

**AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE  
GOVERNMENT OF THE UNITED KINGDOM FOR THE AVOIDANCE OF  
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION,  
WITH RESPECT TO TAXES ON INCOME**

**THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE  
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,**

**DESIRING** to conclude an agreement 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 Agreement are-

(a) In Australia:

The Commonwealth income tax (including super-tax), the social services contribution, the additional amount of tax assessed in respect of the undistributed amount of the distributable income of a private company, the further tax imposed on the portion of the taxable income of a company (other than a private company) which has not been distributed as dividends, and the wartime (company) tax (hereinafter referred to as "Australian tax").

(b) In the United Kingdom:

The income tax (including sur-tax), the excess profits tax, and the national defence contribution (hereinafter referred to as "United Kingdom 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 or by the Government of any territory of which the present Agreement is extended under Article XIV.

Article II

(1) In the present Agreement, 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 "Australia" means the Commonwealth of Australia and includes the territories of Papua, New Guinea and Norfolk Island.

(c) The terms "one of the territories" and "the other territory" mean the United Kingdom or Australia, as the context requires.

(d) The term "tax" means United Kingdom tax or Australian tax, as the context requires.

(e) The term "person" includes any body of persons, corporate or unincorporate.

(f) The terms "United Kingdom resident" and "Australian resident" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and is not a resident of Australia for the purposes of Australian tax and any person who is a resident of Australia for the purposes of Australian tax and is not resident in the United Kingdom for the purposes of United Kingdom tax.

(g) The terms "resident of one of the territories" and "resident of the other territory" mean a United Kingdom resident or an Australian resident, as the context requires.

(h) The terms "United Kingdom enterprise" and "Australian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a United Kingdom resident and an industrial or commercial enterprise or undertaking carried on by an Australian resident; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or an Australian enterprise, as the context requires.

(i) The term "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, life insurance or dealing in investments, and the term "industrial or commercial profits" includes profits from such activities or business but does not include income in the form of dividends, interest, rents, royalties, management charges, or remuneration for personal services.

(j) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch or other fixed place of business and includes a management, factory, mine, or agricultural or pastoral property, but does not include an agency in the other territory unless the agent has, and habitually exercises, authority to conclude contracts on behalf of such enterprise otherwise than at prices

fixed by the enterprise or regularly fills orders on its behalf from a stock of goods or merchandise in that other territory:

Provided that 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 and receiving remuneration in respect of those dealings at the rate customary in the class of business in question:

Provided further that 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.

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 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.

(k) Words in the singular include the plural, and words in the plural include the singular.

(2) The terms "Australian tax" and "United Kingdom tax", as used in the present Agreement, do not include any tax payable in Australia or the United Kingdom which represents a penalty imposed under the law of Australia or the United Kingdom relating to the taxes which are the subject of the present Agreement.

(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

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Australian tax unless the enterprise is engaged in trade or business in Australia through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Australia, but only on so much of them as is attributable to that permanent establishment: Provided that nothing in this paragraph shall affect-

(a) the operation of Divisions 14 and 15 of Part III of the Australian Income Tax Assessment Act 1936-1946 (or that Act as amended from time to time) relating to film business controlled abroad and insurance with non-residents, or the corresponding provisions of any statute substituted for that Act; or

(b) the application of the law of Australia regarding the imposition of war-time (company) tax where a holding company has elected that its subsidiary companies shall be treated as branches.

(2) The industrial or commercial profits of an Australian 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: Provided that nothing in this paragraph shall affect any provisions of the law of the United Kingdom regarding the imposition of excess profits tax and national defence contribution in the case of inter-connected companies.

(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 in that other territory if it were an independent enterprise engaged in the same or similar activities and its dealings with the enterprise of which it is a permanent establishment were dealings at arm's length with that enterprise or an independent enterprise; and the profits so attributed shall be deemed to be income derived from sources in that other territory.

If the information available to the taxation authority 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 territory in relation to the liability of the permanent establishment to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that territory: Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in this paragraph.

(4) 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.

#### Article IV

(1) 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 operative between the two enterprises in their commercial or financial relations which differ from those which might be expected to operate between independent enterprises dealing at arm's length with one another,

then, if by reason of those conditions profits which might be expected to accrue to one of the enterprises do not accrue to that enterprise, there may be included in the profits of that enterprise the profits which would have accrued to it if it were an independent enterprise and its dealings with the other enterprise were dealings at arm's length with that enterprise or an independent enterprise.

(2) Profits included in the profits of an enterprise of one of the territories under paragraph (1) of this Article shall be deemed to be income derived from sources in that territory and shall be taxed accordingly.

(3) If the information available to the taxation authority concerned is inadequate to determine, for the purposes of paragraph (1) of this Article, the profits which might be expected to accrue to an enterprise, nothing in that paragraph shall affect the application of the law of either territory in relation to the liability of that enterprise to pay tax on an amount determined by the exercise of a discretion or the making of an estimate by the taxation authority of that territory: Provided that such discretion shall be exercised or such estimate shall be made, so far as the information available to the taxation authority permits, in accordance with the principle stated in that paragraph.

#### Article V

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships whose port of registry is in that territory, or aircraft registered in that territory, shall be exempt from tax in the other territory.

#### Article VI

(1) Any dividend paid to a United Kingdom resident by a company which is a United Kingdom resident shall be exempt from Australian tax.

(2) Any dividend paid by a company which is a resident of Australia (whether or not also resident in the United Kingdom or elsewhere) to a company which-

(a) is a United Kingdom resident,

(b) is subject to United Kingdom tax in respect thereof, and

(c) beneficially owns all the shares (less directors' qualifying shares) of the former company,

shall be exempt from Australian tax: Provided that the exemption shall not apply if

(i) the total of the directors' qualifying shares exceeds five percent of the paid-up capital of the company paying the dividend, or

(ii) ordinarily more than one-half of the taxable income of that company is derived from interest, dividends and rents other than interest, dividends and rents from any wholly-owned subsidiary company the taxable income of which consists wholly or mainly of industrial or commercial profits.

(3) Subject to such provisions as may be enacted in Australia for the purpose of determining the amount of Australian tax payable in respect of any dividend, and without limiting the exemptions provided in paragraphs (1) and (2) of this Article, the amount of Australian tax payable in respect of any dividend the whole or part of which is paid out of profits derived from sources in Australia to a United Kingdom resident who is subject to United Kingdom tax in respect thereof and is not engaged in trade or business in Australia through a permanent establishment situated therein, shall not exceed half the amount which would be payable in respect of the dividend or part thereof but for this paragraph.

(4) Notwithstanding the foregoing provisions of this Article, the amount of the additional tax assessable in respect of the undistributed amount of the distributable income of a company which is a private company for purposes of Australian tax shall be the amount which would have been assessable if those provisions had not been included in this Agreement.

(5) Any dividend paid by a company resident in the United Kingdom (whether or not also a resident of Australia or elsewhere) to an individual who-

(a) is an Australian resident,

(b) is subject to Australian tax in respect thereof, and

(c) is not engaged in trade or business in the United Kingdom through a permanent establishment situated therein,

shall be exempt from United Kingdom sur-tax.

#### Article VII

(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 is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory; but no exemption shall be allowed under this Article in respect of so much of any such royalty as exceeds an amount which represents a fair and reasonable consideration for the rights for which the royalty is paid.

(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 a royalty or other amount paid in respect of the operation of a mine or quarry or of other extraction of natural resources or a rent or royalty in respect of a motion picture film.

#### Article VIII

(1) Remuneration (other than pensions) paid by the Government of the Commonwealth of Australia or of any State of Australia to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from United Kingdom tax if the individual is not ordinarily resident in the United Kingdom or is resident in the United Kingdom solely for the purpose of rendering those services.

(2) Remuneration (other than pensions) paid by the Government of the United Kingdom to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from Australian tax if the individual is not a resident of Australia or is resident in Australia 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 trade or business carried on by either of the Contracting Governments or by the Government of any State of Australia.

#### Article IX

(1) An individual who is a United Kingdom resident shall be exempt from Australian tax on remuneration or other income in respect of personal (including professional) services performed in Australia in any year of income if-

(a) he is present in Australia 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 United Kingdom resident, and

(c) the remuneration or other income is subject to United Kingdom tax.

(2) An individual who is an Australian resident shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed in the United Kingdom in any year of assessment if-

(a) he is present in 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 an Australian resident, and

(c) the profits or remuneration are subject to Australian tax.

(3) The provisions of this Article shall not apply to the profits, remuneration or other income of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

#### Article X

(1) Any pension or 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-mentioned territory.

(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 consideration of money paid.

#### Article XI

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 XII

(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, Australian tax payable, whether directly or by deduction, in respect of income derived from sources in Australia 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 Australia, the credit shall take into account, in addition to any Australian tax payable in respect of the dividend, the Australian tax (other than war-time (company) 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 Australian tax (other than war-time (company) tax) so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

For the purposes of this paragraph, any amount which is included in a person's taxable income under Division 14 or 15 of Part III of the Australian Income Tax Assessment Act 1936-1946 (or that Act as amended from time to time) relating to film business controlled abroad and insurance with non-residents, or under the corresponding provisions of any statute substituted for that Act, shall be deemed to be derived from sources in Australia.

(2) Where Australian tax is payable in respect of income derived from sources in the United Kingdom by a person who is a resident of Australia, being income in respect of which United Kingdom tax is payable, whether directly or by deduction, the United Kingdom tax so payable (reduced by the amount of any relief or repayment attributable to that income to which that person is entitled under the law of the United Kingdom), shall, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in Australia, be allowed as a credit against the Australian tax payable in respect of that income: Provided that where the income is a dividend paid by a company resident in the United Kingdom the credit shall be allowed only if the recipient elects to have the amount of the United Kingdom tax (as so reduced) included in his assessable income for purposes of Australian tax.

For the purposes of this paragraph, a dividend paid by a company resident in the United Kingdom shall be deemed to be income derived from sources in the United Kingdom, and the United Kingdom tax payable in respect of any such dividend before reduction as aforesaid shall be deemed to include the amount of United Kingdom income tax deductible from the gross amount of the dividend (but not so much of that income tax as exceeds tax on that gross amount at the net United Kingdom rate applicable to the dividend for purposes of United Kingdom tax where, owing to the

allowance of double taxation relief in the United Kingdom, that net rate is less than the rate of United Kingdom income tax deductible from the dividend).

(3) Where tax is imposed by both Contracting Governments on income derived from sources outside both Australia and the United Kingdom by a person who is a resident of Australia for purposes of Australian tax and is also resident in the United Kingdom for purposes of United Kingdom tax, there shall be allowed against the tax imposed by each Contracting Government 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 territory from which the income is derived) or to the amount of the tax imposed by the other Contracting Government (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).

(4) For the purposes of this Article, profits, remuneration or other income in respect of personal (including professional) services performed in one of the territories shall be deemed to be income derived from sources in that territory.

#### Article XIII

(1) 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 for 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 person other than persons (including a Court) concerned with the assessment or collection of, or the determination of appeals in relation to, the taxes which are the subject of the present Agreement. No information shall be exchanged which would disclose any trade secret or trade process.

(2) As used in this Article, the term "taxation authorities" means, in the case of Australia, the Commissioner of Taxation or his authorised representative; in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; and in the case of any territory to which the present Agreement is extended under Article XIV, the competent authority for the administration in such territory of the taxes to which the present Agreement applies.

#### Article XIV

(1) Either of the Contracting Governments may, on the coming into force of the present Agreement or at any time thereafter while it continues in force, by a written

notification of extension given to the other Contracting Government, declare its desire that the operation of the present Agreement shall extend, subject to such modification as may be necessary, to all or any of its colonies, overseas territories, protectorates, or territories in respect of which it exercises a mandate or trusteeship, which impose taxes substantially similar in character to those which are the subject of the present Agreement. The present Agreement shall, subject to such modification (if any) as may be specified in the notification, apply to the territory or territories named in such notification on the date or dates specified in the notification (not being less than sixty days from the date of the notification) or, if no date is specified in respect of any such territory, on the sixtieth day after the date of the notification, unless, prior to the date on which the Agreement would otherwise become applicable to a particular territory, the Contracting Government to whom notification is given shall have informed the other Contracting Government in writing that it does not accept the notification as to that territory. In the absence of such an extension, the present Agreement shall not apply to any such territory.

(2) At any time after the expiration of one year from the entry into force of an extension under paragraph (1) of this Article, either of the Contracting Governments may, by written notice of termination given to the other Contracting Government, terminate the application of the present Agreement to any territory to which it has been extended under paragraph (1), and in that event the present Agreement shall cease to apply, as from the date or dates specified in the notice or if no date is specified at the expiration of six months after the date of the notice, to the territory or territories named therein, but without affecting its continued application to Australia, the United Kingdom or to any other territory to which it has been extended under paragraph (1) hereof.

(3) In the application of the present Agreement in relation to any territory to which it is extended by notification by the United Kingdom or Australia, references to the "United Kingdom" or, as the case may be, "Australia" shall be construed as references to that territory.

(4) The termination in respect of Australia or the United Kingdom of the present Agreement under Article XVI shall, unless otherwise expressly agreed by both Contracting Governments, terminate the application of the present Agreement to any territory to which the Agreement has been extended by Australia or the United Kingdom.

(5) The provisions of the preceding paragraphs of this Article shall apply to the Channel Islands and the Isle of Man as if they were colonies of the United Kingdom.

#### Article XV

The present Agreement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and Australia as are necessary to give the Agreement the force of law in the United Kingdom and Australia respectively,[\[1\]](#) and shall thereupon have effect-

(a) in the United Kingdom, as respects income tax for the year of assessment beginning on 6 April 1946, and subsequent years; as respects sur-tax for the year of assessment beginning on 6 April 1945, and subsequent years; and as respects excess profits tax and national defence contribution for any chargeable accounting period beginning on or after 1 April 1946, and for the unexpired portion of any chargeable accounting period current at that date;

(b) in Australia, as respects tax for the year of tax beginning on 1 July 1946, and subsequent years.

#### Article XVI

The present Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before 31 March in any calendar year after the year 1954, give notice of termination to the other Contracting Government and, in such event, the present Agreement shall cease to be effective-

(a) in the United Kingdom, as respects income tax for any year of assessment beginning on or after 6 April in the calendar year next following that in which such notice is given; as respects sur-tax for any year of assessment beginning on or after 6 April in the calendar year in which such notice is given; and as respects national defence contribution for any chargeable accounting period beginning on or after 1 April in the calendar year next following that in which such notice is given and for the unexpired portion of any chargeable accounting period current at that date;

(b) in Australia, as respects tax for any year of tax beginning on or after 1 July in the calendar year next following that in which such notice is given.

**IN WITNESS WHEREOF** the undersigned, duly authorised thereto, have signed the present Agreement and have affixed thereto their seals.

**DONE** at London, in duplicate, on the Twenty-ninth day of October, One thousand nine hundred and forty-six.

FOR THE GOVERNMENT OF FOR THE GOVERNMENT OF

AUSTRALIA: THE UNITED KINGDOM:

[Signed:] [Signed:]

JOHN A BEASLEY HUGH DALTON

[\[1\]](#) The Agreement entered into force 3 June 1947.