

Seychelles

Business Tax Act, 2009

Business Tax (Double Taxation Agreement) Regulations, 2009 Statutory Instrument 58 of 2009

Legislation as at 8 November 2017

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Seychelles

Business Tax Act, 2009

Business Tax (Double Taxation Agreement) Regulations, 2009

Statutory Instrument 58 of 2009

Not commenced

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

1. Citation

These Regulations may be cited as the Business Tax (Double Taxation Agreement) Regulations, 2009.

2. Declaration and effect of Agreement

It is hereby declared that the Government of the Republic of Seychelles and the Government of the State of Kuwait 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 Government of the Republic of Seychelles and the Government of the State of Kuwait for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital

The Government of the Republic of Seychelles and the Government of the State of Kuwait,

Desiring to promote their mutual economic relations through the conclusion between them of an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital;

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 and on capital imposed on behalf of a Contracting State or its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular—
 - (a) in the case of the Republic of Seychelles—
 - (i) the business tax; and

- (ii) the petroleum income tax;
(hereinafter referred to as "Seychelles tax")
 - (b) in the case of the Kuwait—
 - (i) the corporate income tax;
 - (ii) the contribution from the net profits of the Kuwaiti shareholding companies payable to the Kuwait Foundation for Advancement of Science (KFAS);
 - (iii) the Zakat;
 - (iv) the tax subjected according to the supporting of national employee law,
(hereinafter referred to as "Kuwaiti tax").
4. This Agreement shall apply also to any identical or substantially similar taxes, which are imposed under the laws of a Contracting State after the date of signature of this Agreement in addition to, or in place of the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes, which 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 "**Kuwait**" means the territory of the State Kuwait including any area beyond the territorial sea which in accordance with international law has been or may hereafter be designated, under the laws of Kuwait, as an area over which Kuwait may exercise sovereign rights or jurisdiction;
 - (b) the term "**Seychelles**" means the territory of the Republic of Seychelles including 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**" means the Government of the State of Kuwait or the Republic of Seychelles as the context requires;
 - (d) the term "**person**" includes an individual, a company and any other body of persons which is taxable under the taxation law in force in the respective Contracting States;
 - (e) the term "**company**" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (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 "**national**" means—
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
 - (i) the term "**competent authority**" means—
 - (i) in the case of the Republic of Seychelles, the Minister of Finance or his authorized representative;

- (ii) in the case of Kuwait, the Minister of Finance or an authorized representative of the Minister of Finance.
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 Contracting State" means—
- (a) in the case of Kuwait, an individual who has his domicile in Kuwait and is a Kuwaiti national, and a company which is incorporated in Kuwait;
 - (b) in the case of Seychelles, any person who, under the laws of Seychelles, is liable to tax therein by reason of his domicile, residence, place of effective management or any other criterion of a similar nature.
2. For the purposes of paragraph 1, a resident of a Contracting State shall include all of the following—
- (a) the Government of that Contracting State and any political subdivision or local authority thereof;
 - (b) any governmental institution created in the Contracting State under public law such as a corporation, Central Bank, fund, authority foundation, agency or other similar entity;
 - (c) any entity established in that Contracting State all the capital of which has been provided by that Contracting State or any political subdivision or local authority thereof, any governmental institution as defined in subparagraph (b), together with other States.
3. 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 (center of vital interests);
 - (b) if the Contracting State in which he has his center 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.
4. 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 Contracting State where it was incorporated or in which its place of effective management is situated, or if they cannot be established, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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, oil or gas well, a quarry or any other place relation to the exploration for or exploitation of natural resources.
3. A building site, a construction, assembly, erection or installation project or supervisory activities in connection therewith carried out in a Contracting State, constitutes a permanent establishment only if such a site, project or activities continue for a period of more than three months.
4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if substantial technical, mechanical or scientific equipment or machinery is used for more than three months within any twelve month period or installed, in that other Contracting State by, for or under contract with the enterprise.
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) 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.
6. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 8 applies is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person—
 - (a) has, and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 6 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;
 - (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he delivers goods or merchandise on behalf of the enterprise;
 - (c) habitually secures orders in the first-mentioned Contracting State, exclusively or almost exclusively for the enterprise itself or for such enterprise and other enterprises which are controlled by it or have a controlling interest in it;

- (d) in so acting, he manufactures or processes in that Contracting State for the enterprise, goods or merchandise belonging to 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 Contracting 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 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 and to income from immovable property used for the performance of independent personal services.
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 Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated in that other Contracting State. If the enterprise carries on or has carried on business in that manner, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as are attributable to that permanent establishment. However, payments of any kind received as a consideration for the use of, or the right to use, industrial, commercial or scientific equipment, shall be deemed to be profits of an enterprise to which the provisions of this Article shall apply.
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 deductions for those deductible 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, taking into consideration any applicable law or regulations. Hence, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or except in the case of a banking enterprise, by way of interest on moneys lent to the

permanent establishment. Likewise, no account shall be taken in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or management, or except in the case of a banking enterprise, by way of interest on moneys lent to the head office or any of its other offices.

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 permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. If the information available to the competent authority of a Contracting State is inadequate to determine the profits to be attributed to the permanent establishment of a person, nothing in this Article shall affect the application of any law or regulations of that Contracting State relating to the determination of the tax liability of that permanent establishment by making of an estimate by the competent authority of that Contracting State of the profits to be subject to tax of that permanent establishment by the competent authority of that Contracting State, provided that such law or regulations shall be applied, taking into account the information available to the competent authority, consistently with the principles of this Article.
7. 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.
8. Where profits include items of income or capital 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 of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.
2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include—
 - (a) profits from the rental on a bareboat basis of ships or aircraft;
 - (b) profits from the use, maintenance or rental of containers, including trailers and related equipment for the transport of containers, used for the transport of goods or merchandise;where such rental or where such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.
3. The provisions of paragraphs 1 shall also apply to profits from the participation in a pool, a joint business or in 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 Contracting State and taxes accordingly profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of tax charged therein on those profits. In determining such adjustment, due regard shall be made 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 who is the beneficial owner of such dividends shall be taxable only in that other Contracting State.
- The provisions of 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 share, founders shares or other rights, not being debt-claims, participating in profits, as well as income which is subjected to the same taxation treatment as income from shares by the taxation laws of the Contracting State of which the company making the distribution is a resident.
3. The provisions of paragraph 1 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 in that other Contracting State, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, 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 Contracting State who is the beneficial owner of the dividends or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Contracting 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 Contracting State.

Article 11 – Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner of such interest shall be taxable only in that other Contracting State.
2. 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 and debentures, as well as income which is subjected to

- the same taxation treatment as income from money lent by the taxation laws of the Contracting State in which the income arises.
3. The provisions of paragraph 1 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 in that other Contracting State, 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.
 4. 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.
 5. Where, by reason of a special relationship between the payer and the beneficial owner of the interest 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 of 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 Contracting State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting 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% 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 alienation of or the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematography films and works on films, tapes or other means of reproduction for use in connection with television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) 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 in that other Contracting State, 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 Contracting 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 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 Contracting 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 the other Contracting State.
3. Gains derived by an enterprise of a Contracting State 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 that Contracting State.
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 – Dependent personal services

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20 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 Contracting 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 Contracting 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 Contracting 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.
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State;
 - (c) the remuneration is not borne by a permanent establishment which the employer has in the other Contracting 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 shall be taxable only in that Contracting State.
4. Ground staff appointed from head office of national air carrier of a Contracting State to the other Contracting State shall be exempted from taxes levied on their remunerations in that other Contracting 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 or other similar organ of a company which is a resident of the other Contracting State shall be taxable only in the first-mentioned Contracting State.

Article 16 – Artistes and sportsmen

1. Notwithstanding the provisions of Article 14 income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived by entertainers or sportsmen who are residents of a Contracting State from personal activities as such exercised in the other Contracting States if their visit to that other Contracting State is substantially supported from the public funds of the first-mentioned Contracting State, including those of any political subdivision, a local authority or statutory body thereof nor to income derived by a non-profit making organization in respect of such activities provided no part of its income is payable to, or is otherwise available for the personal benefit of its proprietors, founders or members.

Article 17 – Pensions and annuities

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration and annuities paid to an individual who is a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.
2. Notwithstanding the provisions of paragraph 1, pensions and other similar payments made under the social security system of a Contracting State, shall be taxable only in that State.
3. As used in this Article—
 - (a) the terms "pensions and other similar remuneration" mean periodic payments made after retirement in consideration of past or by way of compensations for injuries received in connection with past employment;
 - (b) the term "annuity" means a stated sum payable to an individual periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 18 – Teachers and researchers

An individual who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who, at the invitation of the Government of the first-mentioned Contracting State or of a university, college, school, museum or other cultural institution in that first-mentioned Contracting State or under an official programme of cultural exchange, is present in that Contracting State for a period not exceeding two consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that Contracting State on his remuneration for such activity.

Article 19 – 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 Contracting State or subdivision or authority shall be taxable only in that Contracting 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 Contracting State and the individual is a resident of that Contracting State, who—
 - (i) is a national of that Contracting State, or
 - (ii) did not become a resident of that Contracting State solely for the purpose of rendering the services.
2.
 - (a) Any pension 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 Contracting State or subdivision or authority shall be taxable only in that Contracting State.
 - (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.
3. The provisions of Article 14, 15 and 17 of this Agreement shall apply to salaries, wages and other similar remuneration, and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority or a statutory body thereof.

Article 20 – Students and trainees

1. Payments which a student or business trainee 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.
2. Notwithstanding the provisions of paragraph 1, remuneration which a student or business trainee 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 Contracting State solely for the purpose of his education or training derives from temporary services rendered in the first-mentioned Contracting State shall not be taxed in that Contracting State, provided that such services are in connection with his education or training and that the remuneration for such services is necessary to supplement the resources available to him for the purpose of his maintenance.

Article 21 – 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 Contracting 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 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 22 – Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other Contracting State.
2. Capital represented by 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 may be taxed in that other Contracting State.

3. Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that Contracting State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that Contracting State.

Article 23 – Elimination of double taxation

1. The laws in force in either of the Contracting States shall continue to the taxation in the respective Contracting State except where provisions to the contrary are made in this Agreement.
2. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this Article—
 - (1) (a) in the case of Kuwait—

where a resident of Kuwait derives income or owns capital which, in accordance with the provisions of this Agreement may be taxed in both Seychelles and Kuwait, Kuwait shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Seychelles and as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Seychelles. Such deduction in either case shall not, however, exceed that part of the tax on income or on capital, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Seychelles.
 - (b) in the case of Seychelles—

where a resident of Seychelles derives income from Kuwait the amount of tax on that income payable in Kuwait in accordance with the provisions of this Agreement may be credited against the Seychelles tax imposed on that resident provided that any credit allowed shall not exceed the Seychelles tax, as computed before allowing any such credit, which is appropriate to the profits or income derived from sources within Kuwait.
- (2) For the purposes of item (1) of this subparagraph, the Zakat mentioned in subparagraph (a) of paragraph 3 of Article 2 shall be considered an income tax.
3. For the purposes of allowance as a credit in a Contracting State, the tax paid in the other Contracting State, has been waived or reduced in accordance with the special investment law or measures designed to promote economic development in that other Contracting State.

Article 24 – Non-discrimination

1. Individuals possessing the nationality of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is more burdensome than the taxation and connected requirements to which individuals possessing the nationality of that other Contracting State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment, which an enterprise of a Contracting State has in the other Contracting State, shall not be less favorably levied in that other Contracting State, than the taxation levied on enterprises of third states, carrying on the same activities in the same circumstances. 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. 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 Contracting 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, the capital of which is wholly or partly owned or controlled directly or indirectly by one or more residents of any third states, are or may be subjected to.
4. Nothing in this Article shall be interpreted as imposing a legal obligation on a Contracting State to extend to the residents of the other Contracting States, the benefit of any treatment, preference or privilege which may be accorded to any third state or its residents by virtue of the formation of a customs union, economic union, a free trade area or any regional or sub-regional arrangement relating wholly or mainly to taxation or movement of capital to which such the first-mentioned Contracting State may be a party.
 5. In this Article, the term 'taxation' means taxes, which are the subject of this Agreement.

Article 25 – 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 Contracting 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 24, 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 endeavor, 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 endeavor 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 may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26 – Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is not contrary to the Agreement as well as to prevent fiscal evasion. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. 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. The competent authorities shall, through consultations, develop appropriate methods and techniques concerning the matters in respect of which such exchanges of information shall be made.
2. 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*).

Article 27 – Members of diplomatic missions and consular posts

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

Article 28 – Entry into force

1. Each of the Contracting States shall notify to the other the completion of its constitutional procedures for the entry into force of this Agreement. This Agreement shall enter into force on the date of the latter of these notifications and its provisions shall thereupon have effect in both Contracting State.
2. The provisions of the agreement shall apply—
 - (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January in the year next following the date on which the Agreement enters into force;
 - (b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January next following the date on which the Agreement enters into force.

Article 29 – Duration and termination

1. This Agreement shall remain in force for a period of five years and shall continue in force thereafter for a similar period or periods unless either Contracting State notifies the other in writing, six months before the expiry of the initial or any subsequent period, of its intention to terminate this Agreement. In such event, this Agreement shall cease to have effect in both Contracting States—
 - (a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following that in which the notice of termination is given;
 - (b) in respect of other taxes, for taxable periods beginning on or after the first day of January of the year next following that in which the notice of termination is given.

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

DONE at Kuwait this 27th day of Moharram 1429H corresponding to the 5th day of February 2008, in two originals, in the Arabic, and English languages, all texts being equally authentic. In case of divergency, the English text shall prevail.

Jacquelin Dugasse Minister of National Development For the Government of The Republic of Seychelles	Mustafa J. Al-Shamall Minister of Finance For the Government The State of Kuwait
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