

Seychelles

Business Tax Act, 2009

## Business Tax (Double Taxation Agreement) Regulations, 2011 Statutory Instrument 97 of 2011

Legislation as at 8 November 2017

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Business Tax (Double Taxation Agreement) Regulations, 2011

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# Seychelles

## Business Tax Act, 2009

# Business Tax (Double Taxation Agreement) Regulations, 2011

## Statutory Instrument 97 of 2011

Commenced on 3 February 2012

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

*[SI 97 of 2011]*

### 1. Citation

These Regulations may be cited as the Business Tax (Double Taxation Agreement) Regulations, 2011.

### 2. Declaration and effect of Agreement

It is hereby declared that the Government of the Kingdom of Bahrain and the Government of the Republic of Seychelles have entered into an Agreement for the purpose of avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and the Agreement shall have effect in relation to the tax imposed under the Act.

## Schedule

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

The Government of the Kingdom of Bahrain and the Government of the Republic of Seychelles, Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Desiring to conclude 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 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.
3. The existing taxes to which the Agreement shall apply are in particular:—
  - (a) in the case of the Kingdom of Bahrain:
    - to income tax payable under Amiri [Decree No. 22/1979](#) (“The Oil Tax”);

- (hereinafter referred to as "Bahrain tax").
- (b) in the case of the Republic of Seychelles:
- the business tax;
- (hereinafter referred to as "Seychelles tax").).
4. This Agreement shall also apply to any identical or substantially similar taxes, which are imposed 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 significant changes, which have been made in the respective taxation laws within a reasonable period of time after such changes.

### Article 3 – General definitions

1. For the purposes of this Agreement, unless the context otherwise requires:—
- (a) the term "**Bahrain**" means the territory of the Kingdom of Bahrain as well as the maritime areas, seabed and subsoil over which Bahrain exercises, in accordance with international law, sovereign rights and jurisdiction;
- (b) the term "**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**" mean the Kingdom of Bahrain or the Republic of Seychelles as the context requires;
- (d) the term "**person**" includes an individual, a company, a body of persons and any other entity;
- (e) the term "**company**" means any body corporate or any entity which is treated as a body corporate for tax purposes or any other entity constituted or recognised under the laws of one or other of the Contracting States as a body corporate;
- (f) the 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 of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (i) 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;
- (j) the term "**competent authority**" means—
- (i) in the case of the Kingdom of Bahrain, the Minister of Finance or his authorised representative; and
  - (ii) in the case of the Republic 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.

- (l) the term "**tax**" means Bahrain tax or Seychelles tax, as the context requires, but shall not include any amount which is payable 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.
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:—
  - (a) in the case of Bahrain, an individual who is a national of Bahrain and who is present in Bahrain for a period or periods totalling in the aggregate at least 183 days in the fiscal year concerned, and a company or other legal person which is incorporated or has its place of management in Bahrain; and
  - (b) in the case of Seychelles 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.

This term also includes the Contracting States and any administrative-territorial subdivisions or local authority, but does not include any person who is liable to tax in a Contracting State in respect only of income or capital gains 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 refinery;
  - (g) a sales outlet;
  - (h) a warehouse in relation to a person providing storage facilities for others;
  - (i) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
  - (j) 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;
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 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.
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 of 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 shall also be considered as "immovable property". 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 of this Article, 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this 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. If the place of effective management of a shipping enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.
4. 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 accordance with the provisions of paragraph 1, 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 where the competent authorities of the Contracting States agree, upon consultation, that all or part of 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 may make an appropriate adjustment to the amount of the tax charged therein on those agreed profits. In determining such adjustment, due regard shall be had to the other provisions of the Agreement.

## Article 10 – Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be taxable only in that other State.
2. The term "dividends" as used in this Article means income from shares, "*jouissance*" shares or "*jouissance*" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as



well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

3. The provisions of 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 therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

### **Article 11 – Income from debt-claims**

1. Income from, debt-claims arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.
2. The term "income from debt-claims" or "income" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the income, being a resident of a Contracting State, carries on business in the other Contracting State, in which the income arises, through a permanent establishment situated therein, and the debt-claim in respect of which the income is paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.
4. Income shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the income, 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 income is paid was incurred, and such income is borne by such permanent establishment, then such income 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 or between both of them and some other person, the amount of the income, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this 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 of 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 the use of, or the right to use, industrial, commercial or scientific equipment, 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. 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 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains derived by a resident 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 alienation 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 fiscal year concerned, and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
  - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding paragraphs of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State of which the enterprise operating the ship or aircraft is a resident.

### **Article 15 – Directors' fee**

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

### **Article 16 – Artistes and sportspersons**

1. Notwithstanding the provisions of Articles 7, 13 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. Income derived by an entertainer or a sportsperson 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 or a local authority thereof, or takes place under a cultural agreement or arrangement between the Governments of the Contracting States.

### **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, 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 local authority or a statutory body thereof to any individual in respect of services rendered to that State or authority or body shall be taxable only in that State.  
(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State, who:—
  - (i) is a national of that State, or
  - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a local authority or statutory body thereof to any individual in respect of services rendered to that State or authority or body shall be taxable only in that 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 16, 17, 18 and 19 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 local authority or a statutory body thereof.

### **Article 19 – Professors and teachers**

1. A professor or teacher who is or was a resident of a Contracting State immediately before visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at an approved university, college or school or other approved educational or scientific research institution in that other Contracting State shall be exempt from tax in that other Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date of his arrival in that other Contracting State.
2. This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.
3. The term "approved" in paragraph 1 means an approval given by the Contracting State in which the university, college, school or institution is situated.

### **Article 20 – 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 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 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 this Agreement and arising in the other Contracting State may also be taxed in that other State.

### **Article 22 – Elimination of double taxation**

1. Where a resident of a Contracting State derives income which, in accordance with, the provisions of this Agreement, may be taxed in the other Contracting State, the first mentioned State shall allow, as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State. Such deduction in either case shall, not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in that other State.
2. The tax payable in a Contracting State mentioned in paragraph 1 shall be deemed to include the tax which would have been payable but for the tax incentives granted under the laws of that Contracting State and which are designed to promote economic development.

### **Article 23 – 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.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12 of this Agreement apply, income from debts claims, royalties, technical fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to its own individuals so resident.
6. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

### **Article 24 – 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 23, to that of the Contracting State of which he is a national. The case must be presented within two 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 may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

### **Article 25 – Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States,

- insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles I.1 and 2.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
  3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:—
    - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
    - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
    - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.
  34. 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.

*[Please note: numbering as in original.]*
  5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## **Article 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 – Entry into force**

Each of the Contracting States shall notify the other Contracting State of the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:—

- (a) in the case of the Kingdom of Bahrain:—
  - (i) 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 following the date on which the Agreement enters into force;
  - (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January following the date on which the Agreement enters into force.
- (b) in the case of the Republic of Seychelles:—
  - (i) 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 following the date on which the Agreement enters into force;

- (ii) with regard to other taxes, in respect of taxable years beginning on or after the first day of January following the date on which the Agreement enters into force.

### **Article 28 – Termination**

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the period of five years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect as follows:—

- (a) in the case of the Kingdom of Bahrain;—
  - (i) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given;
  - (ii) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.
- (b) in the case of the Republic of Seychelles;—
  - (i) with regard to taxes withheld at source, in respect of amounts paid or credited after the end of the calendar year in which such notice is given;
  - (ii) with regard to other taxes, in respect of taxable years beginning after the end of the calendar year in which such notice is given.

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

Done in duplicate at Washington DC this 24th day of April 2010, in the Arabic and English languages, both texts being equally authentic. In case of divergence in interpretation the English text shall prevail.

For the Government of the Kingdom of Bahrain

For the Government of the Republic of Seychelles