

Seychelles

Business Tax Act, 2009

## Business Tax (Double Taxation Agreement) Regulations, 2006 Statutory Instrument 19 of 2006

Legislation as at 8 November 2017

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Business Tax (Double Taxation Agreement) Regulations, 2006  
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# Seychelles

## Business Tax Act, 2009

# Business Tax (Double Taxation Agreement) Regulations, 2006

## Statutory Instrument 19 of 2006

Commenced on 10 September 2015

*[This is the version of this document at 8 November 2017.]*

*[S.I. 19 of 2006; S.I. 13 of 2016<sup>\*</sup>]*

### 1. Citation

These Regulations may be cited as the Business Tax (Double Taxation Agreement) Regulations, 2006.

### 2. Declaration and effect of Agreement

It is hereby declared that the Republic of Seychelles and the Kingdom of Belgium have entered into the agreement specified in the Schedule for the purposes of avoidance of double taxation and prevention of fiscal evasion and that the agreement shall have effect in relation to the tax imposed under this Act.

## Schedule

### Agreement between the Republic of Seychelles and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income

The Government of the Republic of Seychelles and the Government of the Kingdom of Belgium,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

#### Article 1 – Persons covered

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

#### Article 2 – Taxes covered

1. This Agreement shall apply to taxes on income 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

*Note: S.I. 13 of 2016 was promulgated under the Revenue Administration Act, not the Business Tax Act, but the amendments reflected by that instrument have been included here for ease of reference.*

3. The existing taxes to which the Agreement shall apply are in particular—
  - (a) in the case of the Kingdom of Belgium—
    - (i) the individual income tax;
    - (ii) the corporate income tax;
    - (iii) the income tax on legal entities;
    - (iv) the income tax on non-residents;
    - (v) the supplementary crisis contribution,including the prepayments and the surcharges on these taxes and prepayments, (hereinafter referred to as “Belgian tax”);
  - (b) in the case of the Republic of Seychelles—
    - the business tax(hereinafter referred to as “Seychelles tax”).
4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement 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 that have been made in their respective taxation laws.

### Article 3 – General definitions

1. For the purposes of this Agreement, unless the context otherwise requires—
  - (a) the term “**Belgium**”, means the Kingdom of Belgium; used in a geographical sense, it means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea and in the air within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;
  - (b) the term “**Seychelles**” means the Republic of Seychelles; used in a geographical sense, it means its territory and any area of air space within which the Republic of Seychelles exercises, in accordance with international law, sovereign rights or its jurisdiction, and its exclusive economic zone and continental shelf where Seychelles exercises sovereign rights and jurisdiction in conformity with the provisions of the United Nations Convention on the Law of the Sea;
  - (c) the terms “**a Contracting State**” and “**the other Contracting State**” mean the Kingdom of Belgium or the Republic of Seychelles as the context requires;
  - (d) the term “**person**” includes an individual, a company 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 in the Contracting State of which it is a resident;
  - (f) the term “**enterprise**” applies to the carrying on of any business;
  - (g) the terms “**enterprise of a Contracting State**” and “**enterprise of the other Contracting State**” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
  - (h) the term “**international traffic**” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

- (i) the term “**national**”, in relation to a Contracting State, means—
    - (i) any individual possessing the nationality or citizenship of that Contracting State; and
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
  - (j) the term “**competent authority**” means—
    - (i) in the case of Belgium, the Minister of Finance or his authorised representative, and
    - (ii) in the case of Seychelles, the Minister of Finance or his authorised representative;
  - (k) the term “**business**” includes the performance of professional services and of other activities of an independent character.
2. As regards the application of the Agreement 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 Agreement 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 Agreement, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, 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 Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either 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 the status of the resident cannot be determined by reason of subparagraphs a) to c) in that sequence, 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 Agreement, 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;
  - (g) a building site or construction or assembly or installation project or supervisory activity connected therewith where such site, project or activity continues for a period of more than twelve months;
  - (h) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue for the same or a connected project within the Contracting State for a period or periods aggregating more than six months within any twelve month period.
3. 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 subparagraphs 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.
4. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 5 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 3 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions that paragraph.
5. 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.
6. Notwithstanding the provisions of paragraphs 4 and 5, an insurance enterprise of a Contracting State shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in that other State, or insures risks situated therein, through an agent established there but not including an agent of an independent status mentioned in paragraph 5 unless he has, and habitually exercises, an authority to conclude contracts in the name of the enterprise.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State

(whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

### **Article 6 – Income from immovable property**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other Contracting 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 and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.
5. For the purposes of this Article, the term “agriculture” includes fish farming, processing, breeding and raising aquatic species including specifically prawns, crayfish, oysters and shellfish.

### **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.
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 State in which the permanent establishment is situated or elsewhere.
4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles 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 Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

## Article 8 – Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. For the purpose of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular—
  - (a) profits derived from the lease by the enterprise of ships or aircraft on charter fully equipped, manned and supplied;
  - (b) profits derived from the lease by the enterprise on a bare boat charter basis of ships or aircraft used in international traffic where such lease is ancillary to the transportation of passengers or cargo;
  - (c) profits derived from the lease of containers by the enterprise where such lease is ancillary to the transportation of cargo.
3. For the purposes of this Article, interest on funds directly connected with the operation of ships or aircraft in international traffic shall be regarded as income or profits derived from the operation of such ships or aircraft, and the provisions of Article 11 shall not apply in relation to such interest.
4. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
5. 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 such an adjustment as it considers appropriate 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 Agreement 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 may be taxed in that other State.



2. However, such dividends may also be taxed in the Contracting State in which the company paying the dividends is a resident and according to the laws in force in, that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed—
  - (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;
  - (b) 15 per cent of the gross amount of the dividends in all other cases.

Notwithstanding the preceding provisions of this paragraph, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a company which is a resident of the other State and which at the moment of the payment of the dividends holds, for an uninterrupted period of at least twelve months, shares representing directly at least 25 per cent of the capital of the company paying the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this Article means income from shares, “*jouissance*” shares or “*jouissance*” rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income - even paid in the form of interest - which is subjected to the same taxation treatment as income from shares by the tax legislation of the State of which the paying company, is a resident.
4. 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.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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 – Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. Such interest may also be taxed in the Contracting State in which it arises, and according to the laws in force in that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
 

However, the tax so charged shall not exceed 5 per cent of the gross amount of the interest on commercial debt-claims - including debt-claims represented by commercial paper - resulting from deferred payments for goods, merchandise or services supplied by an enterprise.
3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if it is—
  - (a) interest paid in respect of a loan granted, guaranteed or insured or a credit extended, guaranteed or insured under a scheme organized by a Contracting State or one of its political subdivisions or local authorities in order to promote the export;
  - (b) interest on debt-claims or loans of any nature - not represented by bearer instruments - paid to banking enterprises;

- (c) interest on deposits made by an enterprise with a banking enterprise;
  - (d) interest paid to the other Contracting State or one of its political subdivisions or local authorities including in the case of Belgium, the National Bank of Belgium and in the case of Seychelles, the Central Bank of Seychelles and the Development Bank of Seychelles;
  - (e) interest paid to any statutory body or institution wholly or mainly owned by the Contracting States, as may be agreed from time to time between the competent authorities of the Contracting States.
4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the 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. However, the term “interest” shall not include for the purpose of this Article penalty charges for late payment, interest dealt with in paragraph 3 of Article 8 or interest regarded as dividends under paragraph 3 of Article 10.
  5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7, shall apply.
  6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
  7. 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 interest, 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 interest. 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 Agreement.

## **Article 12 – Royalties**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws in force in that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.
3. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including computer software, cinematograph films, or films or tapes or discs used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 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.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a

Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. 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 Agreement.

### **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 from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, 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 of this Agreement, 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 taxable period concerned, and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
  - (c) the remuneration is not borne by a permanent establishment 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, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

### **Article 15 – Company managers**

1. 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 or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

The preceding provision shall also apply to payments derived in respect of the discharge of functions which, under the laws of the Contracting State of which, the company is a resident, are regarded as functions of a similar nature as those exercised by a person referred to in the said provision.

2. Remuneration derived by a person referred to in paragraph 1 from a company which is a resident of a Contracting State in respect of the discharge of day-to-day functions of a managerial or technical, commercial or financial nature and remuneration received by a resident of a Contracting State in respect of his day-to-day activity as a partner of a company, other than a company with share capital, which is a resident of a Contracting State, may be taxed in accordance with the provisions of Article 14, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to the "employer" were references to the company.

### **Article 16 – Entertainers and sports persons**

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 sports person, 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 sports person in his capacity as such accrues not to the entertainer or sports person 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 sports person are exercised.
3. Income derived by an entertainer or a sports person from activities exercised in a Contracting State shall be exempt from tax in that State, if the visit to that State is supported wholly or mainly by public funds of the other Contracting State, a political subdivision or a local authority thereof, or takes place under a cultural agreement or arrangement between the Contracting States or the political subdivisions thereof.

### **Article 17 – Pensions**

1. 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.
2. Notwithstanding the provisions of paragraph 1, pensions and other similar payments made under the social security system of a Contracting State or under a public scheme organised by that State in order to supplement the benefits of its social security legislation shall be taxable only in that State.

### **Article 18 – Government service**

1. (a) Salaries, wages and other similar remuneration, other than a pension, 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. Any pension 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.

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.
4. The provisions of paragraph 1 shall also apply to 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 an activity carried on in the other Contracting State in the framework of a cooperation agreement.

### Article 19 – Students and apprentices

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 Agreement 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 paragraphs 2 and 5 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on 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.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of the Agreement and arising in the other Contracting State may also be taxed in that other State.

### Article 21 – Elimination of double taxation

1. In the case of Belgium, double taxation shall be avoided as follows—
  - (a) Where a resident of Belgium derives income, not being dividends, interest or royalties, which may be taxed in Seychelles in accordance with the provisions of this Agreement, and which are taxed there, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.

However, where the Seychelles tax is less than 15 per cent of the net amount of the income referred to in Article 7, Belgium shall not exempt that income but shall reduce to a half the Belgian tax which is proportionally relating to that income, calculated as if that income was income from Belgian sources.

Notwithstanding the provisions of the first sentence of this subparagraph and any other provision of this Agreement, Belgium shall, for the determination of the additional taxes established by Belgian municipalities and conurbations, take into account the earned income (*revenus professionnels beroepsinkomsten*) that is exempted from tax in Belgium in accordance with the said first sentence. These additional taxes shall be calculated on the tax which would be payable in Belgium if the earned income in question had been derived from Belgian sources.
  - (b) Dividends derived by a company which is a resident of Belgium from a company which is a resident of Seychelles, shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law. Where a company which is resident of Belgium derives from a company which is a resident of Seychelles dividends which are included in its aggregate income for Belgian tax purposes and which are not exempted from the corporate income

tax according to the first sentence of this subparagraph, Belgium shall deduct from the Belgian corporate income tax relating to these dividends—

- (i) the Seychelles tax levied on these dividends in accordance with Article 10;
  - (ii) the Seychelles tax levied on that part of the profits which has been paid as dividends to the Belgian company;
  - (iii) such deduction shall not exceed that part of the Belgian corporate income tax, as computed before the deduction is given, which is attributable to the dividends derived from the company which is a resident of Seychelles.
- (c) Subject to the provisions of Belgian law regarding the deduction from Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are interest or royalties, the Seychelles tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.
- (d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Seychelles, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in subparagraph a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Seychelles by reason of compensation for the said losses.
2. In the case of Seychelles, double taxation shall be avoided as follows—

Where a resident of Seychelles derives income which, in accordance with the provisions of this Agreement, may be taxed in Belgium, Seychelles shall allow, as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Belgium, including the corporate income tax that is attributable to any dividend paid by a company which is a resident of Belgium. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in Belgium.

Notwithstanding the amount of Belgian tax paid, Seychelles shall not allow as a deduction any amount of such tax that was, paid in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes.

3. The tax payable in a Contracting State by a resident of the other Contracting State and mentioned in paragraphs 1 and 2 shall be deemed to include the tax which would have been payable but for the tax incentives granted under the laws of the first mentioned Contracting State and which are designed to promote economic development. Such tax incentives qualifying for this paragraph shall be mutually agreed by the competent authorities of both Contracting States.

## 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. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances,



- reliefs and reductions for taxation purposes on Account of civil status or family responsibilities which it grants to its own residents.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 1 of Article 11, or paragraph 6 of Article 12 of this Agreement apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
  5. 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.
  6. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

### **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 Agreement, 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 Agreement.
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 Agreement. 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 Agreement.
4. The competent authorities of the Contracting States shall agree on administrative measures necessary to carry out the provisions of the Agreement and particularly on the proofs to be furnished by residents of either Contracting State in order, to benefit in the other State from the exemptions reductions of tax provided for in the Agreement.
5. The competent authorities of the Contracting States shall communicate directly with each other for the application of the Agreement.

### **Article 24 – Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeable relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.
2. Any information received under paragraph 1 by 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 paragraph 1 be construed so as to impose on a Contracting State the obligation—
  - (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
  - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
  - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process or information, the disclosure of which would be contrary to public policy (*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 be provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information requested by the other Contracting State because the information is held by a bank, other financial institution, nominee or person acting in an agency or fiduciary capacity or because it relates to ownership interests in a person.
6. Banking records will be exchanged only upon request. If the request does not identify both a specific taxpayer and a specific bank or financial institution, the competent authority of the requested State may decline to obtain any information that it does not already possess.
7. The competent authorities of the Contracting States shall agree upon the mode of application of this Article.

*[paragraphs 5, 6 and 7 of Article 24 inserted by [SI 13 of 2016](#) (promulgated under the Revenue Administration Act, 2009) with effect from 22 June 2017]*

### **Article 25 – Aid in recovery**

1. The Contracting States shall lend aid and assistance to each other in order to notify and recover the taxes referred to in Article 2 as well as surcharges, additions, interest, costs and fines of a non penal nature.
2. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall secure, in accordance with the legal provisions and regulations applicable to the notification and recovery of the said taxes of the latter State, the notification and the recovery of tax claims referred to in paragraph 1 which are due in the first mentioned State. Such claims shall not have any priority in the requested State and that State shall not be obliged to apply any means of enforcement which are not authorised by the legal provisions or regulations of the applicant State.
3. Requests referred to in paragraph 2 shall be supported by an official copy of the instrument permitting the execution accompanied where appropriate, by an official copy of any final administrative or judicial decision.
4. The instrument permitting the enforcement in the applicant State shall have the same effect in the requested State.
5. With regard to tax claims which are open to appeal, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take the protective measures provided for in the laws of that other State; the provisions of paragraphs 1 to 3 shall apply *mutatis mutandis* to such measures.



## Article 26 – Members of diplomatic missions and consular posts

Nothing in this Agreement 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 27 – Limitation on benefits

Notwithstanding the provisions of any other Article of this Agreement, a resident of a Contracting State shall not receive the benefit of any reduction in or exemption from tax provided for in the Agreement by the other Contracting State if the main purpose or one of the main purposes of such resident or a person connected with such resident was to obtain the benefits of the Agreement.

## Article 28 – Entry into force

1. Each Contracting State shall notify the other Contracting State of the completion of the procedures required by its laws for the bringing into force of this Agreement. The Agreement shall enter into force from the date on which the later of these notifications is received.
2. The provisions of the Agreement shall have effect—
  - (a) with respect to taxes due at source on income credited or payable on or after January 1 of the year next following the year in which the Agreement entered into force;
  - (b) with respect to other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the Agreement entered into force.

## Article 29 – Termination

This Agreement shall remain in force until terminated by a Contracting State but either Contracting State may terminate the Agreement, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Agreement entered into force. In the event of termination before July 1 of such year, the Agreement shall cease to have effect—

- (a) with respect to taxes due at source on income credited or payable from January 1 of the year next following the year in which the notice of termination is given;
- (b) with respect to other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the notice of termination is given.

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

Done in duplicate at Brussels this 27<sup>th</sup> day of April 2006, in the English language.

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Jacquelin Dugasse

For the Government of the Republic of Seychelles

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Didier Reynders

For the Government of the Kingdom of Belgium