

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 18,882, 6 ta' Marzu, 2012

Taqsimha B

A.L. 82 tal-2012

ATT DWAR IT-TAXXA FUQ L-*INCOME*
(KAP. 123)

Ordni tal-2012 dwar Helsien minn Taxxa Doppja
(Taxxa fuq *Income*) (Renju tal-Bahrejn)

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 76 tal-Att dwar it-Taxxa fuq *Income*, il-Ministru tal-Finanzi, l-Ekonomija u Investiment għamel dan l-ordni li ġej:-

1. It-titolu ta' dan l-ordni hu l-Ordni tal-2012 dwar Helsien minn Taxxa Doppja (Taxxa fuq *Income*) (Renju tal-Bahrejn). Titolu.

2. Qieghed b'dan jiġi dikjarat:

Arrangamenti
jkollhom effett.

(a) illi l-arrangamenti speċifikati fil-Ftehim muri fl-iSkeda li tinsab ma' dan l-Ordni saru mal-Gvern tar-Renju tal-Bahrejn sabiex jagħtu helsien minn taxxa doppja dwar it-taxxa li ġejja imposta bil-liġijiet tar-Renju tal-Bahrejn:

- it-taxxa fuq *income* li tithallas kif hemm fid-Digriet Amiri Nru. 22/1979;

(b) illi huwa spedjenti li daww l-arrangamenti għandu jkollhom effett;

(ċ) illi l-Ftehim beda jseħħ fit-28 ta' Frar 2012.

B 664

SKEDA

(Artikolu 2)

FTEHIM

BEJN

IL-GVERN TA' MALTA

U

IL-GVERN TAR-RENJU TAL-BAHREJN

GĦALL-EVITAR TA' TAXXA DOPPJA

U

L-PREVENZJONI TA' EVAŻJONI FISKALI

DWAR TAXXI FUQ L-*INCOME*

Il-Gvern ta' Malta u l-Gvern tar-Renju tal-Bahrejn, billi jixtiequ jagħmlu Ftehim għall-evitar ta' taxxa doppja u l-prevenzjoni ta' evażjoni fiskali dwar taxxi fuq *l-income*, ftehm u kif ġej:

Artikolu 1

PERSUNI KOPERTI

Dan il-Ftehim għandu japplika għal persuni li jkunu residenti f'xi Stat Kontraenti wiehed jew fit-tnejn li huma.

Artikolu 2

TAXXI KOPERTI

1. Dan il-ftehim għandu japplika għat-taxxi fuq *l-income* imposti f'isem Stat Kontraenti jew is-sottodivizjonijiet politiċi jew awtoritajiet lokali tiegħu, irrispettivament mill-mod kif dawn jingabru.

2. Għandhom jitqiesu bħala taxxi fuq *l-income* it-taxxi kollha imposti fuq *l-income* totali, jew fuq elementi ta' *income*, inklużi taxxi fuq il-qligħ mit-trasferiment ta' proprjetà mobbli jew immobbli u taxxi fuq l-ammonti totali ta' pagi jew salarji mħallsa minn impriži.

3. It-taxxi eżistenti li għalihom japplika dan il-Ftehim huma partikolarment:

(a) f'Malta:

it-taxxa fuq *l-income* (hawnhekk iżjed 'il quddiem imsejha "it-taxxa ta' Malta"); u

(b) fil-Bahrejn:

it-taxxa fuq l-income li tithallas taht id-Digriet Amiri Nru. 22/1979) (hawnhekk iżjed 'il quddiem imsejha "it-taxxa tal-Bahrejn").

4. Il-Ftehim għandu japplika wkoll għal kull taxxa identika jew taxxi sostanzjalment simili li jiġu imposti wara d-data meta jiġi ffirmat dan il-Ftehim b'żjieda mat-taxxi eżistenti, jew minflokhom. L-awtoritajiet kompetenti tal-iStati Kontraenti għandhom jgħarrfu lil xulxin b'kull tibdil sinifikattiv, li jkun sar fil-liġijiet dwar it-taxxa rispettivi tagħhom.

Artikolu 3

TIFSIRIET ĠENERALI

1. Għall-għanijiet ta' dan il-Ftehim, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra:

(a) il-frazi "Malta" tfisser ir-Repubblika ta' Malta u, meta tiġi użata f'sens ġeografiku, tfisser il-Gżira ta' Malta, il-Gżira ta' Għawdex u l-gzejjer l-oħra tal-arċipelagu Malti inklużi l-ibħra territorjali tagħhom, kif ukoll kull area ta' qiegħ il-baħar, is-sottoswol tiegħu u l-kolonna ta' baħar sovrajaċenti li tinsab adjaċenti mal-ibħra territorjali, li fihom Malta teżerċita drittijiet sovrani, ġurisdizzjoni, jew kontroll kif hemm fid-dritt internazzjonali u d-dritt nazzjonali tagħha, inkluża l-leġislazzjoni tagħha għar-rigward tal-esplorazzjoni tal-blata kontinentali u l-esplortazzjoni tar-rizorsi naturali tagħha;

(b) il-frazi "Bahrejn" tfisser it-territorji tar-Renju tal-Bahrejn kif ukoll iż-żoni marittimi, qiegħ il-baħar u s-sottoswol li fuqhom il-Bahrejn teżerċita, kif hemm fid-dritt internazzjonali, id-drittijiet sovrani u l-ġurisdizzjoni tagħha;

(ċ) il-frazzjiet "Stat Kontraenti" u "l-iStat Kontraenti l-ieħor" ifissru l-Bahrejn jew Malta, kif tkun ir-rabta tal-kliem;

(d) il-frazi "persuna" tinkludi individwu, kumpannija, skema ta' investiment kollettiv u kull korp ta' persuni ieħor;

(e) il-frazi "kumpannija" tfisser kull korp magħqud jew kull entità li tkun ittrattata bħala korp magħqud għall-iskopijiet ta' taxxa jew kull entità oħra li tkun kostitwita jew rikonoxxuta taht il-liġijiet ta' xi Stat Kontraenti wieħed jew l-ieħor bħala korp magħqud;

(f) il-frazzjiet "impriża ta' Stat Kontraenti" u "impriża tal-iStat Kontraenti l-ieħor" ifissru rispettivament impriża ġestita minn residenti ta' Stat Kontraenti u impriża ġestita minn residenti tal-iStat Kontraenti l-ieħor;

(g) il-frazi "traffiku internazzjonali" tfisser kull trasport b'bastiment

B 666

jew b'ingenji tal-ajru mhaddma minn impriza ta' Stat Kontraenti, hlief meta l-bastiment jew l-ingenji tal-ajru jigu unikament imhaddma bejn postijiet fl-Istat Kontraenti l-iehor;

(h) il-frazi "negozju" tinkludi t-twettiq ta' servizzi professjonali u ta' attivitajiet ohra ta' xorta indipendenti;

(i) il-frazi "awtorità kompetenti" tfisser:

(i) f'Malta, il-Ministru responsabbli għall-finanzi jew ir-rappreżentant awtorizzat tiegħu; u

(ii) fil-Bahrejn, il-Ministru tal-Finanzi jew ir-rappreżentant awtorizzat tiegħu;

(j) il-frazi "ċittadin", dwar Stat Kontraenti, tfisser:

(i) kull individwu li jkollu ċ-ċittadinanza ta' dak l-Istat Kontraenti;

(ii) kull persuna ġuridika, soċjetà jew assoċjazzjoni li jiksbu l-istatus tagħhom bhala tali mil-liġijiet li jkunu fis-seħh f'dak l-Istat Kontraenti.

2. Għar-rigward tal-applikazzjoni tal-Ftehim f'kull waqt minn Stat Kontraenti, kull frazi li ma tkunx imfissra fih għandu jkollha, kemm-il darba r-rabta tal-kliem ma tkunx tehtieg xort'ohra, it-tifsir kif mogħti lilha f'dak il-waqt taħt il-liġi ta' dak l-Istat għall-finijiet tat-taxxi li l-Ftehim ikun japplika għalihom, hekk li kull tifsira taħt il-liġijiet tat-taxxa ta' dak l-Istat li jkunu japplikaw ikunu jipprevalu fuq tifsira mogħtija lill-frazi taħt liġijiet ohra ta' dak l-Istat.

Artikolu 4

RESIDENTI

1. Għall-finijiet ta' dan il-Ftehim, il-frazi "residenti ta' Stat Kontraenti" tfisser:

(a) fil-każ ta' Malta, kull persuna li, taħt il-liġijiet ta' Malta, tkun soġġetta għat-taxxa hemmhekk minhabba fid-domicilju, ir-residenza, il-post tal-inkorporazzjoni, il-post tal-manigg jew kull kriterju ieħor ta' xorta bħal dawk, u tinkludi wkoll lil dak l-Istat, u kull sottodivizjoni politika jew awtorità lokali tagħha;

(b) fil-każ tal-Bahrejn,

(i) individwu li jkun ċittadin tal-Bahrejn u li jkun preżenti fil-Bahrejn għal perjodu jew perjodi li b'kollox igibu mill-inqas 183

gurnata fis-sena fiskali involuta, u

(ii) kull persuna oħra li, taħt il-ligijiet tal-Bahrejn, tkun soġġetta għat-taxxa hemmhekk minhabba fid-domicilju, ir-residenza, il-post tal-inkorporazzjoni, il-post tal-manigġ jew kull kriterju iehor ta' xorta bħal dawk.

Din il-frazi, madankollu, ma tinkludix lil xi persuna li tkun soġġetta għat-taxxa f'dak l-iStat biss dwar *income* minn għejjun f'dak l-iStat.

2. Meta minhabba d-dispożizzjonijiet tal-paragrafu 1 individwu jkun residenti taż-żewġ Stati Kontraenti, allura l-istatus tiegħu għandu jiġi stabbilit kif ġej:

(a) huwa għandu jitqies li jkun residenti tal-iStat li fih ikollu dar permanenti disponibbli għalih; jekk huwa jkollu dar permanenti disponibbli għalih fiż-żewġ Stati, huwa għandu jitqies li jkun residenti biss tal-iStat li miegħu r-relazzjonijiet personali u ekonomiċi tiegħu jkunu l-aktar marbuta (ċentru ta' interessi vitali);

(b) jekk l-iStat li fih huwa jkollu ċ-ċentru ta' interessi vitali ma jistax jiġi stabbilit, jew jekk huwa ma jkollux disponibbli għalih dar permanenti f'ebda Stat minnhom, huwa għandu jitqies li jkun residenti biss tal-iStat li huwa jkun ċittadin tiegħu;

(ċ) jekk huwa soltu jirrisjedi fiż-żewġ Stati jew f'ebda wieħed minnhom, huwa għandu jitqies li jkun residenti biss tal-iStat li tiegħu jkun ċittadin;

(d) jekk huwa jkun ċittadin taż-żewġ Stati jew tal-ebda wieħed minnhom, l-awtoritajiet kompetenti tal-iStati Kontraenti għandhom jiddeċiedu l-każ bi ftehim reċiproku bejnithom.

3. Meta minhabba d-dispożizzjonijiet tal-paragrafu 1 persuna li ma tkunx individwu tkun residenti taż-żewġ Stati Kontraenti li huma, din għandha għaldaqstant titqies bħala residenti biss tal-iStat fejn ikun sitwat il-post effettiv tal-manigġ tagħha.

Artikolu 5

STABILIMENT PERMANENTI

1. Għall-finijiet ta' dan il-Ftehim, il-frazi "stabiliment permanenti" tfisser post tan-negozju fiss li minnu jitmexxa għalkollox jew f'parti minnu n-negozju ta' impriża.

2. Il-frazi "stabiliment permanenti" tinkludi b'mod speċjali:

B 668

- (a) post ta' manigġ;
- (b) fergħa;
- (ċ) ufficċju;
- (d) fabbrika;
- (e) ħanut tax-xogħol;
- (f) minjiera, bir taż-żejt jew tal-gass, barriera jew kull post ieħor ta' estrazzjoni ta' riżorsi naturali inkluż sit ta' *offshore drilling*;
- (g) raffinerija;
- (h) fond użat biex isir il-bejgħ minnu; u
- (i) maħżen li jkollu x'jaqsam ma' persuna li tkun qed tipprovdi faċilitajiet ta' ħżin ta' idrokarburi għal oħrajn.

3. Sit ta' bini jew kostruzzjoni jew proġett ta' stallazzjoni jikkostitwixxi stabbiliment permanenti biss jekk dan idum għal iżjed minn tnax-il xahar.

4. Impriza totqies li jkollha stabbiliment permanenti fi Stat Kontraenti u li tkun qegħda tmexxi negozju permezz ta' dak l-istabbiliment permanenti jekk f'dak l-iStat hija tkun tmexxi xi attività li tkun direttament konnessa mal-esplorazzjoni għal, jew il-produzzjoni ta', żejt mhux raffinat jew idrokarburi naturali oħra mill-art f'dak l-iStat jew għaliha nnifisha jew fir-raffinar ta' żejt mhux raffinat li jkun jappartjeni lilha jew lil oħrajn, ikun fejn ikun prodott, fil-faċilitajiet tagħha f'dak l-iStat.

5. Minkejja d-dispożizzjonijiet ta' qabel ta' dan l-Artikolu, il-frazi "stabbiliment permanenti" għandha titqies li ma tinkludix:

- (a) l-użu ta' faċilitajiet unikament għall-iskop ta' ħżin, wiri jew kunsinna ta' oġġetti jew merkanzija li jkunu proprjetà tal-impriza;
- (b) iż-żamma ta' ħażna ta' oġġetti jew merkanzija li jappartjenu lill-impriza għall-iskop uniku ta' ħżin, wiri jew kunsinna;
- (ċ) iż-żamma ta' ħażna ta' oġġetti jew merkanzija li jappartjenu lill-impriza unikament għall-iskop ta' ipproċessar minn impriza oħra;
- (d) iż-żamma ta' post fiss ta' negozju unikament għall-iskop ta' xiri ta' oġġetti jew merkanzija, jew ta' ġbir ta' tagħrif għall-impriza;
- (e) iż-żamma ta' post fiss ta' negozju unikament għall-iskop li tiġi ġestita, għall-impriza, xi attività oħra ta' xorta preparatorja jew awżiljarja;

(f) iż-żamma ta' post fiss ta' negozju għall-iskop uniku ta' xi kombinazzjoni tal-attivitajiet imsemmija fis-subparagrafi (a) sa (e), kemm-il darba l-attività kollha tal-post tan-negozju fiss li tirriżulta minn din il-kombinazzjoni tkun waħda ta' xorta preparatorja jew awżiljari.

6. Minkejja d-dispożizzjonijiet tal-paragrafi 1 u 2, meta persuna - li ma tkunx aġent bi status indipendenti li għalih japplika l-paragrafu 6 - tkun qegħda taġixxi f'isem impriża u jkollha, u tkun soltu teżerċita, fi Stat Kontraenti awtorità biex tagħmel kuntratti f'isem l-impriża, dik l-impriża għandha titqies li jkollha stabbiliment permanenti f'dak l-iStat għar-rigward ta' kull attività li dik il-persuna tagħmel għall-impriża, kemm-il darba l-attivitajiet ta' dik il-persuna ma jkunux limitati għal dawk imsemmija fil-paragrafu 5 li, jekk dawn jiġu eżerċitati minn go post tan-negozju fiss, ma jirrendux lil dan il-post tan-negozju fiss bħala stabbiliment permanenti taht id-dispożizzjonijiet ta' dak il-paragrafu.

7. Impriża m'għandhiex titqies li jkollha stabbiliment permanenti fi Stat Kontraenti unikament għaliex tkun tiġġestixxi negozju f'dak l-iStat permezz ta' sensal, aġent b'kummissjoni ġenerali jew kull aġent ieħor li jkollu status indipendenti, sakemm dawk il-persuni jkunu qegħdin jaġixxu fil-kors ordinarju tan-negozju tagħhom.

8. Il-fatt li kumpannija li tkun residenti ta' Stat Kontraenti tkun tikkontrolla jew tkun kontrollata minn kumpannija li tkun residenti tal-iStat Kontraenti l-ieħor, jew li tkun tiġġestixxi negozju f'dak l-iStat l-ieħor (sew permezz ta' stabbiliment permanenti sew xort'oħra), m'għandux fih innifsu jikkostitwixxi lil xi kumpannija waħda jew l-oħra stabbiliment permanenti tal-kumpannija l-oħra.

Artikolu 6

INCOME MINN PROPRJETÀ IMMOBBLI

1. *Income* li jinkiseb minn residenti ta' Stat Kontraenti minn proprjetà immobbli (inkluż *income* mill-agrikoltura) li jkunu sitwati fl-iStat Kontraenti l-ieħor jista' jiġi intaxxat f'dak l-iStat l-ieħor.

2. Il-frazi "proprjetà immobbli" ikollha t-tifsira li għandha taht il-liġi tal-iStat Kontraenti li fih tkun tinsab il-proprjetà involuta. Il-frazi għandha f'kull każ tinkludi proprjetà aċċessorja għal proprjetà immobbli, bhejjem f'razzett u tagħmir li jintuza fl-agrikoltura, drittijiet li għalihom japplikaw id-dispożizzjonijiet tal-liġi ġenerali dwar il-proprjetà tal-art, l-użufrutt tal-proprjetà immobbli u drittijiet dwar hlasijiet varjabbli jew fissi bħala korrispettiv għal hidma fi, jew id-dritt li jinhadmu, depożiti minerali, għejjun u rizorsi naturali oħra; il-bastimenti, biċċiet tal-baħar u inġenji tal-ajru m'għandhomx jitqiesu bħala proprjetà immobbli.

3. Id-dispożizzjonijiet tal-paragrafu 1 għandhom ikunu japplikaw għal *income* li jinkiseb mill-użu dirett, il-kiri, jew l-użu ta' kull xort'oħra ta' proprjetà

B 670

immobbli.

4. Id-dispożizzjonijiet tal-paragrafi 1 u 3 għandhom japplikaw ukoll għall-*income* minn proprjetà immobbli ta' impriża.

Artikolu 7

PROFITTI MINN NEGOZJU

1. Il-profitti ta' impriża ta' Stat Kontraenti għandhom jiġu intaxxati biss f'dak l-iStat kemm-il darba l-impriża ma tmexxi negozju fl-iStat Kontraenti l-ieħor permezz ta' stabbiliment permanenti li jkun sitwati hemmhekk. Jekk l-impriża tkun qegħda tmexxi negozju kif hawn qabel imsemmi, il-profitti tal-impriża jistgħu jiġu intaxxati fl-iStat l-ieħor iżda biss għal dik il-parti minnhom daqskemm tkun attribwibbli għal dak l-istabbiliment permanenti.

2. Bla ħsara għad-dispożizzjonijiet tal-paragrafu 3, meta impriża ta' Stat Kontraenti tkun qegħda tmexxi negozju fl-iStat Kontraenti l-ieħor permezz ta' stabbiliment permanenti li jkun qiegħed hemmhekk, għandhom f'kull Stat Kontraenti jiġu attribwiti lil dak l-istabbiliment permanenti l-profitti li dan kien ikun mistenni jagħmel li kieku kien impriża distinta u separata li taħdem fl-istess attivitajiet jew oħrajn bħalhom taħt l-istess kundizzjonijiet jew oħrajn bħalhom u li tittratta b'mod għalkollox indipendenti mal-impriża li tagħha tkun stabbiliment permanenti.

3. Sabiex jiġu stabbiliti l-profitti ta' stabbiliment permanenti, għandhom ikunu permessi bħala tnaqqis dawk l-ispejjeż li jsiru għall-għanijiet tal-istabbiliment permanenti, inklużi l-ispejjeż eżekuttivi u amministrattivi generali li jkunu saru, sew fl-iStat Kontraenti li fih ikun sitwat l-istabbiliment permanenti sew band'oħra.

4. Sakemm tkun il-konswetudni fi Stat Kontraenti li jiġu stabbiliti l-profitti li għandhom jiġu attribwiti lil stabbiliment permanenti abbażi ta' tqassim tal-profitti totali tal-impriża lill-partijiet diversi tagħha, ebda haġa fil-paragrafu 2 m'għandha tipprekludi lil dak l-iStat Kontraenti milli jstabbilixxi l-profitti li għandhom jiġu intaxxati b'dak it-tqassim hekk kif jista' jkun konswetudinarju; il-metodu ta' kunsinna li jiġi adottat għandu, madankollu, ikun tali li r-riżultat ikun kif hawn fil-prinċipji li jinsabu f'dan l-Artikolu.

5. Ebda profitti m'għandhom jiġu attribwiti lil stabbiliment permanenti minħabba biss f'li jsir ix-xiri minn dak l-istabbiliment permanenti ta' oġġetti jew merkanzija għall-impriża.

6. Għall-finijiet tal-paragrafi preċedenti, il-profitti li għandhom jiġu attribwiti lill-istabbiliment permanenti għandhom jiġu stabbiliti bl-istess metodu sena wara l-oħra kemm-il darba ma jkunx hemm raġuni tajba u suffiċjenti biex dan ma jsirx.

7. Meta l-profitti jkunu jinkludu oġġetti ta' *income* li jkunu qegħdin jiġu ittrattati separatament f'Artikoli oħra ta' dan il-Ftehim, għaldaqshekk id-dispożizzjonijiet ta' dawk l-Artikoli m'għandhomx jiġu affettwati bid-dispożizzjonijiet ta' dan l-Artikolu.

Artikolu 8

TBAĦHIR U TRASPORT BL-AJRU

1. Il-profitti ta' impriża ta' Stat Kontraenti mit-tħaddim ta' bastimenti jew inġenji tal-ajru fi traffiku internazzjonali għandhom jiġu intaxxati biss f'dak l-iStat.

2. Għall-finijiet ta' dan l-Artikolu, profitti li jinkisbu mit-tħaddim ta' bastimenti jew inġenji tal-ajru fi traffiku internazzjonali jinkludu lil dawk il-profitti li jinkisbu mill-kiri ta' bastimenti jew inġenji tal-ajru jekk dawk il-bastimenti jew inġenji tal-ajru jkunu mhaddma fi traffiku internazzjonali jew jekk dawk il-profitti ġejjin mill-kera jkunu incidentali għal profitti oħra deskritti fil-paragrafu 1.

3. Id-dispożizzjonijiet tal-paragrafu 1 għandhom japplikaw ukoll għal profitti li jinkisbu mill-parteeipazzjoni f'*pool*, negozju bi sħab jew aġenzija b'operat internazzjonali.

Artikolu 9

IMPRIŻI ASSOĊJATI

1. Meta

(a) impriża ta' Stat Kontraenti tipparteċipa direttament jew indirettament fit-tmexxija, kontroll jew kapital ta' impriża tal-iStat Kontraenti l-ieħor, jew

(b) l-istess persuni jipparteċipaw direttament jew indirettament fit-tmexxija, kontroll jew kapital ta' impriża ta' Stat Kontraenti u ta' impriża tal-iStat Kontraenti l-ieħor,

u f'każ wieħed jew l-ieħor isiru jew jiġu imposti kondizzjonijiet bejn iż-żewġ impriži fir-relazzjonijiet ta' negozju jew finanzjarji tagħhom li ma jkunux jaqblu ma' dawk li kieku kienu jsiru bejn impriži indipendenti, f'dak il-każ profitti li, kieku ma kienux dawk il-kondizzjonijiet, kienu jakkumulaw favur xi waħda mill-impriži, iżda, minħabba f'dawk il-kondizzjonijiet, ma jkunux hekk akkumulaw, jistgħu jiġu inklużi fil-profitti ta' dik l-impriża u intaxxati b'dan il-mod.

2. Meta Stat Kontraenti jinkludi fil-profitti ta' impriża ta' dak l-iStat - u hekk jintaxxa - profitti li fuqhom impriża tal-iStat Kontraenti l-ieħor tkun ġiet intaxxata f'dak l-iStat l-ieħor u l-profitti hekk inklużi jkunu profitti li kienu

B 672

jinqalghu mill-impriza tal-iStat l-ewwel imsemmi jekk il-kondizzjonijiet magħmulin bejn iż-żewġ imprizi kienu dawk li kieku kienu jsiru bejn żewġ imprizi indipendenti, għaldaqshekk dak l-iStat l-ieħor għandu jagħmel it-tibdil li jmiss fl-ammont tat-taxxa imposta fih fuq dawk il-profitti. Biex jiġi stabbilit dak it-tibdil, għandhom jitqiesu kif dovut id-dispożizzjonijiet l-oħra ta' dan il-Ftehim u l-awtoritajiet kompetenti tal-iStati Kontraenti għandhom jekk ikun meħtieġ jikkonsultaw lil xulxin.

Artikolu 10

DIVIDENDI

1. Dividendi mħallsa minn kumpannija li tkun residenti ta' Stat Kontraenti lil residenti tal-iStat Kontraenti l-ieħor tista' tiġi intaxxata biss f'dak l-iStat l-ieħor sakemm dak ir-residenti jkun is-sid benefiċjarju tad-dividendi. Dan il-paragrafu ma jaffettwax l-intaxxar tal-kumpannija għar-rigward tal-profitti li minnhom jithallsu d-dividendi.

2. Il-frazi "dividendi" kif tintuża f'dan l-Artikolu tfisser *income* minn ishma, ishma ta' "jouissance" jew jeddijiet ta' "jouissance", ishma fil-minjieri, ishma tal-fundaturi jew minn drittijiet oħra, li ma jkunux pretensjonijiet ta' debitu, il-parteciġipazzjoni fi profitti, kif ukoll *income* minn drittijiet korporattivi oħra li jingħata l-istess trattament fl-intaxxar bħallikieku kien *income* minn ishma kif hemm fil-ligijiet tal-iStat li l-kumpannija li tkun qegħda tagħmel it-tqassim tkun residenti fih.

3. Id-dispożizzjonijiet tal-paragrafi 1 u 2 m'għandhomx japplikaw jekk is-sid benefiċjarju tad-dividendi, li jkun residenti ta' Stat Kontraenti, imexxi negozju fl-iStat Kontraenti l-ieħor li l-kumpannija li thallas id-dividendi tkun residenti fih, permezz ta' stabbiliment permanenti li jkun sitwat hemmhekk u l-*holding* li dwarhom ikunu mħallsa id-dividendi jkollu effettivament x'jaqsam ma' dak l-istabbiliment permanenti. F'dak il-każ għandhom japplikaw id-dispożizzjonijiet tal-Artikolu 7.

4. Meta kumpannija li tkun residenti ta' Stat Kontraenti tikseb profitti jew *income* mill-iStat Kontraenti l-ieħor, dak l-iStat l-ieħor ma jista' jimponi ebda taxxa fuq id-dividendi mħallsa mill-kumpannija, hlief daqskemm dawk id-dividendi jithallsu lil residenti ta' dak l-iStat l-ieħor jew daqskemm il-*holding* li dwaru jithallsu d-dividendi jkun effettivament konness ma' stabbiliment permanenti sitwat f'dak l-iStat l-ieħor, lanqas jassoggetta l-profitti mhux imqassma tal-kumpannija għal taxxa fuq il-profitti mhux imqassma tal-kumpannija, ukoll jekk id-dividendi mħallsa jew il-profitti mhux imqassma jkunu kollha kemm huma jew f'parti minnhom jikkonsistu fi profitti jew *income* li jinqalghu f'dak l-iStat l-ieħor.

Artikolu 11

INCOME MINN PRETENSJONIJIET TA' DEBITU

1. *Income* minn pretensjonijiet ta' debitu li jinqala' fi Stat Kontraenti u jithallas lil residenti tal-iStat Kontraenti l-ieħor jista' jiġi intaxxat biss f'dak Istat l-ieħor.

2. Il-frażijiet "*income* minn pretensjonijiet ta' debitu" jew "*income*" kif tintuża f'dan l-Artikolu tfisser *income* minn pretensjonijiet ta' debitu ta' kull xorta, sew jekk assigurati b'ipoteca sew jekk le u kemm jekk ikollhom dritt li jipparteċipaw fil-profitti tad-debitur kemm jekk le, u b'mod partikolari, *income* minn titoli tal-gvern u *income* minn *bonds* jew obligazzjonijiet, inklużi *premiums* u premjijiet relatati ma dawk it-titoli, *bonds* jew obligazzjonijiet. Il-ħlasijiet ta' penali għal ħlas tardiv m'għandhomx jitqiesu bħala *income* minn pretensjoni ta' debitu għall-finijiet ta' dan l-Artikolu.

3. Id-dispożizzjonijiet tal-paragrafu 1 m'għandhomx ikunu japplikaw jekk is-sid benefiċjarju tal-*income*, li jkun residenti ta' Stat Kontraenti, ikun qed imexxi negozju fl-iStat Kontraenti l-ieħor li fih jinqala l-imgħax, permezz ta' stabbiliment permanenti li jkun sitwat hemmhekk, u l-pretensjoni ta' debitu li dwarha jithallas l-imgħax tkun effettivament konnessa ma' dak l-istabbiliment permanenti. F'dak il-każ, għandhom japplikaw id-dispożizzjonijiet tal-Artikolu 7.

4. Meta, minħabba f'relazżjoni speċjali bejn min iħallas u s-sid benefiċjarju jew bejn it-tnejn li huma u xi persuna oħra, l-ammont tal-*income*, wara li titqies xi tkun il-pretensjoni ta' debitu li dwarha jithallas, ikun iżjed mill-ammont li kien ikun miftiehem bejn min iħallas u s-sid benefiċjarju fin-nuqqas ta' dik ir-relażżjoni, id-dispożizzjonijiet ta' dan l-Artikolu għandhom ikunu japplikaw biss għall-ammont l-aħhar imsemmi. F'dak il-każ, il-parti żejda tal-ħlasijiet għandha tibqa' tiġi intaxxata kif ikun hemm fil-liġijiet ta' kull Stat Kontraenti, fil-qjies tad-dispożizzjonijiet l-oħra ta' dan il-Ftehim.

Artikolu 12

ROYALTIES

1. *Royalties* li jinqalgħu fi Stat Kontraenti u li s-sid benefiċjarju tagħhom ikun residenti tal-iStat Kontraenti l-ieħor jistgħu jiġu intaxxati biss f'dak Istat l-ieħor.

2. Il-frażi "*royalties*" kif tintuża f'dan l-Artikolu tfisser ħlasijiet ta' kull xorta li jinqalgħu bħala korrispettiv għall-użu ta', jew għall-jedd tal-użu, ta' xi dritt tal-awtur ta' xogħol letterarju, artistiku jew xjentifiku inklużi *films* ċinematografiċi, kull *privattiva*, *trade mark*, disinn jew mudell, pjan, formula jew proċessi sigrieti, jew għal informazzjoni dwar konoxxenza industrijali, kummerċjali jew xjentifika.

B 674

3. Id-dispożizzjonijiet tal-paragrafu 1 m'għandhomx japplikaw jekk is-sid benefiċjarju tar-*royalties*, li jkun residenti ta' Stat Kontraenti, ikun qed imexxi negozju fl-iStat Kontraenti l-iehor li fih jinqalgħu ir-*royalties*, permezz ta' stabbiliment permanenti sitwat hemmhekk u d-dritt jew il-proprjetà li dwarhom jithallsu r-*royalties* ikunu effettivament konnessi ma' dak l-istabbiliment permanenti. F'dak il-każ, għandhom japplikaw id-dispożizzjonijiet tal-Artikolu 7.

4. Meta, minhabba r-relazzjoni speċjali bejn min iħallas u s-sid benefiċjarju jew bejnithom it-tnejn u xi persuna oħra, l-ammont tar-*royalties*, fil-qjies ta' x'ikun l-użu, id-dritt jew l-informazzjoni li jithallsu għalihom, ikun iżjed mill-ammont li kien ikun miftiehem bejn min iħallas u s-sid benefiċjarju fin-nuqqas ta' dik ir-relazzjoni, id-dispożizzjonijiet ta' dan l-Artikolu għandhom japplikaw biss għall-ammont l-aħħar imsemmi. F'dak il-każ, il-parti żejda tal-ħlasijiet għandha tibqa' tiġi intaxxata kif ikun hemm fil-liġijiet ta' kull Stat Kontraenti, wara li jitqiesu d-dispożizzjonijiet l-oħra ta' dan il-Ftehim.

Artikolu 13

QLIGH MINN TRASFERIMENT TA' PROPRJETÀ

1. Qligh li jinkiseb minn residenti ta' Stat Kontraenti mit-trasferiment ta' proprjetà immobbli imsemmija fl-Artikolu 6 u sitwata fl-iStat Kontraenti l-iehor jista' jiġi intaxxat f'dak l-iStat l-iehor.

2. Qligh mit-trasferiment ta' proprjetà mobbli li tagħmel parti mill-proprjetà tan-negozju ta' stabbiliment permanenti li impriza ta' Stat Kontraenti jkollha fl-iStat Kontraenti l-iehor inkluż dak il-qligh mit-trasferiment ta' dak l-istabbiliment permanenti (waħdu jew flimkien mal-impriza kollha) jista' jiġi intaxxat f'dak Istat l-iehor.

3. Qligh li jinkiseb minn impriza ta' Stat Kontraenti mit-trasferiment ta' bastimenti jew inġenji tal-ajru mhaddma fi traffiku internazzjonali, jew minn proprjetà mobbli li tappartjeni għat-tħaddim ta' dawk il-bastimenti jew inġenji tal-ajru, għandhom jiġu intaxxati biss f'dak l-iStat.

4. Qligh li jinkiseb minn residenti ta' Stat Kontraenti mit-trasferiment ta' ishma li jiksbu iżjed minn 50 fil-mija tal-valur tagħhom direttament jew indirettament minn proprjetà immobbli li tkun sitwata fl-iStat Kontraenti l-iehor jista' jiġi intaxxat f'dak l-Istat l-iehor.

5. Qligh mit-trasferiment ta' xi proprjetà, li ma tkunx dik imsemmija fil-paragrafi 1, 2, 3 u 4, għandu jiġi intaxxat biss fl-iStat Kontraenti li min jittrasferixxi jkun residenti fih.

Artikolu 14

INCOME MINN IMPJIEG

1. Bla ħsara għad-dispożizzjonijiet tal-Artikoli 15, 17 u 18, is-salarji, pagi u kull kumpens ieħor bħal dawk li jinkisbu minn residenti ta' Stat Kontraenti dwar xi impjieg għandhom jiġu intaxxati biss f'dak l-iStat kemm-il darba l-impjieg ma jiġix eżerċitat fl-iStat Kontraenti l-ieħor. Jekk l-impjieg jiġi hekk eżerċitat, dak il-kumpens li jinkiseb minnu jista' jiġi intaxxat f'dak l-iStat l-ieħor.

2. Minkejja d-dispożizzjonijiet tal-paragrafu 1, kumpens li jinkiseb minn residenti ta' Stat Kontraenti dwar impjieg eżerċitat fl-iStat Kontraenti l-ieħor għandu jiġi intaxxat biss fl-iStat l-ewwel imsemmi jekk:

(a) min jirċevih ikun preżenti fl-iStat l-ieħor għal perjodu jew perjodi li ma jeċċedux it-total ta' 183 ġurnata f'perjodu ta' tnaħ-il xahar li jibda għaddej jew itemm fis-sena ta' taxxa involuta; u

(b) il-kumpens jithallas minn, jew f'isem, prinċipal li ma jkunx residenti tal-iStat l-ieħor; u

(ċ) il-kumpens ma jkunx piż fuq l-istabbiliment permanenti li l-prinċipal ikollu fl-iStat l-ieħor.

3. Minkejja d-dispożizzjonijiet ta' qabel ta' dan l-Artikolu, il-kumpens li jinkiseb dwar impjieg eżerċitat abbord bastiment jew inġenji tal-ajru mhaddma fi traffiku internazzjonali minn impriża ta' Stat Kontraenti jista' jiġi intaxxat f'dak l-iStat.

Artikolu 15

DRITTIJET TAD-DIRETTURI

Id-drittijiet tad-diretturi u ħlasijiet simili oħra li jinkisbu minn residenti ta' Stat Kontraenti fil-kwalità tiegħu ta' membru tal-bord tad-diretturi ta' kumpannija li tkun residenti tal-iStat Kontraenti l-ieħor jistgħu jiġu intaxxati f'dak l-iStat l-ieħor.

Artikolu 16

ARTISTI U SPORTIVI

1. Minkejja d-dispożizzjonijiet tal-Artikoli 7 u 14, *income* li jinkiseb minn residenti ta' Stat Kontraenti bħala persuna li tagħti spettaklu, bħal artisti tat-teatru, tal-*films* ċinematografiċi, tar-radju jew tat-televiżjoni, jew bħala muziċista, jew bħala sportiv, mill-attivitatijiet personali tiegħu li jiġu bħala tali eżerċitati fl-iStat Kontraenti l-ieħor, jistgħu jiġu intaxxati f'dak l-iStat l-ieħor.

B 676

2. Meta *income* dwar attivitajiet personali eżerċitati minn persuna li tagħti spettaklu jew sportiv fil-kwalità tiegħu bhala tali jingabar mhux favur il-persuna li tagħti spettaklu jew l-isportiv innifsu iżda favur xi persuna oħra, dak l-*income* jista', minkejja d-dispożizzjonijiet tal-Artikoli 7 u 14, jiġi intaxxat fl-iStat Kontraenti fejn jiġu eżerċitati l-attivitajiet tal-persuna li tagħti spettaklu jew tal-isportiv.

Artikolu 17

PENSJONIJIET

Bla ħsara għad-dispożizzjonijiet tal-paragrafu 2 tal-Artikolu 18, pensjonijiet u kumpens ieħor simili li jiġihallu lil residenti ta' Stat Kontraenti minħabba f'xi impjeg li kellhom għandhom jiġu intaxxati biss f'dak l-iStat.

Artikolu 18

SERVIZZ MAL-GVERN

1. (a) Salarji, pagi u kull kumpens ieħor simili mhallsa minn Stat Kontraenti jew minn sottodivizjoni politika jew minn awtorità lokali tiegħu lil xi individwu għar-rigward ta' servizzi mogħtijin lil dak l-iStat jew sottodivizjoni jew awtorità għandhom jiġu intaxxati biss f'dak l-iStat.

(b) Madankollu, kull salarju, paga u kumpens ieħor simili bħal dawk għandhom jiġu intaxxati biss fl-iStat Kontraenti l-ieħor jekk is-servizzi jingħataw f'dak l-iStat u l-individwu jkun residenti f'dak l-iStat u:

(i) ikun ċittadin ta' dak l-iStat; jew

(ii) ma jkunx sar residenti ta' dak l-iStat unikament bil-għan li jaqdi dawk is-servizzi.

2. (a) Minkejja d-dispożizzjonijiet tal-paragrafu 1, kull pensjoni u kumpens ieħor simili mhallsa minn, jew li tohroġ minn fond maħluqa minn, Stat Kontraenti jew sottodivizjoni politika jew awtorità lokali tiegħu lil xi individwu dwar servizzi mogħtijin lil dak l-iStat jew sottodivizjoni jew awtorità għandhom jiġu intaxxati biss f'dak l-iStat.

(b) Madankollu, dawk il-pensjonijiet u kull kumpens ieħor simili għandhom jiġu intaxxati biss fl-iStat Kontraenti l-ieħor jekk l-individwu jkun residenti ta', u ċittadin ta', dak l-iStat.

3. Id-dispożizzjonijiet tal-Artikoli 14, 15, 16 u 17 għandhom japplikaw għal salarji, pagi, pensjonijiet u kull kumpens ieħor simili dwar servizzi mogħtijin f'dak li għandu x'jaqsam ma' negozju li jitmexxa minn Stat Kontraenti jew sottodivizjoni politika jew awtorità lokali tiegħu.

Artikolu 19

STUDENTI

Kull hłas li student jew apprendist fil-kummerç li jkun jew kien minnufih qabel ma jżur Stat Kontraenti residenti tal-Istat Kontraenti l-ieħor u li jkun preżenti fl-ewwel imsemmi Stat unikament bil-għan tal-edukazzjoni jew it-taħriġ tiegħu jirċievi għall-fini tal-manteniment, l-edukazzjoni jew it-taħriġ tiegħu m'għandux jiġi intaxxat f'dak l-Istat, sakemm dawk il-hłasijiet joriginaw minn għejjun li ma jkunux f'dak l-Istat.

Artikolu 20

INCOME IEHOR

1. Elementi ta' *income* ta' residenti ta' Stat Kontraenti, jinqalgħu minn fejn jinqalgħu, li ma jkunux ittrattati fl-Artikoli ta' hawn aktar qabel ta' dan il-Ftehim jistgħu jiġu intaxxati biss f'dak l-iStat.

2. Id-dispożizzjonijiet tal-paragrafu 1 ma għandhomx japplikaw għal *income*, li ma jkunx *income* minn proprjetà immobbli kif imfisser fil-paragrafu 2 tal-Artikolu 6, jekk min jirċievi dak l-*income*, għax ikun residenti ta' Stat Kontraenti, imexxi n-negozju fl-iStat Kontraenti l-ieħor permezz ta' stabbiliment permanenti li jkun sitwat fih u d-dritt jew il-proprjetà li dwarhom jithallas l-*income* jkun effettivament konness ma' dak l-istabbiliment permanenti. F'dak il-każ, għandhom japplikaw id-dispożizzjonijiet tal-Artikolu 7.

Artikolu 21

ELIMINAZZJONI TA' TAXXA DOPPJA

1. Fil-każ tal-Baħrejn, it-taxxa doppja għandha tiġi eliminata kif ġej:

Bla hłasara għad-dispożizzjonijiet tal-liġi tal-Baħrejn dwar li jithalla jingħata kreditu għat-taxxa tal-Baħrejn dwar taxxa barranija, meta, kif hawn fid-dispożizzjonijiet ta' dan il-Ftehim, ikun hemm inkluż fi stima tal-Baħrejn *income* minn għejjun ġewwa Malta, it-taxxa ta' Malta fuq dak l-*income* tkun tista' tingħata bħala kreditu għat-taxxa tal-Baħrejn relattiva li tithallas fuq il-kreditu.

2. Fil-każ ta' Malta, it-taxxa doppja għandha tiġi eliminata kif ġej:

Bla hłasara għad-dispożizzjonijiet tal-liġi ta' Malta dwar li jithalla jingħata kreditu għat-taxxa ta' Malta dwar taxxa barranija, meta, kif hawn fid-dispożizzjonijiet ta' dan il-Ftehim, ikun hemm inkluż fi stima ta' Malta *income* minn għejjun ġewwa l-Baħrejn, it-taxxa tal-Baħrejn fuq dak l-*income* tkun tista' tingħata bħala kreditu għat-taxxa ta' Malta relattiva li tithallas fuq il-kreditu.

Artikolu 22

EBDA DISKRIMINAZZJONI

1. Iċ-ċittadini ta' Stat Kontraenti m'għandhomx jiġu assoġġettati fl-iStat Kontraenti l-ieħor għal xi taxxa jew għal xi htieġa li jkunu konnessi ma' dan li tkun diversa jew ta' iktar piż mit-taxxa u l-htigiet konnessi li għalihom ċittadini ta' dak l-iStat l-ieħor fl-istess ċirkostanzi, b'mod partikolari għar-rigward ta' residenza, huma jew jistgħu jkunu assoġġettati. Din id-dispożizzjoni għandha, minkejja d-dispożizzjonijiet tal-Artikolu 1, ikun japplika wkoll għal ċittadini li ma jkunux residenti ta' xi Stati Kontraenti jew tat-tnejn li huma.

2. It-taxxa fuq stabbiliment permanenti li impriża ta' Stat Kontraenti jkollha fl-iStat Kontraenti l-ieħor ma għandhiex tingabar b'mod inqas favorevoli f'dak l-iStat l-ieħor mit-taxxa li tingabar fuq impriži ta' dak l-iStat l-ieħor li jkun qed imexxi l-istess ativitajiet. Din id-dispożizzjoni m'għandhiex jiftehem bħala li tobbliga lil Stat Kontraenti li jagħti lir-residenti tal-iStat Kontraenti l-ieħor xi *allowances*, ħelsien u tnaqqis personali għall-għanijiet ta' taxxa minhabba f'xi status ċivili jew responsabbiltajiet familjari li jikkonċedi lir-residenti tiegħu stess.

3. Hlief meta jkunu japplikaw d-dispożizzjonijiet tal-paragrafu 1 tal-Artikolu 9, tal-paragrafu 4 tal-Artikolu 11, jew tal-paragrafu 4 tal-Artikolu 12, *income* minn pretensjonijiet ta' debitu, *royalties* u ħlasijiet oħra li jithallsu minn impriża ta' Stat Kontraenti lil residenti tal-iStat Kontraenti l-ieħor għandhom, għall-fini li jiġi stabbilit x'ikun il-profitt li għandu jiġi intaxxat ta' dik l-impriża, jiġu mnaqqsa taħt l-istess kondizzjonijiet bħallikieku dawn kienu mħallsa lil residenti tal-ewwel Stat imsemmi.

4. Impriži ta' Stat Kontraenti, li l-kapital tagħhom ikun għalkollox jew f'parti minnu jappartjeni jew kontrollat, direttament jew mhux, minn residenti wiehed jew iktar tal-iStat Kontraenti l-ieħor, ma jkunux assoġġettati fl-iStat l-ewwel imsemmi għal xi taxxa jew htieġa konnessa ma' dan li tkun xort'oħra jew ta' aktar piż mit-taxxa u l-htigiet konnessi li għalihom ikunu jew jistgħu jkunu assoġġettati impriži simili oħra tal-iStat l-ewwel imsemmi.

5. Id-dispożizzjonijiet ta' dan l-Artikolu għandhom, minkejja d-dispożizzjonijiet tal-Artikolu 2, japplikaw għal taxxi ta' kull xorta u deskrizzjoni.

Artikolu 23

PROCĊEDURA GĦAL FTEHIM REĊIPROKU

1. Meta persuna jkun jidhrilha li l-azzjonijiet ta' xi Stati Kontraenti jew tat-tnejn li huma jirriżultawlu jew jistgħu jirriżultawlu f'taxxa li ma tkunx kif hawn fid-dispożizzjonijiet ta' dan il-Ftehim, huwa jista', irrispettivament mir-rimedji provduti mil-liġi domestika ta' dawk l-iStati, jippreżenta l-każ tiegħu quddiem l-awtorità kompetenti tal-iStat Kontraenti fejn ikun residenti jew, jekk il-

każ tiegħu jkun jaqa' taħt il-paragrafu 1 tal-Artikolu 22, lil dik tal-iStat Kontraenti li jkun ċittadin tiegħu. Il-każ għandu jiġi ppreżentat fi żmien tliet snin minn meta jingħata l-ewwel avviż tal-azzjoni li tirriżulta f'taxxa li ma tkunx kif hawn fid-dispożizzjonijiet tal-Ftehim.

2. L-awtorità kompetenti għandha tagħmel mill-aħjar, jekk ikun jidhrilha li l-oġġezzjoni tkun ġustifikata u jekk hi nnifisha ma tkunx tista' tasal għal soluzzjoni sodisfaċenti, biex tirisolvi l-każ bi ftehim reċiproku mal-awtorità kompetenti tal-iStat Kontraenti l-iehor, bil-għan li tiġi evitata taxxa li ma tkunx kif hawn fil-Ftehim. Meta jintlaħaq ftehim dan għandu jiġi implimentat minkejja kull terminu ta' żmien fil-liġi domestika tal-iStati Kontraenti.

3. L-awtoritajiet kompetenti tal-iStati Kontraenti għandhom jagħmlu mill-aħjar biex permezz ta' ftehim reċiproku jirrisolvu kull diffikultà jew dubbju li jista' jkun hemm dwar l-interpretazzjoni jew l-applikazzjoni tal-Ftehim. Dawn jistgħu wkoll jikkonsultaw flimkien għall-eliminazzjoni ta' taxxa doppja f'dawk il-każijiet li ma jkun hemm xejn provdut dwarhom fil-Ftehim.

4. L-awtoritajiet kompetenti tal-iStati Kontraenti jistgħu jikkomunikaw ma' xulxin direttament, inkluż permezz ta' kummissjoni kongunta li tkun magħmula minnhom infushom jew mir-rappreżentanti tagħhom, bl-iskop li jilhqqu ftehim fis-sens tal-paragrafi preċedenti.

Artikolu 24

SKAMBJU TA' INFORMAZZJONI

1. L-awtoritajiet kompetenti tal-iStati Kontraenti għandhom jiskambjaw dik l-informazzjoni li tkun b'mod prevedibbli rilevanti għat-tweqqif tad-dispożizzjonijiet ta' dan il-Ftehim jew għall-amministrazzjoni jew l-infurzar tal-liġijiet domestiċi tal-iStati Kontraenti għar-rigward ta' taxxi ta' kull għamla u deskrizzjoni imposti f'isem l-iStati Kontraenti, jew is-sottodivizjonijiet politiċi jew l-awtoritajiet lokali tagħhom, sakemm it-taxxa li ssir taħtom ma tkunx tmur kontra l-Ftehim. L-iskambju ta' informazzjoni mhuwiex ristrett bl-Artikoli 1 u 2.

2. Kull informazzjoni li tiġi riċevuta taħt il-paragrafu 1 mill-iStat Kontraenti għandha tiġi trattata bħala waħda sigrieta bl-istess mod bħall-informazzjoni miksuba taħt il-liġijiet domestiċi ta' dak l-iStat u għandha tiġi żvelata biss lil persuni jew awtoritajiet (inklużi qrati u korpi amministrattivi) involuti fl-istima jew fil-ġbir ta', l-infurzar jew prosekuzzjoni dwar, id-deċizjoni ta' appelli dwar it-taxxi msemmija fil-paragrafu 1, jew is-sorveljanza ta' dak hawn qabel imsemmi. Dawk il-persuni jew awtoritajiet għandhom jużaw dik l-informazzjoni biss għal dawk l-għanijiet. Huma jistgħu jiżvelaw l-informazzjoni fi proċeduri tal-qorti bil-miftuħ jew f'deċiżjonijiet gudizzjarji.

3. F'ebda każ m'għandhom id-dispożizzjonijiet tal-paragrafi 1 u 2 jiftiehm bħala li jimponu l-obbligu fuq Stat Kontraenti:

B 680

(a) li jwettqu miżuri amministrattivi li ma jkunux jaqblu mal-liġijiet u mal-prattika amministrattiva ta' dak l-iStat Kontraenti jew tal-iStat Kontraenti l-ieħor;

(b) li jagħti informazzjoni li ma tkunx tista' tinkiseb taħt il-liġijiet jew fil-kors normali tal-amministrazzjoni ta' dak l-iStat Kontraenti jew tal-iStat Kontraenti l-ieħor;

(ċ) li jagħti informazzjoni li tikkax xi sigriet ta' sengħa, negozju, industrija, sigriet kummerċjali jew professjonali jew ta' xi proċess tan-negozju, jew informazzjoni, li meta din tiġi żvelata tkun tmur kontra l-ordni pubbliku (*ordre public*).

4. Jekk tintalab informazzjoni minn Stat Kontraenti kif hawn f'dan l-Artikolu, l-iStat Kontraenti l-ieħor għandu juża l-miżuri ta' ġbir ta' informazzjoni li jkollu biex jikseb l-informazzjoni meħtieġa, ukoll jekk dak l-iStat l-ieħor jista' ma jkunx jeħtieġ dik l-informazzjoni għall-finijiet tat-taxxa tiegħu nnifsu. L-obbligazzjoni li tinsab fis-sentenza preċedenti hija soġġetta għal-limitazzjonijiet tal-paragrafu 3 imma f'ebda każ m'għandhom limitazzjonijiet bħal dawk jiftiehm li jippermettu lil Stat Kontraenti jonqos milli jagħti informazzjoni unikament minhabba li ma jkollu ebda interess domestiku f'dik l-informazzjoni.

5. F'ebda każ m'għandhom id-dispożizzjonijiet tal-paragrafu 3 jiftiehm li jippermettu lil Stat Kontraenti jonqos milli jagħti informazzjoni unikament minhabba l-informazzjoni tkun tinzamm minn xi bank, istituzzjoni finanzjarja oħra, *nominee* jew persuna li tkun qegħda tagixxi f'kapaċità ta' aġenzija jew waħda fiduċjarja jew għaliex ikollha x'taqsam ma' interessi ta' proprjetà f'xi persuna.

Artikolu 25

MEMBRI TA' MISSJONIJIET DIPLOMATIĊI U KARIGI KONSULARI

Ebda haġa f'dan il-Ftehim m'għandha tolgot il-privileġġi fiskali tal-membri ta' missjonijiet diplomatiċi jew ta' karigi konsulari taħt ir-regoli ġenerali tad-dritt internazzjonali jew taħt id-dispożizzjonijiet ta' kull ftehim speċjali.

Artikolu 26

BIDU FIS-SEHH

1. L-iStati Kontraenti għandhom javżaw lil xulxin, permezz ta' kanali diplomatiċi, li l-ħtiġiet kostituzzjonali għad-dħul fis-seħħ ta' dan il-Ftehim ikunu ġew imħarsa.

2. Dan il-Ftehim għandu jidhol fis-seħħ tletin jum wara d-data li tiġi l-iktar tard mill-avviżi msemmija fil-paragrafu 1 u d-dispożizzjonijiet tiegħu għandhom ikunu japplikaw:

(a) f'Malta:

għar-rigward ta' taxxi fuq *l-income* miksuba matul xi sena kalendarja jew perjodu ta' kontijiet, kif jista' jkun il-każ, li jibda fl-ewwel jum ta' Jannar jew wara minnufih wara d-data meta l-Ftehim jibda jsehh;

(b) fil-Bahrejn:

għar-rigward ta' taxxi fuq *l-income* miksuba matul xi sena kalendarja jew perjodu ta' kontijiet, kif jista' jkun il-każ, li jibda fl-ewwel jum ta' Jannar jew wara minnufih wara d-data meta l-Ftehim jibda jsehh.

Artikolu 27

TERMINAZZJONI

Dan il-Ftehim għandu jibqa' jsehh sakemm jiġi terminat minn xi Stat Kontraenti. Kull wiehed mill-iStati Kontraenti jista' jtemm il-Ftehim, permezz ta' kanali diplomatiċi, billi jagħti avviż tat-terminazzjoni mill-inqas sitt xhur qabel ma tintemm xi sena kalendarja li tibda għaddejja wara l-iskadenza ta' perjodu ta' ħames snin minn meta dan jidhol fis-sehh. F'dak il-każ, il-Ftehim ma għandux jibqa' jsehh:

(a) f'Malta:

għar-rigward ta' taxxi fuq *l-income* miksuba matul xi sena kalendarja jew perjodu ta' kontijiet, kif jista' jkun il-każ, li jibda fl-ewwel jum ta' Jannar jew wara minnufih wara d-data meta jingħata l-avviż;

(b) fil-Bahrejn:

għar-rigward ta' taxxi fuq *l-income* miksuba matul xi sena kalendarja jew perjodu ta' kontijiet, kif jista' jkun il-każ, li jibda fl-ewwel jum ta' Jannar jew wara minnufih wara d-data meta jingħata l-avviż.

B'XIEHDA TA' DAN is-sottoskritti, awtorizzati kif imiss biex jagħmlu dan mill-Gvernijiet rispettivi tagħhom, iffirmaw dan il-Ftehim.

MAGHMUL f'Manama, illum 12 ta' April, 2010, f'żewġ kopji fl-ilsien Għarbi u dak Ingliz, iż-żewġ testi awtentiċi ndaqs, imma fil-każ ta' xi nuqqas ta' qbil fl-interpretazzjoni tiegħu għandu jipprevali t-test Ingliz.

GHALL-GVERN
TA' MALTA

GHALL-GVERN
TAR-RENJU TAL-BAHREJN

TONIO FENECH

E.T. AHMED BIN MOHAMMED AL KHALIFA

B 682

L.N. 82 of 2012

**INCOME TAX ACT
(CAP. 123)**

**Double Taxation Relief (Taxes on Income)
(Kingdom of Bahrain) Order, 2012**

IN exercise of the powers conferred by article 76 of the Income Tax Act, the Minister of Finance, the Economy and Investment has made the following order:-

Citation.

1. This title of this Order is the Double Taxation Relief (Taxes on Income) (Kingdom of Bahrain) Order, 2012.

Arrangements to have effect.

2. It is hereby declared:

(a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Kingdom of Bahrain with a view to affording relief from double taxation in relation to the following tax imposed by the laws of the Kingdom of Bahrain:

- income tax payable under Amiri Decree No. 22/1979;

(b) that it is expedient that those arrangements should have effect;

(c) that the Convention has entered into force on the 28 February 2012.

SCHEDULE

(Article 2)

CONVENTION
BETWEEN
THE GOVERNMENT OF MALTA
AND
THE GOVERNMENT OF THE
KINGDOM OF BAHRAIN
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the Kingdom of Bahrain and the Government of Malta, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1

PERSONS COVERED

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

The existing taxes to which this Convention shall apply are in particular:

(a) in Bahrain:

income tax payable under Amiri Decree No. 22/1979)
(hereinafter referred to as "Bahrain tax"); and

(b) in Malta:

B 684

the income tax (hereinafter referred to as "Malta tax").

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes, which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

(a) the term "Bahrain" means the territory of the Kingdom of Bahrain as well as the maritime areas, seabed and subsoil over which Bahrain exercises, in accordance with international law, sovereign rights and jurisdiction;

(b) the term "Malta" means the Republic of Malta and, when used in a geographical sense, means the Island of Malta, the Island of Gozo and the other islands of the Maltese archipelago including the territorial waters thereof, as well as any area of the sea-bed, its sub-soil and the superjacent water column adjacent to the territorial waters, wherein Malta exercises sovereign rights, jurisdiction, or control in accordance with international law and its national law, including its legislation relating to the exploration of the continental shelf and exploitation of its natural resources;

(c) the terms "a Contracting State" and "the other Contracting State" mean Bahrain or Malta, as the context requires;

(d) the term "person" includes an individual, a company, a collective investment scheme and any other body of persons;

(e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes or any other entity constituted or recognised under the laws of one or other of the Contracting States as a body corporate;

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting

State;

(h) the term "business" includes the performance of professional services and of other activities of an independent character;

(i) the term "competent authority" means:

(i) in Bahrain: the Minister of Finance or his authorised representatives; and

(ii) in Malta: the Minister responsible for finance or his authorised representative;

(j) the term "national", in relation to a Contracting State, means:

(i) any individual possessing the nationality of that Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means:

(a) in the case of Bahrain,

(i) an individual who is a national of Bahrain and who is present in Bahrain for a period or periods totalling in the aggregate at least 183 days in the fiscal year concerned, and

(ii) any other person which, under the laws of Bahrain, is liable to tax therein by reason of domicile, residence, place of incorporation, place of management or any other criterion of a similar nature;

(b) in the case of Malta, any person who, under the laws of Malta, is liable to tax therein by reason of his domicile, residence, place of

B 686

incorporation, place of management or any other criterion of a similar nature, and also includes that State, and any political subdivision or local authority thereof.

This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources including an offshore drilling site;
- (g) a refinery;
- (h) a sales outlet; and
- (i) a warehouse in relation to a person providing hydrocarbon storage facilities for others.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if in that State it carries on any activity which is directly connected with the exploration for or production of crude oil or other natural hydrocarbons from the ground in that State either for its own account or in refining crude oil owned by it or by others, wheresoever produced, in its facilities in that State.

5. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

B 688

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

B 690

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. For the purposes of this Article, profits derived from the operation of ships or aircraft in international traffic include profits derived from the rental of ships or aircraft if such ships or aircraft are operated in international traffic or if such rental profits are incidental to other profits described in paragraph 1.
3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where
 - (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be taxable only in that other State provided that such resident is the beneficial owner of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

2. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

3. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INCOME FROM DEBT-CLAIMS

1. Income from debt-claims arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. The terms "income from debt-claims" or "income" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as income from

B 692

a debt-claim for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the income, being a resident of a Contracting State, carries on business in the other Contracting State in which the income arises, through a permanent establishment situated therein and the debt-claim in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the income, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic, or from movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

B 694

(c) the remuneration is not borne by a permanent establishment which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

Article 15

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

Article 17

PENSIONS

Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 18

GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority

shall be taxable only in that State.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pensions and similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 19

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 20

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on

B 696

business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

Article 21

ELIMINATION OF DOUBLE TAXATION

1. In the case of Bahrain, double taxation shall be eliminated as follows:

Subject to the provisions of the laws of Bahrain regarding the allowance of a credit against Bahrain tax in respect of foreign tax, where, in accordance with the provisions of this Convention, there is included in a Bahrain assessment income from sources within Malta, the Malta tax on such income shall be allowed as a credit against the relative Bahrain tax payable thereon.

2. In the case of Malta, double taxation shall be eliminated as follows:

Subject to the provisions of the law of Malta regarding the allowance of a credit against Malta tax in respect of foreign tax, where, in accordance with the provisions of this Convention, there is included in a Malta assessment income from sources within Bahrain, the Bahrain tax on such income shall be allowed as a credit against the relative Malta tax payable thereon.

Article 22

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12 apply, income from debt-claims, royalties and other disbursements paid by an enterprise of a Contracting State to a resident

of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 23

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 22, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation, which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 24

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency

or a fiduciary capacity or because it relates to ownership interests in a person.

Article 25

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 26

ENTRY INTO FORCE

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

2. This Convention shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect:

(a) in Bahrain:

in respect of taxes on income derived during any calendar year or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the Convention enters into force.

(b) in Malta:

in respect of taxes on income derived during any calendar year or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the Convention enters into force.

Article 27

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force. In such event, the Convention shall cease to have effect:

(a) in Bahrain:

B 700

in respect of taxes on income derived during any calendar year or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the notice is given.

(b) in Malta:

in respect of taxes on income derived during any calendar year or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Manama this 12 day of April 2010 in duplicate in the Arabic and English languages, both texts being equally authentic, but in the case of divergence of interpretation the English text shall prevail.

TONIO FENECH
FOR
THE GOVERNMENT
OF MALTA

H.E. AHMED BIN MOHAMMED AL KHALIFA
FOR
THE GOVERNMENT OF THE KINGDOM OF
BAHRAIN

