

Agreement on the Avoidance of Double Taxation between the Government of the State of Qatar and the Government of the Republic of Sudan

Treaty Text Preamble The Government of the State of Qatar; and The Government of the Republic of Sudan; Desiring to encourage and develop economic relations between their respective countries by the conclusion of an agreement on the avoidance of double taxation with respect to Income Tax, hereinafter referred to as the Qatari tax and the Sudanese tax;

Have agreed on the following:-

Article 1

The scope of application of the Agreement

The provisions of this Agreement shall apply to persons who are resident in one or both of the contracting countries.

Article 2

Taxes included by this Agreement

1. The provisions of this Agreement shall apply to the following taxes:

a) In the case of the State of Qatar:

- Income tax,

(hereinafter referred to as Qatari tax); and

b) In the case of the Republic of the Sudan:

- Income tax, Capital gains tax, hereinafter referred to as Sudanese tax.

2. The provisions of this Agreement shall also apply to any other taxes that are the same, or similar, which may be imposed after the date of the signing of this Agreement and in addition to, or instead of, the existing taxes.

3. The competent authorities in the contracting countries shall notify one another of any essential changes which may have taken place in their own tax laws.

Article 3

Definitions

1. For the purposes of applying the provisions of this Agreement, the following words and expressions shall have the meanings assigned thereto, unless the context requires otherwise:

a) "Contracting country" and "the other contracting country" mean The State of Qatar and the Republic of Sudan, according to the circumstances.

b) "The State of Qatar" means the territory of the State of Qatar, including its territorial waters, the special economic region and the continental drift, over which the State of Qatar has, in accordance with international law, sovereign and jurisdiction rights.

c) "The Republic of Sudan" means the territory of Sudan, including the economic maritime area and the continental drift, over which the Republic of Sudan exercises its sovereign rights in accordance with its domestic and international laws and conventions regarding the exploration and exploitation of natural and biological resources and minerals which exist in the flooded areas, water basins and in the underground soil of this water.

d) "Tax" means the Qatari tax or the Sudanese tax, depending on the circumstances.

e) "Person" includes any natural person, company or any other group of persons legally established in one of the contracting countries.

f) "Company" means any legal person, or any independent unit, which is treated as a legal person for tax purposes.

g) "Project of the contracting country" and "project of the other contracting country" mean respectively a project proposed by a resident of a contracting country and a project proposed by a resident of the other contracting country.

h) "National" means:

i) In the case of the State of Qatar, any natural person who holds Qatari nationality in accordance with the legislation and regulations, and any legal person, company, society or any other independent unit established in the State of Qatar, according to the legislation in force.

ii) In the case of the Republic of Sudan, any natural person who holds Sudanese nationality and any group of legal persons, or group of individual persons, together with any other independent unit established in the Republic of Sudan, according to the legislation in force.

i) "International transport" means transportation by ship, plane or railway used by a project in which the centre of its management is in a contracting country, with the exception of transport which operates between two places in one contracting country.

j) "The Competent authority" means:

i) In the case of the State of Qatar the Minister of Finance, Economy and Trade, or a legal representative thereof.

ii) In the case of the Republic of Sudan the Minister of Finance or a legal representative thereof.

2. In applying the provisions of this Agreement by a contracting country, any expression or word which does not have a specific definition, shall have the meaning defined in the applicable laws on the taxes in force in that country at that time, and which are covered by this Agreement, unless the context requires otherwise.

Article 4

Resident

1. For the purposes of applying the provisions of this Agreement, "a resident of a contracting country" means any person deemed to be a resident in accordance with the law of that country, for the purposes of taxation on the grounds of that residency, duration of stay, management headquarters, place of registration or any other criterion of a similar nature. This definition does not include any person who is subject to tax in that country in respect only of income from sources in that country or having existing capital therein.

2. In the case where a natural person is deemed, in accordance with the provisions of the preceding paragraph, a resident in each of the contracting countries, this status shall be decided in accordance with the following rules:

a) Shall be deemed a resident of the contracting country in which such natural person has a permanent home of residence, should this person have a home in both contracting countries, he shall be deemed a resident of the contracting country in which his main centre of interests lies.

b) In the absence of a home of permanent residence, or if it is not possible to determine the contracting country in which his main centre of interests lie, he shall be deemed a resident of the contracting country in which he primarily resides.

c) If he has a habitual residence in both contracting countries, or he does not own such a home in any of them, he shall be deemed a resident of the contracting country whose nationality he holds. D- If he holds the nationality of both contracting countries, or of neither of them, his residence is determined by mutual agreement between the competent authorities of the contracting countries.

3. In the case of whether there is, according to the provisions of Item 1, a non-natural person resident in both contracting countries, he shall be deemed a resident of the contracting country in which his place of actual management lies.

Article 5

Permanent Establishment

1. For the purposes of this Agreement, the expression "permanent establishment" means a fixed place of business from which the project carries on all or some of its activities.

2. The expression "permanent establishment" shall include in particular:

a) Management headquarters;

b) Branch;

c) Office;

d) Factory;

e) Shop for the selling of goods;

f) Workshop;

g) Farm or field;

h) Mine, quarry, oil or gas well, or any other place for extracting material from natural resources.

i) A building site, installation or assembly plant with consultancy activities related to it and utilised for a period of more than 6 months in each calendar year.

3 The expression "permanent establishment" does not include the following:- Gaining benefit of the facilities for the purpose of storage, display, delivery or sale of commodities belonging to the project under the sales contract.

a) Maintenance of commodities or goods belonging to the project only for the purpose of storage, display or delivery.

b) Maintenance of commodities or goods belonging to the project for the purpose of utilizing them for another project.

d) The sale of commodities or goods belonging to the project in the frame of a market or a casual or temporary exhibition any later than one month after the expiration of this market or exhibition.

d) Maintenance of a fixed place of business for the purpose of purchasing goods or commodities or for collecting information for the project.

e) Maintenance of a fixed place of business only to proceed with any aspects of a similar activity with a preparatory or auxiliary character for the project.

f) Maintenance of a fixed place of business to proceed with any group of activities mentioned in items A to F provided that the outcome of these businesses have a preparatory or auxiliary character.

4. A permanent establishment in a contracting country is deemed a person who works in that country on behalf of a project of the other contracting country only if he has the authority to conclude contracts on behalf of the project and uses this power for this purpose alone.

5. Subject to the preceding provisions of this Article, the insurance project of a contracting country is deemed a "permanent establishment in the other contracting country" if this project is conducted with the insurance contracts in this other contracting country and by a resident representative person in the other contracting country, with the exception of intermediaries who enjoy an independent status in their business referred to in item 6 of this Article.

6. The practise of a particular project owned by a contracting country by a broker, agent or any intermediary, has an independent status in the other contracting country, and shall not make that project a permanent establishment in the other contracting country, provided that those people work within the scope of their normal activity.

Article 6

Income on immovable Funds

1. Income gained by a resident of a contracting country from real estate funds, including income from agriculture and forestry fields, shall be subject to tax in the contracting country in which those funds originate.

2. For the purposes of this Agreement, the expression "real estate funds" shall have the meaning according to the law of the contracting country in which those funds are available. This expression shall include money attached to real estate funds, such as equipment, livestock and cattle used in agriculture fields and forests, to which the provisions of the General Law are applied to land ownership and the right of benefiting from real estate funds and the rights on variable or fixed amounts against the usage of warehouses, mineral substances, sediments or other natural materials, while the vessels, boats, planes, railways and vehicles shall not be deemed as fixed funds.

3. The provisions of Item 1 of this Article shall be applied to income derived from the direct exploitation of real estate funds, letting or use in any other manner.

4. The provisions of Items 1 and 3 of this Article shall also be applied to the income from the real estate funds owned by the project, or income from real estate funds used for the performance of independent personal services.

Article 7

Business Profits

1. Business profits achieved by a project of one of a contracting country shall be subject to tax of the country of this project, unless the aforementioned project involves an activity in a permanent establishment in the other country, in which case, the profits of this project may be subject to tax of the other country, but only within the limits of activity taking place in this permanent establishment.

2. Subject to the provisions of Item 3 of this Article, if the existing project in a contracting country involves a commercial activity in the other country through a permanent establishment in it, the profits of the project resulting from the activity of the permanent establishment will be determined as if they were profits from the independent project carrying out the same activity, or a similar activity in the same circumstances, or in similar circumstances, and shall be dealt with as completely independent from the project, which is deemed a permanent establishment.

3. Upon fixing profits of a permanent establishment, the expenses spent by the permanent establishment, including executive and general administrative expenses incurred, whether in the country in which the permanent establishment exists or in others, such provision shall be applied taking into account the restrictions imposed by the domestic law of the contracting country.

4. If it has been customary in a contracting country to determine the profits of a permanent establishment on the basis of the proportional distribution of the total profit of the project to different sections, the provisions of Item 2 of this Article shall not prevent that contracting country from determining the profits that are subject to tax on the basis of the same customary proportional distribution. However, the method of proportional distribution shall lead to a result consistent with the principles contained in this Article.

5. For the purposes of the preceding items, the profits attributed to the permanent establishment shall be determined by the same method year on year, unless there is a reasonable and sufficient reason to determine otherwise.

6. If profits include items of income which are dealt with separately in other Articles of this Agreement, the provisions of this Article shall not prejudice the provisions of these Articles.

Article 8

International Transport

1. The profits resulting from the operation of ships, planes, railways and road vehicles in international transport shall be subject to taxes only in the country where the headquarters of the actual management of the project is located.

2. If the headquarters of the actual management for a shipping project is built on board the ship, this headquarters is the port of registration of the ship, and if there is no such port, the headquarters of the project is the contracting country with which the ship's captain holds nationality.

3. The provisions of Item 1 of this Article shall apply to the profits resulting from a partnership, a joint project or an international recruitment agency, and to the benefits resulting from the balances related only to the operation of ships, planes, railways or road transport vehicles.

4. The provisions of Item 1 of this Article also shall apply to the Gulf Air Company and the United Arab Company for Maritime Transport as long as the State of Qatar owns a stake in these two companies, as well as Qatar Airways and any maritime or aerial transport project determined by the Government of the State of Qatar.

Article 9

Joint Projects with Special Conditions

Each of the contracting countries shall not take the special conditions of the commercial and financial relations between two or more projects if these conditions will reduce taxable profits in that country, in the following cases:-

a) If a project which belongs to a contracting country contributes either directly or indirectly to the capital, management or control of a project which belongs to the other contracting country.

b) If the same persons contribute directly or indirectly to the capital, management or control of a project belonging to a contracting country and a project belonging to the other contracting country.

Article 10

Dividends

1. Dividends paid by a company which is a resident in a contracting country to a company resident in the other contracting country.

2. The expression "dividends", according to this Article, means income from any shares, benefit cards, profits or any profit resulting from shares of different types, including preference shares and the founders shares, or any other rights participating in profits according to tax legislation of the country where the distributing company is resident, with the exception of debt.

Article 11

Interest

1. Interest arising in a contracting country and paid to a resident of the other contracting country, shall be subject to taxes in the other contracting country.

2. The word "interest", when used in this Article, means income arising from debt-claims of all kinds, secured or not secured by mortgage, and whether the creditor has the right to participate in the debtor's profits or does not have this right. That word means, in particular, income on government guarantees, bonds and shares which includes coupons and prizes related to such guarantees, bonds and shares. The amounts imposed on delay of payment shall not be deemed interest for the purposes of application of this Article.

Article 12

Royalties

1. Royalties arising in a contracting country and paid to a resident of the other contracting country shall be subject to taxes in the country in which they arise.

2. The word "royalties" in this Article means payments of any kind paid for the use of, or the right to use the copyright for any literary, artistic or scientific work, or any patent, trade-mark, design, model, plan, installation or secret methods, or use, or for the right to use, any industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

Article 13

Capital Profits

1. The profits resulting from real estate funds, as defined in Item 2 of Article 6 of this Agreement shall be subject to taxes in the contracting country in which those funds exist.

2. The profits resulting from movable funds owned by a permanent establishment belonging to the project of a contracting country in the other contracting country shall be subject to taxes in the contracting country in which these profits arise, including those profits resulting from the disposition of such an establishment or fixed headquarters.

3. The profits resulting from movable funds referred to in Article 8 of this Agreement shall be subject to taxes in the country where the headquarters of the actual management of the project exists.

4. The profits resulting from the disposition of any funds, other than those mentioned in this Article, shall be subject to taxes in the country where the person in charge is resident.

Article 14

Independent Professions

1. Income gained by a resident of a contracting country from an independent profession or from other independent activities of a similar nature, shall be subject to tax in this country. However, such income is subject to tax in the other contracting country in the following cases:

a) If such a person habitually uses fixed headquarters in the contracting country in which to practise his activities.

b) If his residence in the other contracting country is extended to a period, or periods, equalling to, or exceeding, 183 days in the 12 month period starting or ending in the concerned tax year.

In the cases referred to in Items a) and b) of this Article, income may be subject to tax in the other contracting country only on income attributed to the mentioned fixed headquarters, or that has been gained by activities which took place in the period in which the resident was living in that other contracting country.

2. The expression "independent professions" includes independent scientific, literary, artistic and educational activities, as well as the independent activities of doctors, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent Professions

1. Subject to the provisions of Articles 16, 18 and 19 of this Agreement, salaries, wages and other similar revenues gained by a resident in a contracting country from practise within it shall be subject to tax only in that country unless also practising in the other contracting country. If the work is practised in the other contracting country, the amounts resulting from this activity shall be subject to tax in the other contracting country.

2. Notwithstanding the provisions of Item 1 of this Article, revenues gained by a resident of a contracting country from the work he has done in the other contracting country, shall be subject to tax in the first contracting country in the following cases:

a) If the recipient of revenue has lived in the other country for a period, or periods, not exceeding in the aggregate 183 days during any 12-month period starting or ending in the concerned tax year.

b) If the revenue has been paid by, or on behalf of, a user who is not a resident in the other contracting country.

c) If the revenue is not borne by a permanent establishment or a fixed headquarters owned by a user in the other country.

3. Notwithstanding the provisions of the preceding items of this Article, the income gained from the work practised on board ship, a plane, locomotive or car operating in international transport, shall be subject to tax in the contracting country where the headquarters of actual management of the project is located.

Article 16

Members of Board of Directors' Remuneration

The remuneration of the members of the Board of Directors, and other similar remuneration received by a resident of a contracting country in his capacity as a member of the Board of Directors of a resident company in the other contracting country, shall be subject to the tax in that other country.

Article 17

Artists and Athletes

Notwithstanding the provisions of Articles 14 and 15 of this Agreement, income gained by public entertainment artists in the area of theatre, cinema, radio or television, together with musicians and those who practise sports in their field of work, shall be subject to tax in the contracting country in which they practise such an activity.

Article 18

Pensions

Pensions and similar revenues in both the public and private sectors, paid to a resident of a contracting country for previous employment in that contracting country, shall be subject to tax of that country only, regardless of the eventual place of residence of the beneficiary.

Article 19

Public Office

Salaries, wages and other amounts paid by the government or public authority of a contracting country shall be subject to tax in the country paying these amounts.

Article 20

Students and Trainees

The amounts received by a student, or trainee in one of the branches of business, in a contracting country for the purpose of education, study or training, or to meet living expenses, shall not be subject to tax in that country, provided that such amounts arise from sources outside that country.

Article 21

Other Income

Any items of income of a person resident in a contracting country which are not stipulated in the previous articles of this Agreement shall be subject to tax in that country.

Article 22

Avoidance of double taxation

1. If a person is a resident of a contracting country and derives income from the other contracting country, then that income, in accordance with the provisions of this Agreement, may be taxed in the other contracting country. In this case the first country, without prejudice to the provisions of Item 2 of this Article, shall exempt such income from tax.
2. If a person, who is a resident of a contracting country, derives income from the other contracting country, and if that income was subject to tax in the other contracting country, the first country shall allow deduction of an amount equal to the tax paid in the other contracting country from the total tax on the income of that person.
3. The tax which was the subject of exemption or reduction during a certain period in one of the contracting countries under the national legislation of that country, shall be deemed as if actually paid, and shall be subtracted from the tax that may be imposed on the aforementioned income in the other contracting country.

Article 23

Indiscrimination in the Treatment

1. Without prejudice to the legislation of the contracting countries, nationals of a contracting country, in the other contracting country, shall not be subject to any taxes or liabilities relating to these taxes, which are contrary or more burdensome than the taxes or tax liabilities which such nationals of the other contracting country shall bear or may be subject to under similar circumstances.
2. The permanent establishment owned by the project in a contracting country in the other contracting country shall not be subject to taxes imposed on it in that other country which are more burdensome than the taxes imposed on projects of that other country carrying out the same activity.
3. Projects of a contracting country, in which their capital is owned in whole or in part, or which are supervised directly or indirectly by a person or persons residing in the other contracting country, shall not be subject to any taxes or tax liabilities relating to these taxes which are, or may be, greater than those for other similar projects in that country.
4. Whatever is stated in this Article shall not be construed as obliging a contracting country to grant to residents of the other contracting country any reductions, exemptions or personal deductions concerning taxes which it grants to its nationals because of civil status or family commitments.

Article 24

Procedures for the Interpretation of the Agreement

1. Each country of the contracting countries has the right to request an interpretation of the provisions of this Agreement should it find that the decision or procedure, which was applied, or is applying, in one or both of the contracting countries, when imposition of the tax is not in line with the provisions of this Agreement.

2. The request for interpretation shall be submitted to the other contracting country, and the place and time of the meeting of the Committee provided for in item 3 of this Article shall also be determined through diplomatic channels.

3. The interpretation shall be carried out by a committee composed of two or more delegates from each contracting country, at least one of them being a specialist in finance and taxation in the country thereof, and the interpretation agreed upon shall take into consideration part of this Agreement.

Article 25

Exchange of Information

1. The competent authorities in both of the contracting countries shall exchange information which is deemed necessary to implement the provisions of this Agreement and to comply with the domestic laws of the contracting countries concerning taxes provided for in this Agreement. The information exchanged in this way is confidential, and shall not be disclosed except to the courts, administrative authorities and bodies entrusted with estimating or collecting taxes dealt with in this Agreement, including their determination by the judiciary that these bodies shall use this information only for such purposes.

2. The provisions of the first Item of this Article may not in any case be construed in a manner which leads to obliging a contracting country to the following

a) Carrying out administrative measures contrary to the laws or administrative regulations in force within it or in the other contracting country.

b) Providing data which cannot be obtained in accordance with laws or administrative regulations in that country or in the other contracting country.

c) Providing information which discloses any secret trade, industrial, commercial or professional activity, nor business methods or information, disclosure of which is in violation of public order.

Article 26

Diplomatic and Consular Privileges

The provisions of this Agreement shall not prejudice the tax advantages granted to the members of the diplomatic and consular corps under the general rules of international law or under the provisions of special agreements.

Article 27

Procedures for the Implementation of the Agreement

1. This Agreement shall be ratified by both contracting countries according to their constitutional systems as soon as possible.

2. Each contracting country shall notify the other contracting country regarding the completion of the constitutional and legal procedures taken in order to put this agreement into effect by diplomatic means.

3. This Agreement shall come into force from the first day of the calendar year following the year in which the exchange of notifications has taken place in the manner provided for in Item 2 of this Article.

Article 28

Termination of the Agreement

1. This Agreement shall remain valid for each of the contracting countries until its termination.

2. Any contracting country may request the termination of this Agreement and discontinue complying with it through diplomatic channels, by written notice to the other contracting country at least six months before the end of any calendar year.

Whereupon, the Agreement is rescinded from the calendar year following the year in which the notification has been made. As witness whereof, this Agreement was signed below by the following, being lawfully given the authority to sign by their governments; This Agreement, is signed in the City of Khartoum, dated 03/06/1419 AH, corresponding to 06/30/1998 AD, in two original copies in Arabic, each of them equally authentic.