry or place of extraction of natural resources is situated.

## ARTICLE XVI

1. Where a resident of Zambia derives income from sources within Tanzania which, in accordance with the provisions of this Convention is exempt from Zambian tax but may be taxed in Tanzania, then Zambia may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income derived from sources within Tanzania had not been so exempted.
2. Where a resident of Tanzania derives income from sources within Zambia which, in accordance with the provisions of this Convention is exempt from Tanzanian tax but may be taxed in Zambia, then Tanzania may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income derived from sources within Zambia had not been so exempted.
3. Where a resident of one of the Contracting States derives income from sources within the other Contracting State, which apart from the provisions of this Article may be taxed in both Contracting States, then the first-mentioned Contracting State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State. Such deduction, however, shall not exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.
4. For the purposes of paragraph 3 of this Article the term "tax paid" shall be deemed to include any amount which would have been payable either as Zambian tax but for an exemption or reduction of tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or as Tanzanian tax but for an exemption or reduction of tax under any equivalent law, or any similar law in either of the Contracting States of like purpose and effect.

## ARTICLE XVII

## The Laws of Zambia

1. Residents of one of the Contracting States 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 residents of that other Contracting State in the same circumstances are or may be subjected.

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

3. Enterprises of one of the Contracting States, 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

4. This Article shall not be construed as obliging either one of the Contracting States to grant to residents of the other Contracting State any personal allowances, abatelements, reliefs and reductions for tax purposes which by law are only available to its own residents.

5. In this Article the term "taxation" means taxes of every kind and description.

## ARTICLE XVIII

The taxation authorities of the Contracting States shall exchange such information, being information which is available under their respective taxation laws, as is necessary for the carrying out of the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of taxes which are the subject of this Convention, or with the determination of appeals in relation thereto. No information shall be exchanged 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.

## ARTICLE XIX

1. Where it appears to the taxation authorities of one of the Contracting States that a taxpayer resident in that Contracting State has not received the treatment to which he is entitled under the provisions of this Convention, so that his income or any part of his income is subjected to double taxation, those taxation authorities shall, on due request by the taxpayer, consult with the taxation authorities of the other Contracting State with a view to the avoidance of the double taxation in question.

2. The taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention and for resolving any difficulty or doubt as to its application or interpretation.

## ARTICLE XX

The present Convention shall come into force on the \*(11)date when the last of all such things shall have been done in Zambia and Tanzania as are necessary to give the Convention the force of law in Zambia and Tanzania respectively, and shall thereupon have effect-

- (a) in Zambia, in respect of tax for any period of assessment or charge beginning after 1st April, 1964;
- (b) in Tanzania, in respect of tax for any period of assessment beginning after 1st January, 1964.

\*Ratified on 29th July, 1969.

## ARTICLE XXI



## The Laws of Zambia

1. The present Convention shall continue in effect indefinitely but either of the Contracting States may on or before the last day of March in any calendar year not earlier than 1969 give notice of termination to the other Contracting State, and, in such event, the Convention shall cease to be effective-

- (a) in Zambia, in respect of tax for any period of assessment or charge beginning on or after the first day of April, in the calendar year next following that in which such notice is given;
- (b) in Tanzania, in respect of tax for any period of assessment beginning on or after the first day of January in the calendar year next following that in which such notice is given.

2. The termination of the present Convention shall not have the effect of reviving any convention, agreement or arrangement abrogated by the present Convention.

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

Done in duplicate at Dar-es-Salaam this 2nd day of March, one thousand nine hundred and sixty-eight.

*For the Government of the United Republic of Tanzania:*  
A. H. JAMAL.

*For the Government of the Republic of Zambia:*  
W. J. PHIRI.

## CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA AND THE GOVERNMENT OF THE REPUBLIC OF UGANDA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

The Government of the Republic of Zambia and the Government of the Republic of Uganda,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

### ARTICLE I

1. The taxes which are the subject of the present Convention are-

- (a) in Zambia (and hereinafter referred to as "Zambian tax")-
  - (i) the income tax;
  - (ii) supertax;
  - (iii) the undistributed profits tax; and
  - (iv) the personal levy;
- (b) in Uganda (and hereinafter referred to as "Ugandan tax")-
  - (i) the income tax;
  - (ii) corporation tax;
  - (iii) the undistributed income tax; and
  - (iv) the personal graduated tax

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in Zambia or Uganda subsequently to the date of signature of the present Convention. At the end of each year the taxation authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

### ARTICLE II

## The Laws of Zambia

1. In the present Convention, unless the context otherwise requires-
  - (a) the term "Zambia" means the Republic of Zambia;
  - (b) the term "Uganda" means the Republic of Uganda;
  - (c) the terms "one of the Contracting States" and "the other Contracting State" mean Zambia or Uganda, as the context requires;
  - (d) the term "tax" means Zambian tax or Ugandan tax, as the context requires;
  - (e) the term "company" means any body corporate, or any entity which is treated as a body corporate for tax purposes;
  - (f) the term "person" includes any body of persons corporate or not corporate;
  - (g) the term "resident of Zambia" means any person who is resident in Zambia for the purposes of Zambian tax and not resident in Uganda for the purposes of Ugandan tax; the term "resident of Uganda" means any person who is resident in Uganda for the purposes of Ugandan tax and not resident in Zambia for the purposes of Zambian tax, and a company shall be regarded as resident in Zambia if its business is managed and controlled in Zambia and resident in Uganda if its business is managed and controlled in Uganda;
  - (h) the terms "resident of one of the Contracting States" and "resident of the other Contracting State" mean a resident of Zambia or a resident of Uganda, as the context requires,;
  - (i) the terms "Zambian enterprise" and "Ugandan enterprise" mean, respectively, an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking carried on by a resident of Zambia, and an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking carried on by a resident of Uganda;
  - (j) the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean a Zambian enterprise or a Ugandan enterprise, as the context requires.
2. In the application of the provisions of the present Convention by the Government of one of the Contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Convention.

## ARTICLE III

## The Laws of Zambia

1. For the purposes of this Convention the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially-
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, oil well, quarry or other place of extraction of natural resources;
  - (g) a farm or plantation;
  - (h) a building site or construction or assembly project which exists for more than six months.
3. The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. An enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if-
  - (a) it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State;
  - (b) it carries on a business which consists of providing the services of public entertainers referred to in Article XIV, in that other Contracting State.
5. A person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State-other than an agent of independent status to whom paragraph 6 applies-shall be deemed to be a permanent establishment in the former Contracting State if-
  - (a) he has, and habitually exercises in that former Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
  - (b) he maintains in that former Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.
6. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## ARTICLE IV

## The Laws of Zambia

1. The industrial and commercial 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, tax may be imposed in that other Contracting State, but only on so much of them as is attributable to the permanent establishment.

2. Where an enterprise of one of the Contracting States carries on business in the other Contracting State through a permanent establishment situated therein-

- (a) 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;
- (b) subject to the provisions of sub-paragraph (a) no industrial or commercial profits derived from sources outside that other Contracting State shall be attributed to that permanent establishment.

3. No part of the profits arising from the sale of goods or merchandise by an enterprise in one of the Contracting States shall be attributed to a permanent establishment situated in the other Contracting State by reason of the mere purchase of the goods or merchandise within that other Contracting State.

4. In determining the industrial or commercial profits of a permanent establishment there shall be allowed as deductions all expenses, including administrative and executive expenses, which would be deductible if the permanent establishment were an independent enterprise in so far as they are reasonably allocatable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

5. Nothing in this Article shall preclude either Contracting State from determining the profits to be attributed to a permanent establishment in that State on the basis of an apportionment of the total profits of the enterprise to its various parts as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

6. Save where expressly provided elsewhere in this Convention, this Article shall not apply, if by reason of its application industrial and commercial profits which would normally be subject to tax in one of the Contracting States, would not be subject to tax in either of the Contracting States.

7. Where industrial and commercial 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.

8. Where-

- (a) an enterprise of one of the Contracting States 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 one of the Contracting States 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 V

1. Income or profits derived by the Government, a local authority or statutory corporation of one of the Contracting States from the operation of ships, aircraft or railways, shall be exempt from tax in the other Contracting State.

2. Income or profits derived by a resident of one of the Contracting States from the operation of ships and aircraft shall be exempt from tax in the other Contracting State unless the ship or aircraft is operated wholly or mainly between places within that other Contracting State.

3. (a) A resident of Zambia who derives profits from the operation of overland transport services in Uganda, may be subject to tax in Uganda on such proportion of those profits that derive from traffic originating in Uganda; but the tax so charged shall be allowed as a credit against any Zambian tax charged in respect of that same income.

(b) A resident of Uganda who derives profits from the operation of overland transport services in Zambia, may be subject to tax in Zambia on such proportion of those profits that derive from traffic originating in Zambia; but the tax so charged shall be allowed as a credit against any Ugandan tax charged in respect of that same income.

## ARTICLE VI

## The Laws of Zambia

1. Dividends paid by a company resident in Uganda to a resident of Zambia who is subject to Zambian tax in respect thereof shall be exempt from any tax in Uganda which is chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

2. Dividends paid by a company resident in Zambia to a resident of Uganda who is subject to Ugandan tax in respect thereof shall be exempt from any tax in Zambia which is chargeable on dividends in addition to the tax chargeable on the profits or income of the company.

3. Where a company which is a resident of one of the Contracting States derives profits or income from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company to persons not resident in that other Contracting State, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or part, profits or income so derived.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment, with which the holding by virtue of which the dividends are paid is effectively connected. In such a case Article IV concerning the allocation of profits to permanent establishments shall apply.

5. If the system of taxation applicable in either of the Contracting States to the profits and distributions of companies is altered the taxation authorities may consult each other in order to determine whether it is necessary for this reason to amend the provisions of paragraphs 1 and 2 of this Article.

## ARTICLE VII

1. Any royalty or rent, including royalty or rent in respect of cinematograph or television films or tapes, or any sound recording or advertising matter connected with such films, or any other consideration received by or accrued to a resident of one of the Contracting States by virtue of the use in the other Contracting State of or the grant of permission to use in that other Contracting State any patent, design, model, plan, trade mark, copyright, secret process, formula or other property of a similar nature, including any amount received or accrued for the imparting of or the undertaking to impart any knowledge directly or indirectly connected with the use of such films, sound recording, advertising matter, patent, design, model, plan, trade mark, copyright, secret process, formula or other property of a similar nature, shall be exempt from tax in the first-mentioned Contracting State if such royalty or rent is subject to tax in the other Contracting State.

2. The term "royalty" as used in this Article includes, *inter alia*, a payment of any kind received as a consideration for the use of or the right to use industrial, commercial or scientific experience, but does not include any amount paid in respect of the operation of a mine, oil well or quarry or of any other place of extraction of natural resources.

## ARTICLE VIII

1. Interest from a source in one of the Contracting States derived by a resident in the other Contracting State shall be exempt from tax in that other Contracting State, unless it is not subject to tax in the first-mentioned Contracting State.

2. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

3. Where, owing to a special relationship between the payer and the recipient, or between both of them and some other person, the amount of interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case the excess part of the payments shall remain taxable according to the taxation law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE IX

## The Laws of Zambia

1. Remuneration other than pensions paid by the Government of Zambia to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Ugandan tax if the individual is not ordinarily resident in Uganda, or is ordinarily resident in Uganda solely for the purpose of rendering those services.

2. Remuneration, other than pensions paid by the Government of Uganda to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Zambian tax if the individual is not ordinarily resident in Zambia or is ordinarily resident in Zambia solely for the purpose of rendering those services.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any business carried on by either of the Contracting States for the purposes of profit.

4. For the purposes of this Article the word "Government" shall include any local authority or statutory corporation of either of the Contracting States.

## ARTICLE X

1. Any pension or annuity paid by the Government of Zambia to any individual for services rendered to the Government of Zambia in the discharge of governmental functions, or paid by the Central African Pension Fund, which is deemed for the purposes of Zambian tax to be derived from a source in Zambia, shall be exempt from Ugandan tax.

2. Any pension or annuity paid by or out of funds created by the Government of Uganda to any individual for services rendered to the Government of Uganda in the discharge of governmental functions which is deemed for the purposes of Ugandan tax to be derived from a source in Uganda, shall be exempt from Zambian tax.

3. For the purposes of this Article the word "Government" shall include any political or local authority or statutory corporation of either of the Contracting States.

4. Any pension or annuity, other than a pension referred to in paragraphs 1 and 2 derived from sources within Zambia by an individual who is a resident of Uganda, and subject to Ugandan tax in respect thereof, shall be exempt from Zambian tax.

5. Any pension or annuity, other than a pension referred to in paragraphs 1 and 2 derived from sources within Uganda by an individual who is a resident of Zambia, and subject to Zambian tax in respect thereof, shall be exempt from Ugandan tax.

## ARTICLE XI

## The Laws of Zambia

1. An individual who is resident in Zambia shall be exempt from Ugandan tax on his profits or remuneration in respect of personal, including professional, services unless the services are performed, or the employment is exercised, in Uganda. To such extent as the services are performed or the employment is exercised in Uganda his profits or remuneration may be taxed in Uganda, but if-

- (a) he is present within Uganda for a period or periods not exceeding in the aggregate 183 days during any year of assessment; and
- (b) the services are performed for or on behalf of a person who is a resident of Zambia; and
- (c) the remuneration or profits are subject to Zambian tax; and
- (d) the remuneration or profits are not directly deductible from the income for Ugandan tax purposes of a permanent establishment in Uganda of that person;

such profits or remuneration shall be exempt from Ugandan tax.

2. An individual who is resident in Uganda shall be exempt from Zambian tax on his profits or remuneration in respect of personal, including professional, services unless the services are performed, or the employment is exercised, in Zambia. To such extent as the services are performed or the employment is exercised in Zambia his profits or remuneration may be taxed in Zambia, but if-

- (a) he is present within Zambia for a period or periods not exceeding in the aggregate 183 days during any year of assessment; and
- (b) the services are performed for or on behalf of a person who is resident in Uganda; and
- (c) the remuneration or profits are subject to Ugandan tax; and
- (d) the remuneration or profits are not directly deductible from the income for Zambian tax purposes of a permanent establishment in Zambia of that person;

such profits or remuneration shall be exempt from Zambian tax.

3. Notwithstanding the preceding provisions of this Article, directors' fees and similar payments derived by a resident of one of the Contracting States in his capacity as a member of the board of directors of a company resident in the other Contracting State, may be taxed in that other Contracting State.

4. Those profits or remuneration for personal services which are dealt with separately in other Articles of this Convention, shall not be affected by the provisions of this Article.

## ARTICLE XII

The remuneration derived by a professor or teacher from one of the Contracting States for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other recognised educational institution in the other Contracting State, shall be exempt from tax in that other Contracting State if such remuneration is subject to tax in the first-mentioned Contracting State.

## ARTICLE XIII

1. A student or business apprentice from one of the Contracting States who is receiving full time education or training in the other Contracting State, and is temporarily resident there solely for the purpose of such education and training, shall be exempt from tax in that other Contracting State on all payments made to him by persons in the first-mentioned Contracting State for his maintenance, education or training.

2. Any individual from one of the Contracting States, who is temporarily present for a period not exceeding two years in the other Contracting State for the purpose of study, research or training, and who is in receipt of a grant, allowance or award from a scientific, educational, religious or charitable organisation, or under a technical assistance programme of the Government of either Contracting State, shall be exempt from tax in that other Contracting State in respect of that grant, allowance or award, and in respect of any remuneration for personal services undertaken in connection with such study, research or training and incidental thereto.

## ARTICLE XIV

## The Laws of Zambia

Income derived by public entertainers, such as theatre, motion picture, radio and television artistes and musicians, and by athletes from their personal activities as such, may be taxed in the Contracting State in which these activities are exercised, provided such income is not derived from a visit sponsored officially by the other Contracting State, the cost of which is borne wholly or mainly out of the public funds of that other Contracting State.

### ARTICLE XV

For the purposes of the present Convention:

1. Dividends paid by a company which is a resident of one of the Contracting States shall be treated as income from a source within that Contracting State.
2. Interest paid by one of the Contracting States, including any local authority or statutory corporation thereof, or by an enterprise of one of the Contracting States shall be treated as income from sources within that Contracting State; except that-
  - (a) interest paid by an enterprise of one of the Contracting States with a permanent establishment outside that Contracting State on indebtedness incurred for the use of such permanent establishment in the conduct of its trade and business, and borne by that permanent establishment shall be treated as income from sources within the State in which the permanent establishment is situated; and
  - (b) in the case of an enterprise of one of the Contracting States engaged in the business of banking, interest paid on deposits made with a permanent establishment of that business outside the Contracting State, shall be treated as income from sources within the State where the permanent establishment is situated.
3. Royalties as defined in paragraph 2 of Article VII of this Convention shall be treated as income from sources within the Contracting State in which the property referred to in that paragraph is used.
4. Income from immovable property (including income derived from the alienation of such property) and royalties paid in respect of the operation of a mine, oil well, quarry or of any other place of extraction of natural resources, shall be treated as derived from sources within the Contracting State in which such immovable property, mine, oil well, quarry or place of extraction of natural resources is situated.

### ARTICLE XVI

1. Where a resident of Zambia derives income from sources within Uganda which, in accordance with the provisions of this Convention is exempt from Zambian tax but may be taxed in Uganda, then Zambia may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income derived from sources within Uganda had not been so exempted.
2. Where a resident of Uganda derives income from sources within Zambia which, in accordance with the provisions of this Convention is exempt from Ugandan tax but may be taxed in Zambia, then Uganda may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income derived from sources within Zambia had not been so exempted.
3. Where a resident of one of the Contracting States derives income from sources within the other Contracting State, which apart from the provisions of this Article may be taxed in both the Contracting States, then the first-mentioned Contracting State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State. Such deduction, however, shall not exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.
4. For the purposes of paragraph 3 of this Article the term "tax paid" shall be deemed to include any amount which would have been payable either as Zambian tax but for an exemption or reduction of tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or as Ugandan tax but for an exemption or reduction of tax under any equivalent law, or any similar law in either of the Contracting States of like purpose and effect.

### ARTICLE XVII



## The Laws of Zambia

1. Residents of one of the Contracting States 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 residents of that other Contracting State in the same circumstances are or may be subjected.

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

3. Enterprises of one of the Contracting States, 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

4. This Article shall not be construed as obliging either one of the Contracting States to grant to residents of the other Contracting State any personal allowances, abatement, reliefs and reductions for tax purposes which by law are only available to its own residents.

5. In this Article the term "taxation" means taxes of every kind and description.

## ARTICLE XVIII

The taxation authorities of the Contracting States shall exchange such information, being information which is available under their respective taxation laws, as is necessary for the carrying out of the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Convention, or with the determination of appeals in relation thereto. No information shall be exchanged 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.

## ARTICLE XIX

1. Where it appears to the taxation authorities of one of the Contracting States that a taxpayer resident in that Contracting State has not received the treatment to which he is entitled under the provisions of this Convention, so that his income or any part of his income is subjected to double taxation, those taxation authorities shall, on due request by the taxpayer, consult with the taxation authorities of the other Contracting State with a view to the avoidance of the double taxation in question.

2. The taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention and for resolving any difficulty or doubt as to its application or interpretation.

## ARTICLE XX

The present Convention shall come into force on the \*(12)date when the last of all such things shall have been done in Zambia and Uganda as are necessary to give the Convention the force of law in Zambia and Uganda respectively, and shall thereupon have effect-

- (a) in Zambia, in respect of tax for any period of assessment or charge beginning after 1st April, 1964;
- (b) in Uganda, in respect of tax for any period of assessment beginning after 1st January, 1964.

\* Ratified on 29th July, 1969.

## ARTICLE XXI

## The Laws of Zambia

1. The present Convention shall continue in effect indefinitely but either of the Contracting States may on or before the last day of March in any calendar year not earlier than 1969 give notice of termination to the other Contracting State and, in such event, the Convention shall cease to be effective-

- (a) in Zambia, in respect of tax for any period of assessment or charge beginning on or after the first day of April in the calendar year next following that in which notice is given;
- (b) in Uganda, in respect of tax for any period of assessment beginning on or after the first day of January in the calendar year next following that in which such notice is given.

2. The termination of the present Convention shall not have the effect of reviving any convention, agreement or arrangement abrogated by the present Convention.

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

Done in duplicate at Entebbe this 24th day of August, one thousand nine hundred and sixty-eight.

*For the Government of the Republic of Zambia:*  
W. J. PHIRI.

*For the Government of the Republic of Uganda:*  
L. K. SETTALA.

## CONVENTION BETWEEN THE REPUBLIC OF ZAMBIA AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

*Statute  
Instrun  
130 of*

The Republic of Zambia and Japan,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows:

### ARTICLE 1

1. The taxes which are the subject of this Convention are-

In Japan:

- (a) the income tax;
- (b) the corporation tax; and
- (c) the local inhabitant taxes;  
(hereinafter referred to as "Japanese tax").

In Zambia:

- (a) the income tax; and
- (b) the personal levy;  
(hereinafter referred to as "Zambian tax").

2. This Convention shall also apply to taxes substantially similar to those covered by paragraph 1 which are introduced in either Contracting State after the date of signature of this Convention. The competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

### ARTICLE 2

## The Laws of Zambia

1. In this Convention, unless the context otherwise requires-
  - (a) the term "Japan", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are in force;
  - (b) the term "Zambia" means the Republic of Zambia;
  - (c) the terms "a Contracting State" and "the other Contracting State" mean Zambia or Japan, as the context requires;
  - (d) the term "tax" means Zambian tax or Japanese tax, as the context requires;
  - (e) the term "person" includes a company and any other body of persons;
  - (f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - (g) 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;
  - (h) the term "competent authority" means, in the case of Zambia, the Commissioner-General of Taxes or his authorised representative, and, in the case of Japan, the Minister of Finance or his authorised representative.
2. As regards the application of this Convention in a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes to which this Convention applies.

## ARTICLE 3

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 taxation therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the competent authorities shall determine by mutual agreement the Contracting State of which that individual shall be deemed to be a resident for the purposes of this Convention.
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 Contracting State in which its head or main office is situated.

## ARTICLE 4

## The Laws of Zambia

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the 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;
  - (f) a mine, quarry or other place of extraction of natural resources;
  - (g) a building site or construction or assembly project which exists for more than twelve months.
3. The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-other than an agent of an independent status to whom paragraph 5 applies-shall be deemed to be a permanent establishment in the first-mentioned Contracting State if he has, and habitually exercises in that Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.
5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.
6. 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the other.

## ARTICLE 5

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property", shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting immovable 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 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.

## ARTICLE 6

## The Laws of Zambia

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.

2. 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

4. In so far 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 laid down 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 7

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

## ARTICLE 8

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 9

## The Laws of Zambia

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be taxable only in that other Contracting State.
2. The provisions of paragraph 1 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 or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the Contracting State of which the company making the distribution is a resident.
4. The provisions of paragraph 1 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 6 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 Contracting State may not impose any tax on the dividends paid by the company to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other Contracting State.

## ARTICLE 10

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such interest may be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but the tax so charged shall not exceed ten per centum of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including financial institution) wholly owned by that Government or local authority shall be exempt from tax of the first-mentioned Contracting State.
4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claim of every kind, and any excess of the amount repaid in respect of such debt-claims over the amount lent, as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.
5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 6 shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 11

## The Laws of Zambia

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but the tax so charged shall not exceed ten per centum of the gross amount of the royalties.

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, 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 recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 6 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## ARTICLE 12

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 5, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of property other than immovable 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 property other than immovable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State. However, gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic and property other than immovable property pertaining to the operation of such ships or aircraft shall be exempt from tax of the other Contracting State.

3. Gains derived by a resident of a Contracting State from the alienation of any property other than those mentioned in paragraphs 1 and 2 shall be taxable only in that Contracting State.

## ARTICLE 13

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be exempt from tax of the other Contracting State unless he has a fixed base regularly available to him in that other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in that other Contracting State but only so much of it as is attributable to that fixed base.

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 14

## The Laws of Zambia

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be exempt from tax of the other Contracting 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 Contracting 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 exempt from tax of that other Contracting State if-

- (a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other Contracting State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other Contracting State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration 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.

## ARTICLE 15

Remuneration derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State in accordance with the law of that other Contracting State.

## ARTICLE 16

Notwithstanding the provisions of Articles 13 and 14, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

## ARTICLE 17

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration derived from sources within a Contracting State in consideration of past employment by an individual who is a resident of the other Contracting State and subject to tax in respect thereof in that other Contracting State shall be taxable only in that other Contracting State.

## ARTICLE 18

1. (a) Remuneration (other than pensions) paid by Japan or a local authority thereof to any individual in respect of services rendered to Japan or a local authority thereof in the discharge of governmental functions may be taxed in Japan. Such remuneration shall be exempt from Zambian tax if the individual is not resident in Zambia or is resident in Zambia solely for the purpose of rendering those services.

(b) Remuneration (other than pensions) paid by Zambia or a local authority thereof to any individual in respect of services rendered to Zambia or a local authority thereof in the discharge of governmental functions may be taxed in Zambia. Such remuneration shall be exempt from Japanese tax if the individual is not a national of Japan or is not admitted to Japan for permanent residence therein.

2. Pensions paid by, or out of funds to which contributions are made by, a Contracting State or a local authority thereof to any individual in respect of services rendered to that Contracting State or a local authority thereof in the discharge of governmental functions shall be taxable only in that Contracting State.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with a trade or business carried on for the purpose of profits.



## The Laws of Zambia

### ARTICLE 19

A professor or teacher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax of the first-mentioned Contracting State in respect of remuneration for such teaching or research.

### ARTICLE 20

Payments or income received for the purpose of his maintenance, education or training by a student or business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State shall be exempt from tax of the first-mentioned Contracting State, provided that such payments are made to him from outside that first-mentioned Contracting State or that such income is received in respect of his personal services performed in the first-mentioned Contracting State in an amount not in excess of US \$1,000 or its equivalent in Zambian or Japanese currency for any taxable year for a period not exceeding three consecutive taxable years.

### ARTICLE 21

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that Contracting State.

### ARTICLE 22

1. (a) Where a resident of Zambia derives income from Japan which may be taxed in Japan in accordance with the provisions of this Convention, the amount of the Japanese tax payable in respect of that income shall be allowed as a credit against Zambian tax imposed on that resident. The amount of credit, however, shall not exceed that part of Zambian tax which is appropriate to that income.

(b) Where the income derived from Japan is a dividend paid by a company which is a resident of Japan, the credit shall take into account the Japanese tax payable in respect of its profits by the company paying the dividend.

2. (a) Where a resident of Japan derives income from Zambia which may be taxed in Zambia in accordance with the provisions of this Convention, the amount of Zambian tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Japanese tax which is appropriate to that income.

(b) Where the income derived from Zambia is a dividend paid by a company which is a resident of Zambia to a company which is a resident of Japan which owns not less than twenty-five per centum of the shares or the capital of the company paying the dividend, the credit shall take into account the Zambian tax payable in respect of its profits by the company paying the dividend.

(c) For the purpose of the credit referred to in sub-paragraphs (a) and (b) above, there shall be deemed to have been paid by a taxpayer the amount which would have been paid if Zambian tax would not have been reduced or relieved in accordance with-

- (i) the provisions of paragraph 2 of Article 10 and paragraph 2 of Article 11; and
- (ii) the special incentive measures designed to promote economic development in Zambia, provided that an-agreement is made between the Governments of both Contracting States in respect of the scope of such special incentive measures.

(d) In the application of the provisions of sub-paragraph (c), there shall not, in any event, be deemed to have been paid an amount of tax higher than that which, but for the reduction or relief of tax due to the special incentive measures mentioned in sub-paragraph (c) (ii), would result from the application of the Zambian tax laws effective on the date of signature of this Convention.

## The Laws of Zambia

### ARTICLE 23

1. The 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 Contracting State in the same circumstances are or may be subjected.

2. The term "nationals" means all individuals possessing the nationality of either Contracting State and all juridical persons created or organised under the laws of either Contracting State and all organisations without juridical personality treated for the purposes of tax of either Contracting State as juridical persons created or organised under the laws of either 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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. 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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

5. In this Article the term "taxation" means taxes of every kind and description.

### ARTICLE 24

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection, including judicial determination, of the taxes to which this Convention applies.

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 or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are 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.

### ARTICLE 25

1. Where a resident of a Contracting State considers that the actions taken in the other Contracting State result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not able to arrive at an appropriate 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 not in accordance with this Convention.

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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this 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 this Convention.

The Laws of Zambia

ARTICLE 26

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

ARTICLE 27

1. This Convention shall be approved by the Republic of Zambia and Japan in accordance with their respective legal procedures, and shall enter into force on the thirtieth day after the date of exchange of notes indicating such approval.

2. This Convention shall have effect as respects income derived during the taxable years beginning on or after the first day of January in the calendar year in which this Convention enters into force.

ARTICLE 28

This Convention shall continue in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channel, written notice of termination and, in such event, this Convention shall cease to be effective in respect of income derived during the taxable years beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Lusaka on the 19th February, 1970, in the English and Japanese languages, each text having equal authenticity.

*For the Republic of Zambia:*  
E. H. K. MUDENDA

*For Japan:*  
YOSHIO KIMURA

**Endnotes**

**1 (Popup - Popup)**

This Act came into operation on the 1st April, 1966.

**2 (Popup - Popup)**

Delete whichever is inappropriate.

**3 (Popup - Popup)**

Delete whichever is inappropriate.

**4 (Popup - Popup)**

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**6 (Popup - Popup)**

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**7 (Popup - Popup)**

Enter address on assessment or determination.

**8 (Popup - Popup)**

By a further Exchange of Notes dated December 31, 1963, it was agreed with the French Ministry of Foreign Affairs that this extension should be regarded as continuing in force in relation to Southern Rhodesia, Northern Rhodesia and Nyasaland individually on the dissolution of the Federation and that references therein to the Federation should be construed accordingly.

**9 (Popup - Popup)**

By a notification dated December 17, 1963, the French Government informed the United Kingdom Government that these measures had been taken in France.

**10 (Popup - Popup)**

Ratified on 29th July, 1969.

**11 (Popup - Popup)**

Ratified on 29th July, 1969.

**12 (Popup - Popup)**

Ratified on 29th July, 1969.