

Finance Act, 1955

13 of 1955

[13 July 1955]

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AN ACT TO CHARGE AND IMPOSE CERTAIN DUTIES ~~OF~~ CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE), TO AMEND THE LAW RELATING TO CUSTOMS AND INLAND REVENUE (INCLUDING EXCISE) AND TO MAKE FURTHER PROVISIONS IN CONNECTION WITH FINANCE. BE IT ENACTED BY THE OIREACTHAS AS FOLLOWS:-

PART 1 INCOME TAX

1. Income Tax And Sur-Tax For The Year 1955-56 :-

(1) Income tax shall be charged for the year beginning on the 6th day of April, 1955, at the rate of seven shillings and sixpence in the pound.

(2) Sur-tax for the year beginning on the 6th day of April, 1955, shall be charged in respect of the income of any individual the total of which from all sources exceeds one thousand five hundred pounds and shall be so charged at the same rates as those at which it is charged for the year beginning on the 6th day of April, 1954.

(3) The several statutory and other provisions which were in force on the 5th day of April, 1955, in relation to income tax and sur-tax shall, subject to the provisions of this Act, have effect in relation to the income tax and sur-tax to be charged as aforesaid for the year beginning on the 6th day of April, 1955.

2. Increase Of Deductions In Respect Of Children And Of

Limit Of Income Of Child :-

(1) Subsection (1) of section 21 of the Finance Act, 1920, as amended by subsequent enactments, is hereby further amended by the substitution of "a deduction of one hundred pounds" for "a deduction of eighty-five pounds" (inserted by section 4 of the Finance Act, 1954 (No. 22 of 1954)).

(2) Subsection (3) of section 21 of the Finance Act, 1920, is hereby amended by the substitution of "sixty pounds a year" for "forty pounds a year".

3. Amendment As To Exemption From Income Tax Of Profits Of Trades Carried On By Charities :-

Subsection (1) of section 30 of the Finance Act, 1921, is hereby amended by the substitution of the following paragraph for paragraph (c):

"(c) from income tax under Schedule D in respect of the profits of a trade carried on by any charity, if the profits are applied solely to the purposes of the charity and either-

(i) the trade is exercised in the course of the actual carrying out of a primary purpose of the charity, or

(ii) the work in connection with the trade is mainly carried on by beneficiaries of the charity."

4. Relief In Respect Of Payments For Insurance Against Expenses Of Sickness :-

(1) If an individual makes a claim in that behalf in the manner prescribed by the Income Tax Acts, makes a return in the prescribed form of the total income of the individual and proves that, in the year preceding the year of assessment, the individual, or, if the individual is a married man, his wife, has made a payment to an authorised insurer under a contract of insurance which provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge, in whole or in part, of actual medical, surgical or nursing expenses (including the cost of maintenance at a hospital, nursing home or sanatorium) resulting from sickness of or accident to the individual or the spouse of the individual or children or other dependants of the individual or of the spouse of the individual, then-

(a) where the payment covers no benefits other than such reimbursement or discharge, the full amount of the payment shall

be deducted from or set off against any income for the year of assessment of the individual, if the individual made the payment, or of the wife of the individual, if she made the payment, and
(b) where the payment covers benefits other than such reimbursement or discharge, a like relief shall be granted in respect of so much of the payment as is referable to such reimbursement or discharge, and tax shall, where necessary, be discharged or repaid accordingly and the total income of the individual for the year of assessment shall be calculated accordingly for all the purposes of the Income Tax Acts.

(2) Where an amount for deduction from or set off against income of one of the spouses is ascertained in accordance with subsection (1) of this section, then-

(a) if there is no income of the spouse for the year of assessment in relation to which relief under the said subsection can be given, the relief may be given in relation to income of the other spouse for that year, and

(b) if the amount ascertained as aforesaid exceeds the income of the spouse for the year of assessment, the excess may be deducted from or set off against any income of the other spouse for that year.

(3) Where relief is given under this section, no relief or deduction under any other provision of the Income Tax Acts shall be given or allowed in respect of the payment or part of a payment (as the case may be).

(4) All such provisions of the Income Tax Acts as apply in relation to allowances or deductions within the meaning of the Third Schedule to the Finance Act, 1920, shall, with any necessary modifications, apply in relation to relief under this section.

(5) In this section-

"authorised insurer" means any person lawfully carrying on in the State such business of insurance as is referred to in subsection (1) of this section;

"total income" means total income from all sources as estimated in accordance with the provisions of the Income Tax Acts.

5. Payment Of Interest On Stock Of Council Of County, Corporation Of County Or Other Borough Or Council Of Urban District :-

(1) Any stock under section 87 of the Local Government Act, 1946 (No. 24 of 1946), issued after the passing of this Act shall be

deemed to be securities issued under the authority of the Minister for Finance within the meaning of section 2 of the Finance Act, 1924 (No. 27 of 1924), and that section shall apply accordingly.

(2) (a) Rule 6 of the Miscellaneous Rules applicable to Schedule D of the Income Tax Act, 1918, and Rules 19 and 21 of the General Rules applicable to Schedules A, B, C, D and E of that Act shall not apply to interest (in this subsection referred to as the said interest) which, by direction of the Minister for Finance given under section 2 of the Finance Act, 1924, as applied by this section, is paid without deduction of tax.

(b) Where paragraph (a) of this subsection applies in relation to the council of a county, corporation of a county or other borough or council of an urban district (in this paragraph referred to as the local authority), the total tax payable by the local authority, by deduction or otherwise, for any year of assessment shall not exceed a sum to be ascertained by first computing the total tax which, but for this section, would have been payable by the local authority, by deduction or otherwise, for that year and then deducting therefrom a sum equal to tax on the amount of the said interest paid for that year by the local authority.

(3) There shall be added to Rule 1 of Case III of Schedule D of the Income Tax Act, 1918, the following clause, that is to say:

"(j) interest on stock under section 87 of the Local Government Act, 1946 (No. 24 of 1946), in cases where such interest is paid without deduction of tax."

PART 2 CUSTOMS AND EXCISE

6. Increase Of Rebate On Beer Brewed From Home Malted Cereals :-

Section 41 of the Finance Act, 1932 (No. 20 of 1932), as amended by section 15 of the Finance Act, 1940 (No. 14 of 1940), and by section 11 of the Finance Act, 1952 (No. 14 of 1952), shall have effect in relation to beer brewed in the year beginning on the 1st day of July, 1954, and in relation to beer brewed in any year beginning on any subsequent 1st day of July as if the reference now contained in that section, as so amended, to a rate of one pound ten shillings per standard barrel were a reference to a rate of two pounds per standard barrel.

7. Entertainments Duty-Entertainment In Patent Theatre Consisting Partly Of Cinematographic Exhibition And Partly

Of Personal Performance :-

Paragraph (c) of subsection (4) of section 10 of the Finance Act, 1948 (No. 12 of 1948), is hereby amended, as respects entertainments held on or after the 1st day of August, 1955, by the substitution of "not less than twenty-five per cent." for "not less than thirty-five per cent."

8. Termination Of Customs Duty On Galvanized Corrugated Iron Or Steel :-

The duty of customs on galvanized corrugated iron or steel imposed by section 11 of the Finance Act, 1932 (No. 20 of 1932), and reference number 30 in the First Schedule to that Act, as amended by the Emergency Imposition of Duties (No. 223) Order, 1941 (S. R. & O., No. 464 of 1941), shall not be charged or levied on any articles imported on or after the 1st day of September, 1955.

9. Amendment Of Finance (Excise Duties) (Vehicles) Act, 1952 :-

(1) In this section "the Act" means the Finance (Excise Duties) (Vehicles) Act, 1952 (No. 24 of 1952).

(2) Subparagraph (c) of paragraph 4 of Part I of the Schedule to the Act is hereby amended by the addition thereto of the following provision:

"Where a tractor is fitted with a detachable platform, container or implement (being a platform, container or implement used primarily for farm work), goods or burden of any other description conveyed on or in the platform, container or implement shall be regarded for the purposes of this subparagraph as being hauled by the tractor."

(3) Paragraph 3 of Part II of the Schedule to the Act is hereby amended as follows:

(a) the reference to subparagraph (c) of paragraph 4 of Part I of the Schedule to the Act shall be construed as including a reference to that subparagraph as amended by subsection (2) of this section, and

(b) the following clause shall be added to subparagraph (a):

"(iii) for the haulage for another farmer for reward of-

(I) milk being hauled to a creamery or cream-separating station, or

(II) separated milk being hauled from a creamery or cream-separating station, or

(III) milk containers being hauled to or from a creamery or cream-separating station, or".

(4) Where a licence under section 1 of the Act is in force and the duty was paid in accordance with subparagraph (c) of paragraph 4 of Part I of the Schedule to the Act as originally enacted or in accordance with that paragraph with the provision added thereto by subsection (2) of this section, section 2 of the Act shall not apply in relation to the tractor on account merely of a conveyance such as is referred to in the provision added as aforesaid.

(5) If this Act is passed before or on the 1st day of July, 1955, subsections (1) to (4) of this section shall come into operation on that day and, if it is passed after that day, they shall be deemed to have come into operation on that day.

(6) The appropriate repayments shall be made having regard to the foregoing provisions of this section and the repayments shall be made in accordance with such directions as may be given by the Minister for Local Government.

PART 3 DEATH DUTIES

10. Confirmation Of Agreement Set Forth In First Schedule

:-

(1) The agreement set forth in the First Schedule to this Act and concluded on the 28th day of October, 1954, between the Government and the Government of Canada (in this section referred to as the Agreement) is hereby confirmed and shall have the force of law.

(2) Subsection (4) of section 7 of the Finance Act, 1894 (which provides for relief in respect of duty payable in a foreign country) shall not have effect in relation to succession duty chargeable under the laws of Canada to which the provisions of the Agreement apply.

11. Certificate-Prospective Amount Of Estate Duty :-

Where-

(a) the trustees of a settlement may become accountable for estate duty payable by virtue of section 30 of the Finance Act, 1941 (No. 14 of 1941), in respect of any property, and

(b) it is intended that the property or any part thereof shall cease to be comprised in the settlement,

then, if the trustees obtain from the Revenue Commissioners a certificate of the amount which in the opinion of the Revenue

Commissioners may properly be treated as the prospective amount of the duty, and give the Revenue Commissioners all the information and evidence required by the Revenue Commissioners in connection with the application for the certificate, no person shall be accountable as trustee of the settlement, for the duty to which the certificate relates, to an amount in excess of the amount certified.

12. Aggregation Of Certain Policies Of Assurance, Etc :-

(1) Notwithstanding anything contained in section 4 of the Finance Act, 1894, where the property which passes on a death, but in which the deceased never had an interest, includes any policies of assurance on his life, or moneys received under such a policy, or interests in such a policy or moneys, all the policies, moneys and interests so included (except any in respect of which estate duty neither is payable on the death nor would be if the duty were payable on estates of however small a principal value) shall, for determining the rate of estate duty to be paid thereon, be aggregated so as to form one estate, and the duty shall be levied at the proper graduated rate on the principal value thereof.

(2) Subsection (1) of this section shall have effect in relation to any death occurring on or after the date of the passing of this Act.

13. Aggregation Where Property Of The Deceased Does Not Exceed Ten Thousand Pounds :-

(1) In this section-

"the property of the deceased" means property in respect of which estate duty is payable in connection with the death of the deceased and which is-

(a) property to which the deceased was absolutely entitled, or of which he was competent to dispose, at the time of his death, or

(b) property which passes on his death within the meaning of the enactments relating to estate duty under a disposition made by him, or made, directly or indirectly, on his behalf or at his expense or out of funds provided by him, or made by him in the exercise of a general power of appointment, or

(c) property which by virtue of section 23 of the Finance Act, 1940 (No. 14 of 1940), or section 20 of the Finance Act, 1949 (No. 13 of 1949), is deemed to be included in the property passing on the death of the deceased;

"the other property" means the property in respect of which estate

duty is payable in connection with the death of the deceased, but which is not the property of the deceased.

(2) (a) Where the net value of the property of the deceased does not exceed ten thousand pounds; that property shall not be aggregated with the other property, but shall form an estate by itself.

(b) Where the net value of the property of the deceased exceeds ten thousand pounds, the amount of estate duty payable in respect of it shall not exceed the amount of estate duty that would be payable if the net value of it were ten thousand pounds, together with the amount by which the net value of the said property exceeds ten thousand pounds.

(3) Where the net value of the property of the deceased exceeds ten thousand pounds, any reduction under subsection (1) of section 13 of the Finance Act, 1914, of the estate duty payable in respect of the other property shall, in a case in which the estate duty payable in respect of the property of the deceased is reduced in accordance with paragraph (b) of subsection (2) of this section, be calculated as if the estate duty payable in respect of the property of the deceased were not reduced in accordance with that paragraph.

(4) This section shall have effect in relation to any death occurring on or after the date of the passing of this Act.

PART 4 RELIEF OF DOUBLE TAXATION INCOME TAX, SUR-TAX AND CORPORATION PROFITS TAX

14. Confirmation Of Agreement Set Forth In Second Schedule :-

(1) The agreement set forth in Part I of the Second Schedule to this Act and concluded on the 28th day of October, 1954, between the Government and the Government of Canada (in this section referred to as the Agreement) is hereby confirmed and shall have the force of law.

(2) For the purpose of giving effect to the Agreement, the provisions set forth in Part II of the Second Schedule to this Act shall have effect.

(3) The necessary apportionments shall be made for the purpose of giving effect to the terms of the Agreement as respects corporation profits tax in the case of accounting periods beginning before the 1st day of April in the year in which the Agreement first has effect and ending on or after that date, and any such apportionment shall

be made in proportion to the number of months or fractions of months in the part of the relevant accounting period before the said 1st day of April and in the remaining part of the said relevant accounting period respectively.

(4) The Revenue Commissioners may from time to time make regulations in relation to the granting of the reliefs specified in the Agreement and may, in particular, by those regulations provide-

(a) for securing that no such reliefs from taxation imposed by the laws of Canada as are provided for in the Agreement shall enure to the benefit of persons not entitled thereto, and

(b) for authorising, in cases where tax deductible from any periodical payment has, in order to comply with the terms of the Agreement, not been deducted and it is discovered that the Agreement does not apply to that payment, the recovery of the tax by assessment on the person entitled to the payment or by deduction from subsequent payments.

15. Construction Of This Part Of This Act :-

This Part of this Act and the Second Schedule to this Act shall, so far as they relate to income tax (including sur-tax), be read and construed together with the Income Tax Acts and shall, so far as they relate to corporation profits tax, be read and construed together with Part V of the Finance Act, 1920, as amended or extended by subsequent enactments.

PART 5 STAMP DUTIES

16. Termination Of Stamp Duty On Yearly Certificates Of Notaries Public :-

(1) The stamp duty chargeable, by virtue of section 1 of the Stamp Act, 1891, on the certificate to be taken out yearly by a notary public (being an instrument specified in the First Schedule to that Act) shall cease to be payable.

(2) Where, on or after the 26th day of March, 1955, any notary public has taken out a duly stamped certificate, he shall, on making a claim in that behalf, be entitled to a refund of duty equal in amount to the amount arrived at by applying, to the amount of duty paid in respect of the certificate, the fraction specified in subsection (3) of this section.

(3) The fraction referred to in subsection (2) of this section is the fraction the numerator of which is the number of the days in the

period beginning on the day of the passing of this Act and ending on the 25th day of March, 1956, and the denominator of which is 366.

17. Credit-Sale Agreements :-

As respects any credit-sale agreement within the meaning of the Hire-Purchase Act, 1946 (No. 16 of 1946), or any instrument (other than such a credit-sale agreement) which is an agreement, or a memorandum of an agreement, made for or relating to the sale of any goods, wares or merchandise-

(a) whether under hand only or under seal, stamp duty under the heading "Bond, Covenant or Instrument" in the First Schedule to the Stamp Act, 1891, shall not be chargeable thereon, and

(b) in a case in which stamp duty as aforesaid would be chargeable thereon but for paragraph (a) of this section-

(i) if under hand only, the exemption numbered (3) under the heading "Agreement or any Memorandum of an Agreement" in the said First Schedule shall not apply thereto and stamp duty under that heading shall be charged thereon, and

(ii) if under seal, stamp duty under the heading "Deed of any kind whatsoever, not described in this schedule" in the said First Schedule shall be chargeable thereon.

PART 6 MISCELLANEOUS AND GENERAL

18. Capital Services Redemption Account :-

(1) In this section-

"the principal section" means section 22 of the Finance Act, 1950 (No. 18 of 1950);

"the 1954 amending section" means section 28 of the Finance Act, 1954 (No. 22 of 1954);

"the fifth additional annuity" means the sum charged on the Central Fund under subsection (4) of this section;

"the Minister", "the Account" and "capital services" have the same meanings respectively as they have in the principal section.

(2) Subsection (4) of the 1954 amending section shall, in relation to the twenty-nine successive financial years commencing with the financial year ending on the 31st day of March, 1956, have effect with the substitution of "£802,363" for "£777,094".

(3) Subsection (6) of the 1954 amending section shall have effect with the substitution of "£509,021" for "£500,278".

(4) A sum of £688,618, to redeem borrowings, and interest thereon, in respect of capital services shall be charged annually on the Central Fund or the growing produce thereof in the thirty successive financial years commencing with the financial year ending on the 31st day of March, 1956.

(5) The fifth additional annuity shall be paid into the Account in such manner and at such times in the relevant financial year as the Minister may determine.

(6) Any amount of the fifth additional annuity, not exceeding £445,446 in any financial year, may be applied towards defraying the interest on the public debt.

(7) The balance of the fifth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

19. Repeals :-

The enactments specified in the Third Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

20. Care And Management Of Taxes And Duties :-

All taxes and duties imposed by this Act are hereby placed under the care and management of the Revenue Commissioners.

21. Short Title, Construction And Commencement :-

(1) This Act may be cited as the Finance Act, 1955.

(2) Part I of this Act shall be construed together with the Income Tax Acts.

(3) Part II of this Act, so far as it relates to duties of customs, shall be construed together with the Customs Acts and, so far as it relates to duties of excise, shall be construed together with the Statutes which relate to the duties of excise and the management of those duties.

(4) Part V of this Act shall be construed together with the Stamp Act, 1891, and the enactments amending or extending that Act.

(5) Part I of this Act shall be deemed to come into force on and shall take effect as on and from the 6th day of April, 1955.

SCHEDULE 1

FIRST SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF IRELAND AND THE GOVERNMENT OF

CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO DUTIES ON THE ESTATES OF DECEASED PERSONS.

Section 10 . The Government of Ireland and the Government of Canada, Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of Fiscal evasion with respect to duties on the estates of deceased persons, Have appointed for that purpose as their Plenipotentiaries:

The Government of Ireland:

Sean Murphy, Ambassador Extraordinary and Plenipotentiary of Ireland at Ottawa;

The Government of Canada:

Walter E. Harris, Minister of Finance in the Government of Canada, Who, having communicated their respective full powers, found in good and due form, have agreed as follows:-

ARTICLE I.

1. The duties which are the subject of the present Agreement are:

(a) In Ireland:

The estate duty imposed by Ireland,
and

(b) In Canada:

The succession duty imposed by Canada.

2. The present Agreement shall also apply to any other duties of a substantially similar character imposed by either Contracting Government subsequent to the date of signature of this Agreement.

ARTICLE II.

1. In this Agreement, unless the context otherwise requires-

(a) The term "territory" when used in relation to one or the other Contracting Government means Ireland or Canada, as the context requires.

(b) The term "duty" means the estate duty imposed by Ireland or the succession duty imposed by Canada, as the context requires.

2. In the application of the provisions of this 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 duties which are the subject of the present Agreement.

ARTICLE III.

Where a person dies domiciled in any part of the territory of one Contracting Government, the situs of any rights or interests, legal or equitable, in or over any of the following classes of property which for the purposes of duty form or are deemed to form part of the estate of such person or pass or are deemed to pass on his death, shall, for the purposes of the imposition of duty and for the purposes of the credit to be allowed under Article V, be determined exclusively in accordance with the following rules, but in cases not within such rules the situs of such rights or interests shall be determined for these purposes in accordance with the laws in force in the territory of the other Contracting Government:

(a) Immovable property (otherwise than by way of security) shall be deemed to be situated at the place where such property is located;

(b) Tangible movable property (otherwise than by way of security, and other than such property for which specific provision is hereinafter made), bank or currency notes, other forms of currency recognised as legal tender in the place of issue, negotiable bills of exchange and negotiable promissory notes, shall be deemed to be situated at the place where such property, notes, currency or documents are located at the time of death, or, if in transitu, at the place of destination;

(c) Simple contract debts, excluding the forms of indebtedness for which specific

provision is made herein, shall be deemed to be situated at the place where the debtor was resident at the time of death;

(d) Bonds, mortgages, debentures, debenture stock and debts secured by a document under seal, other than the forms of indebtedness for which specific provision is made herein, shall be deemed to be situated at the place where the document by which they are evidenced is located at the time of death or, if inscribed or registered, to be situated at the place of inscription or registration;

(e) Bank accounts shall be deemed to be situated at the branch at which the account was kept;

(f) Securities issued by any government, municipality or public authority, shall be deemed, if in bearer form, to be situated at the place where they are located at the time of death and, if inscribed or registered, to be situated at the place of inscription or registration;

(g) Shares or capital stock in a company (including any such shares or stock held by a nominee whether the beneficial ownership is evidenced by scrip certificates or otherwise, but excluding any such shares or stock in bearer form) shall be deemed to be situated at the place where such company was incorporated. If, however, any such company was incorporated under the laws of Great Britain or under the laws of Northern Ireland, and if the shares or stock of such company when registered on a branch register of such company kept in Ireland are deemed under the laws of Great Britain or of Northern Ireland and of Ireland to be assets situated in Ireland, such shares or stock shall be deemed to be assets situated in Ireland.

Shares or capital stock in a company in bearer form shall be deemed to be situated at the place where the documents of title thereto are located at the time of death; provided that any such shares or stock in a company incorporated under the laws of either Contracting Government shall be deemed to be also situated at the place where such company was incorporated;

(h) Moneys payable under a policy of assurance or insurance, whether under seal or not, shall be deemed to be situated at the place where the policy provided that the moneys shall be payable or, in the absence of any such provision, at the head office of the company;

(i) Shares in a partnership shall be deemed to be situated at the place where the business is principally carried on;

(j) Ships and aircraft and shares thereof shall be deemed to be situated at the place of registration of the ship or aircraft;

(k) Goodwill as a trade, business or professional asset shall be deemed to be situated at the place where the trade, business or profession to which it pertains is carried on;

(l) Patents, trademarks and designs shall be deemed to be situated at the place where they are registered;

(m) Copyright, franchises, and rights or licences to use any copyrighted material, patent, trademark or design shall be deemed to be situated at the place where the rights arising therefrom are exercisable;

(n) Rights or causes of action ex delicto surviving for the benefit of an estate of a deceased person shall be deemed to be situated at the place where such rights or causes of action arose;

(o) Judgment debts shall be deemed to be situated at the place where the judgment is recorded;

Provided that if, apart from this Article, duty would be imposed by one Contracting Government on any property which is situated in its territory and passes under a disposition not governed by its law, this Article shall not apply to such property unless, by reason of its application or otherwise, duty is imposed or would but for

some specific exemption be imposed thereon by the other Contracting Government.

ARTICLE IV.

1. In determining the amount on which duty is to be computed, permitted deductions shall be allowed in accordance with the law in force in the territory in which the duty is imposed.

2. Where duty is imposed by one Contracting Government on the death of a person who was not domiciled at the time of his death in any part of the territory of that Contracting Government but was domiciled in some part of the territory of the other Contracting Government, no account shall be taken, in determining the amount or rate of the duty so imposed, of property situated outside the former territory; provided that this paragraph shall not apply as respects duty imposed by Ireland in the case of property passing under a disposition governed by the law of Ireland.

ARTICLE V.

1. Where one Contracting Government imposes duty by reason of a deceased person being domiciled in some part of its territory at the time of his death, that Contracting Government shall allow against so much of its duty (as otherwise computed) as is attributable to property situated in the territory of the other Contracting Government a credit (not exceeding the amount of the duty so attributable) equal to so much of the duty imposed in the territory of the other Contracting Government as is attributable to such property; but this paragraph shall not apply as respects any such property as is mentioned in paragraph (3) of this Article.

2. Where Ireland imposes duty on property passing under a disposition governed by its law, that Contracting Government shall allow a credit similar to that provided by the preceding paragraph of this Article.

3. Where each Contracting Government imposes duty on any property which is deemed under Article III to be situated

(a) outside the territories of both Contracting Governments, or

(b) in both territories,

each Contracting Government shall allow against so much of its duty (as otherwise computed) as is attributable to such property a credit which bears the same proportion to the amount of its duty so attributable or to the amount of the other Contracting Governments duty attributable to the same property, whichever is the less, as the former amount bears to the sum of the two amounts.

4. For the purposes of this Article, the amount of the duty of a Contracting Government attributable to any property shall be ascertained after taking into account any credit, allowance or relief, or any remission or reduction of duty, otherwise than in respect of duty payable in the territory of the other Contracting Government.

ARTICLE VI.

1. Any claim for a credit or for a refund of duty founded on the provisions of this Agreement shall be made within six years from the date of the death of the deceased person in respect of whose estate the claim is made, or, in the case of a reversionary interest, where payment of duty is deferred until the date on which the interest falls into possession, within six years from that date.

2. Any such refund shall be made without payment of interest on the amount so refunded.

ARTICLE VII.

1. The taxation authorities of the Contracting Governments shall upon request 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 duties which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the duties which are the subject of this 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 Ireland, the Revenue Commissioners or their authorized representative, and in the case of Canada, the Minister of National Revenue or his authorized representative.

ARTICLE VIII.

1. The present Agreement shall be ratified, and the instruments of ratification shall be exchanged at Dublin as soon as possible.

2. The present Agreement shall come into force on the date of exchange of ratifications, and shall be effective only as to

(a) the estates of persons dying on or after such date; and

(b) the estate of any person dying before such date and after the last day of the calendar year immediately preceding such date, whose personal representative elects in writing that the provisions of the present Agreement shall be applied to such estate.

ARTICLE IX.

1. The present Agreement shall remain in force for not less than three years after the date of its coming into force.

2. If not less than six months before the expiration of such period of three years neither of the Contracting Governments shall have given to the other Contracting Government written notice of its intention to terminate the present Agreement, the Agreement shall remain in force after such period of three years until either of the Contracting Governments shall have given written notice of such intention, in which event the present Agreement shall not be effective as to the estates of persons dying on or after the date (not being earlier than the sixtieth day after the date of such notice) specified in such notice, or, if no date is specified, on or after the sixtieth day after the date of such notice.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Agreement and have affixed thereto their seals.

DONE at Ottawa, in duplicate, this 28th day of October, nineteen hundred and fifty-four.

FOR IRELAND:

SEAN MURPHY

FOR CANADA:

W. E. HARRIS

SCHEDULE 2

SECOND SCHEDULE

RECIPROCAL RELIEF OF DOUBLE TAXATION ON RESPECT OF IRISH INCOME TAX, SUR-TAX AND CORPORATION PROFITS TAX AND CANADIAN INCOME TAXES, INCLUDING SURTAXES.

Section 14 . PART I.

Agreement between the Government of Ireland and the Government of Canada for the avoidance of Double Taxation and the prevention of fiscal evasion with respect to Taxes on Income.

The Government of Ireland and the Government of Canada,

Desiring to conclude an Agreement 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:

The Government of Ireland:

Sean Murphy, Ambassador Extraordinary and Plenipotentiary of Ireland at Ottawa;

The Government of Canada:

Walter E. Harris, Minister of Finance in the Government of Canada,

Who, having communicated their respective full powers, found in good and due form, have agreed as follows:-

ARTICLE I.

1. The taxes which are subject to this Agreement are:

(a) In Canada:

Income taxes, including surtaxes, which are imposed by the Government of Canada (hereinafter referred to as "Canadian tax").

(b) In Ireland:

The income tax (including sur-tax) and the corporation profits tax (hereinafter referred to as "Irish tax").

2. This Agreement shall also apply to any other taxes of a substantially similar character, other than excess profits taxes, imposed by either Contracting Government subsequent to the signing of this Agreement.

ARTICLE II.

1. In this Agreement, unless the context otherwise requires:

(a) The terms "one of the territories" and "the other territory" mean Ireland or Canada, as the context requires.

(b) The term "tax" means Irish tax or Canadian tax, as the context requires.

(c) The term "person" includes any body of persons, corporate or not corporate.

(d) The term "company" includes any body corporate.

(e) The terms "resident of Ireland" and "resident of Canada" mean respectively any person who is resident in Ireland for the purposes of Irish tax and not resident in Canada for the purposes of Canadian tax and any person who is resident in Canada for the purposes of Canadian tax and not resident in Ireland for the purposes of Irish tax; a company shall be regarded as resident in Ireland if its business is managed and controlled in Ireland and as resident in Canada if its business is managed and controlled in Canada. 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.

(f) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of Ireland or a person who is a resident of Canada, as the context requires.

(g) The terms "Irish enterprise" and "Canadian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Ireland and an industrial or commercial enterprise or undertaking carried on by a resident of Canada; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean an Irish enterprise or a Canadian enterprise, as the context requires.

(h) 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, 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. The term "industrial or commercial profits", as used in the present Agreement, does not include income in the form of dividends, interest, rents or royalties, management charges, or remuneration for labour or personal services.

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 an Irish enterprise shall not be subject to Canadian tax unless the enterprise is engaged in trade or business in Canada through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Canada, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Canadian enterprise shall not be subject to Irish tax unless the enterprise is engaged in trade or business in Ireland through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Ireland, 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 such 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 arms length with the enterprise of which it is a permanent establishment.

4. 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.

5. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose 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, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

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 but for those conditions would 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. The rate of Canadian tax on income (other than income from carrying on business in Canada or from performing duties in Canada) derived from sources within Canada by a resident of Ireland shall not exceed 15%.

2. Notwithstanding the provisions of the foregoing paragraph, the Canadian tax on dividends paid to a company which is a resident of Ireland by a company resident in Canada, more than 50 per cent. of whose shares which have under all circumstances full voting rights are owned by the former company, shall not exceed 5 per cent.

3. Income (other than income from carrying on business in Ireland or from performing duties in Ireland) derived from sources within Ireland by an individual who is a resident of Canada shall be exempt from Irish surtax.

ARTICLE VII.

Copyright royalties and other like payments made in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including rents or royalties in respect of motion picture films) and derived from sources within one of the territories by a resident of the other territory shall be exempt from tax in that first-mentioned territory.

ARTICLE VIII.

1. Remuneration (other than pensions) paid by one of the Contracting Governments to any individual for services rendered to that 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. 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.

ARTICLE IX.

1. A resident of Ireland shall be exempt from Canadian tax upon compensation for personal (including professional) services performed during the taxation year within Canada if he is present therein for a period or periods not exceeding a total of 183 days during the taxation year and either of the following conditions is met:

(a) His compensation is received for such personal services performed as an officer or employee of a resident of Ireland, or

(b) His compensation received for such personal services does not exceed \$5,000.

2. The provisions of paragraph 1 of this Article shall apply, mutatis mutandis, to a resident of Canada with respect to compensation for such personal services

performed in Ireland.

ARTICLE X.

1. Any pension or annuity derived from sources within Canada by an individual who is a resident of Ireland shall be exempt from Canadian tax.
2. Any pension or annuity derived from sources within Ireland by an individual who is a resident of Canada shall be exempt from Irish 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 moneys worth.

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.

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 XIII.

1. As far as may be in accordance with the provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada, Irish tax payable in respect of income from sources within Ireland shall be deducted from any Canadian tax payable in respect of that income. For this purpose the recipient of a dividend paid by a corporation which is a resident of Ireland shall be deemed to have paid the Irish income tax appropriate to such dividend if such recipient elects to include in his gross income for the purposes of Canadian tax the amount of such Irish income tax. For the purposes only of this Article, 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.
2. Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in Ireland, Canadian tax payable in respect of income from sources within Canada shall be allowed as a credit against any Irish tax payable in respect of that income. Where such income is an ordinary dividend paid by a Canadian corporation, such credit shall take into account (in addition to any Canadian income tax deducted from or imposed on such dividend) the Canadian income tax imposed on such corporation 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, such tax on profits shall likewise be taken into account in so far as the dividend exceeds such fixed rate.
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 XIV.

1. The taxation authorities of the Contracting Governments shall upon request 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.

2. The taxation authorities of the Contracting Governments may consult together as may be necessary for the purpose of carrying out the provisions of the present Agreement and, in particular, the provisions of Articles III and IV.

3. As used in this Article, the term "taxation authorities" means, in the case of Canada, the Minister of National Revenue or his authorised representative; in the case of Ireland, the Revenue Commissioners or their authorised representative.

ARTICLE XV.

1. The present Agreement shall be ratified and the instruments of ratification shall be exchanged at Dublin as soon as possible.

2. Upon exchange of ratifications, the present Agreement shall have effect-

(a) in respect of Canadian tax, for the taxation years beginning on or after the 1st day of January in the calendar year in which the exchange of instruments of ratification takes place;

(b) (i) in respect of Irish income tax, for the year of assessment, beginning on the 6th day of April in the calendar year in which the exchange of instruments of ratification takes place and subsequent years;

(ii) in respect of Irish surtax, for the year of assessment beginning on the 6th day of April immediately preceding the calendar year in which the exchange of instruments of ratification takes place, and subsequent years; and

(iii) in respect of Irish corporation profits tax, for any chargeable accounting period beginning on or after the 1st day of April in the calendar year in which the exchange of instruments of ratification takes place, and for the unexpired portion of any chargeable accounting period current at that date.

ARTICLE XVI.

This Agreement shall continue in effect indefinitely but either of the Contracting Governments may on or before the 30th day of June in any calendar year following the calendar year in which the exchange of instruments of ratification takes place, give to the other Contracting Government notice of termination, and in such event this Agreement shall cease to be effective-

(a) in respect of Canadian tax, for the taxation years beginning on or after the 1st day of January in the calendar year next following that in which notice is given;

(b) (i) in respect of Irish income tax, for any year of assessment beginning on or after the 6th day of April in the calendar year next following that in which such notice is given;

(ii) in respect of Irish surtax, for any year of assessment beginning on or after the 6th day of April in the calendar year in which such notice is given; and

(iii) in respect of Irish corporation profits tax, for any chargeable accounting period beginning on or after the 1st day of 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.

IN WITNESS WHEREOF the above-named Plenipotentiaries have signed the present Agreement and have affixed thereto their seals.

DONE at Ottawa, in duplicate, this 28th day of October, nineteen hundred and fifty-four.

FOR IRELAND:

SEAN MURPHY.
FOR CANADA:
W. E. HARRIS.
PART II.

Provisions as to relief from income tax (including sur-tax) and corporation profits tax by way of credit in respect of Canadian tax.

INTERPRETATION.

1. In this Part of the Schedule-
the expression "the Agreement" means the agreement set forth in Part I of this Schedule;
the expression "income tax" includes sur-tax except where the context otherwise requires;
the expression "income," in relation to corporation profits tax, means profits;
the expression "the Irish taxes" means income tax (including sur-tax) and corporation profits tax;
the expression "Canadian tax" has the same meaning as in Article I of the Agreement.

GENERAL.

2. (1) Subject to the provisions of this Part of this Schedule, where, under the Agreement, credit is to be allowed against any of the Irish taxes chargeable in respect of any income, the amount of the Irish taxes so chargeable shall be reduced by the amount of the credit.

(2) The credit to be allowed shall be first applied in reducing the amount of any corporation profits tax chargeable in respect of the income and, so far as it cannot be so applied, in reducing the income tax chargeable in respect thereof.

(3) Nothing in this paragraph authorises the allowance of credit against any Irish tax against which credit is not allowable under the Agreement.

REQUIREMENTS AS TO INCORPORATION AND RESIDENCE.

3. (1) Credit shall not be allowed against corporation profits tax unless the company in respect of whose income the corporation profits tax is chargeable is incorporated by or under the laws of the State.

(2) Credit shall not be allowed against income tax for any year of assessment unless the person in respect of whose income the tax is chargeable is resident in the State for that year.

LIMIT ON TOTAL CREDIT-CORPORATION PROFITS TAX.

4. The amount of the credit to be allowed against corporation profits tax for Canadian tax in respect of any income shall not exceed the corporation profits tax attributable to that income.

LIMIT ON TOTAL CREDIT-INCOME TAX.

5. (1) The amount of the credit to be allowed against income tax for Canadian tax in respect of any income shall not exceed the sum which would be produced by computing the amount of that income in accordance with the Income Tax Acts (including this Act), and then charging it to income tax for the year of assessment for which the credit is to be allowed, but at the following rate, that is to say-

(a) in the case of a person whose income is chargeable to income tax but not to sur-tax, a rate ascertained by dividing the income tax payable by that person for that year by the amount of the total income of that person for that year;

(b) in the case of a person whose income is chargeable to sur-tax, the sum of the following rates-

(i) the rate which would have been the appropriate rate in his case if his income had been chargeable to income tax but not to sur-tax; and

(ii) the rate ascertained by dividing the sur-tax payable by him for that year by the

amount of his total income for that year:

Provided that where, under the Agreement, credit is not to be allowed against sur-tax for the year, the rate shall be calculated in all cases as in the case of persons whose incomes are chargeable to income tax but not to sur-tax, and where, under the Agreement, credit is not to be allowed except against sur-tax for the year, the rate shall be that ascertained by dividing the sur-tax payable by the person in question for the year by the amount of his total income for the year.

(2) For the purpose of determining the said rate, the tax payable by any person for any year shall be computed without regard to any relief in respect of life assurance premiums and without any reduction thereof for any credit allowed or to be allowed under the Agreement, but shall be deemed to be reduced by any tax which, otherwise than under Rule 20 of the General Rules, the person in question is entitled to charge against any other person, and the total income of any person shall be deemed to be reduced by the amount of any income the income tax upon which that person is entitled to charge as aforesaid.

(3) Where credit for Canadian tax falls to be allowed in respect of any income and any relief would, but for the provisions of this sub-paragraph, fall to be allowed in respect of that income under the provisions of section 3 of the Finance Act, 1941 (No. 14 of 1941), as amended by section 2 of the Finance Act, 1943 (No. 16 of 1943), the said relief shall not be allowed.

6. Without prejudice to the provisions of the last preceding paragraph, the total credit to be allowed to a person against income tax for any year of assessment shall not exceed the total income tax payable by the person in question for that year of assessment, less any tax which, otherwise than under Rule 20 of the General Rules, that person is entitled to charge against any other person.

EFFECT ON COMPUTATION OF INCOME OF ALLOWANCE OF CREDIT.

7. (1) Subject to the provisions of this paragraph, where credit for Canadian tax falls to be allowed against any of the Irish taxes in respect of any income, no deduction for Canadian tax (whether in respect of that or any other income) shall be made in computing the amount of that income for the purposes of corporation profits tax.

(2) Where the income includes a dividend and, under the Agreement, Canadian tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the amount of the income shall, for the purposes of corporation profits tax, be treated as increased by the amount of the Canadian tax not so chargeable which falls to be taken into account in computing the amount of the credit.

(3) Notwithstanding anything in the preceding provisions of this paragraph, where part of the Canadian tax in respect of the income (including any such tax which, under sub-paragraph (2) of this paragraph, falls to be treated as increasing the amount of the income) cannot be allowed as a credit against any of the Irish taxes, the amount of the income shall be treated for the purposes of corporation profits tax as reduced by that part of that Canadian tax.

8. (1) Where credit for Canadian tax falls to be allowed against any of the Irish taxes in respect of any income, the following provisions of this paragraph shall have effect as respects the computation, for the purposes of income tax, of the amount of that income.

(2) Where the income tax payable depends on the amount received in the State, the said amount shall be treated as increased by the amount of the credit allowable against income tax.

(3) Where the last preceding sub-paragraph does not apply-

(a) no deduction shall be made for Canadian tax (whether in respect of the same or any other income); and

(b) where the income includes a dividend and under the Agreement Canadian tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the amount of the income shall be treated as increased by the amount of the Canadian tax not so chargeable which falls to be taken into account in computing the amount of the credit; but

(c) notwithstanding anything in the preceding provisions of this sub-paragraph, where any part of the Canadian tax in respect of the income (including any such tax which, under clause (b) of this sub-paragraph, falls to be treated as increasing the amount of the income) either falls to be allowed as a credit against corporation profits tax, or cannot be allowed as a credit against any of the Irish taxes, the amount of the income shall be treated for the purposes of income tax as reduced by that part of that Canadian tax.

(4) In relation to the computation of the total income of a person for the purpose of determining the rate mentioned in paragraph 5 of this Part of this Schedule, the preceding provisions of this paragraph shall have effect subject to the following modifications-

(a) for the reference in sub-paragraph (2) to the amount of the credit allowable against income tax, there shall be substituted a reference to the amount of the Canadian tax in respect of the income (in the case of a dividend, Canadian tax not chargeable directly or by deduction in respect of the dividend being left out of account); and

(b) clauses (b) and (c) of sub-paragraph (3) shall not apply, and subject to those modifications shall have effect in relation to all income in the case of which credit falls to be allowed for Canadian tax.

SPECIAL PROVISIONS AS TO DIVIDENDS.

9. Where, in the case of any dividend, Canadian tax not chargeable directly or by deduction in respect of the dividend is, under the Agreement, to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the Canadian tax not so chargeable which is to be taken into account shall be that borne by the body corporate paying the dividend upon the relevant profits in so far as it is properly attributable to the proportion of the relevant profits which is represented by the dividend.

The relevant profits are-

(a) if the dividend is paid for a specified period, the profits of that period;

(b) if the dividend is not paid for a specified period, but is paid out of specified profits, those profits;

(c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable:

Provided that if, in a case falling under sub-paragraph (a) or sub-paragraph (c) of this paragraph, the total dividend exceeds the profits available for distribution of the period mentioned in the said sub-paragraph (a) or the said sub-paragraph (c), as the case may be, the relevant profits shall be the profits of that period plus so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of this paragraph) as is equal to the excess; and for the purposes of this proviso the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

10. Where-

(a) the Agreement provides, in relation to dividends of some classes, but not in relation to dividends of other classes, that Canadian tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividends; and

(b) a dividend is paid which is not of a class in relation to which the Agreement so provides,

then, if the dividend is paid to a company which controls, directly or indirectly, not less than one half of the voting power in the company paying the dividend, credit shall be allowed as if the dividend were a dividend of a class in relation to which the Agreement so provides.

MISCELLANEOUS.

11. Credit shall not be allowed under the Agreement against the Irish taxes chargeable in respect of any income of any person if the person in question elects that credit shall not be allowed in respect of that income.

12. Where, under the Agreement, relief may be given either in the State or in Canada in respect of any income and it appears that the assessment to income tax or to corporation profits tax made in respect of the income is not made in respect of the full amount thereof or is incorrect having regard to the credit, if any, which falls to be given under the Agreement, any such additional assessments may be made as are necessary to ensure that the total amount of the income is assessed and the proper credit, if any, is given in respect thereof, and where the income is entrusted to any person in the State for payment, any such additional assessment to income tax may be made on the recipient of the income under Case VI of Schedule D.

13. (1) Subject to the provisions of paragraph 14 of this Part of this Schedule, any claim for an allowance by way of credit for Canadian tax in respect of any income shall be made in writing to the inspector of taxes not later than six years from the end of the relevant year of assessment, and, if the inspector objects to any such claim, it shall be heard and determined by the Special Commissioners as if it were an appeal to them against an assessment to income tax and the provisions of the Income Tax Acts relating to the re-hearing of an appeal or the statement of a case for the opinion of the High Court on a point of law, shall, with the necessary modifications, apply accordingly.

(2) In this paragraph, the expression "the relevant year of assessment" means, in relation to credit for Canadian tax in respect of any income, the year of assessment for which that income falls to be charged to income tax or would fall so to be charged if any income tax were chargeable in respect thereof.

14. Where the amount of any credit given under the Agreement is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in the State or in Canada, nothing in the Income Tax Acts or in the enactments relating to corporation profits tax limiting the time for the making of assessments or claims for relief shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than six years from the time when all such assessments, adjustments and other determinations have been made, as are material in determining whether any, and if so what, credit falls to be given.

SCHEDULE 3

THIRD SCHEDULE

ENACTMENTS REPEALED.

Session and Chapter or	Short Title	Extent of Repeal
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Section and Chapter or Number and Year	Short title	Extent of Repeal
(1)	(2)	(3)
54 & 55 Vic., c. 39.	Stamp Act, 1891.	Sections 43, 45, 47 and 48.
No. 7 of 1935.	Finance (Miscellaneous Provisions) Act, 1935.	Section 5.
No. 25 of 1938.	Finance Act, 1938.	Section 23.