

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 18,607, 11 ta' Ġunju, 2010

Taqsimha B

A.L. 328 tal-2010

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

**Ordni tal-2010 dwar Helsien minn Taxxa Doppja (Taxxi fuq l-
Income) (Ir-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu
Soċjalista)**

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

1. It-titolu ta' dan l-ordni hu Ordni tal-2010 dwar Helsien minn Taxxa Doppja (Taxxi fuq l-*Income*) (Ir-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu Soċjalista). Titolu.

2. B'dan qiegħed jiġi dikjarat -

Arrangamenti
jkollhom effett.

(a) illi l-arrangamenti speċifikati fil-Ftehim muri fl-Iskeda li tinsab ma' dan l-Ordni saru mar-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu Soċjalista sabiex jagħtu helsien minn taxxa doppja dwar taxxi li ġejjin imposti bil-liġijiet tar-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu Soċjalista:

- it-taxxa fuq l-*income*, liġi Numru (11) tal-1372 P.D (2004) dwar it-taxxa fuq l-*income* u t-taxxa għad-difiża, liġi Numru (44) tal-1970.

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

(c) illi l-Ftehim beda jseħh fl-20 ta' Mejju 2010.

SKEDA

**FTEHIM BEJN
MALTA U
L-ĠAMHIRIJA GĦARBIJA TAL-LIBJA TAL-POPLU SOĊJALISTA L-KBIR
GHALL-HELSEN MIT-TAXXA DOPPIJA
U L-PREVENZJONI TA' EVAŻJONI FISKALI
DWAR TAXXI FUQ L-*INCOME***

BILLI ż-żewġ pajjiżi jixtiequ jgħibu 'l quddiem u jiżviluppaw ir-relazzjonijiet ekonomiċi u kooperazzjoni bejniethom huma ddeċidew li jagħmlu Ftehim għall-helsen mit-taxxa doppja u l-prevenzjoni ta' evażjoni fiskali dwar it-taxxi fuq l-*income*, ftehm u kif ġej:

**Artiklu 1
Persuni Koperti**

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

**Artiklu 2
Taxxi Koperti**

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

2. Għandhom jitqiesu bħala taxxi fuq l-*income* it-taxxi kollha imposti fuq l-*income* totali jew fuq elementi ta' *income*, inklużi taxxi fuq il-qliegh mit-trasferiment ta' proprjetà mobbli jew immobbli.

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

(a) fir-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu Soċjalista:

it-taxxa fuq l-*income*, liġi Numru (11) ta' l-1372 P.D (2004) dwar it-taxxa fuq l-*income* u t-taxxa għad-difiża, liġi Numru (44) ta' l-1970; (hawn iżjed 'il quddiem imsejha "it-taxxa tal-Libja"); u

(b) fil-każ ta' Malta, it-taxxa fuq l-*income*; (hawn iżjed 'il quddiem imsejha "it-taxxa ta' Malta").

4. Il-Ftehim għandu japplika wkoll għal kull taxxa identika jew sostanzjalment simili li tigi imposta wara d-data meta jiġi ffirmat dan il-Ftehim

b'żjieda mat-taxxi ezistenti jew minflokhom. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jgħarrfu lil xulxin b'kull tibdil sinifikanti li jkun sar fil-liġijiet dwar it-taxxa rispettivi tagħhom.

Artiklu 3 **Tifsiriet Ġenerali**

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

(a) Il-frazzjiet "Stat Kontraenti" u "l-Istat Kontraenti l-ieħor" ifissru l-Libja jew Malta;

(b) Il-frazi "Libja" tfisser ir-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu Soċjalista; meta tiġi użata f'sens ġeografiku, tfisser it-territorju tar-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu Soċjalista, inkluż il-baħar territorjali u kull area oħra fil-baħar u fl-ajru li dwarhom ir-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu Soċjalista, skond id-dritt internazzjonali, teżerċita d-drittijiet sovrani jew il-ġurisdizzjoni tagħha;

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

(d) Il-frazi "persuna" tinkludi individwu, kumpannija u kull korp ieħor ta' persuni;

(e) Il-frazi "kumpannija" tfisser kull korp magħqud jew kull entità li tkun ittrattata bħala korp magħqud għall-iskopijiet ta' taxxa;

(f) Il-frazzjiet "impriża ta' Stat Kontraenti" u "impriża ta' l-Istat Kontraenti l-ieħor" ifissru rispettivament impriża mmexxija minn residenti ta' Stat Kontraenti u impriża mmexxija minn residenti ta' l-Istat Kontraenti l-ieħor;

(g) Il-frazi "traffiku internazzjonali" tfisser kull trasport permezz ta' bastiment jew b'ingeni ta' l-ajru mhaddem minn impriża li jkollha l-post ta' maniġġ effettiv tagħha fi Stat Kontraenti, hliet meta l-bastiment jew l-ingeni ta' l-ajru jkun imhaddem unikament bejn postijiet fl-Istat Kontraenti l-ieħor;

(h) Il-frazi "awtorità kompetenti" tfisser:

(i) Fil-Libja, is-Segretarju tal-Kumitat tal-Poplu Ġenerali għall-Finanzi jew id-Direttur Ġenerali tal-Awtorità għat-Tassazzjoni jew ir-rappreżentanti awtorizzati tagħhom.

(ii) F'Malta, il-Ministru responsabbli għall-finanzi, jew ir-rappreżentant awtorizzat tiegħu.

(i) Il-frazi 'ċittadin' tfisser:

(i) Kull individwu li jkollu ċ-ċittadinanza ta' Stat Kontraenti;

(ii) Kull persuna ġuridika, soċjetà jew assoċjazzjoni li jiksbu l-istatus tagħhom bħala tali mil-ligijiet li jkunu fis-sehh fi Stat Kontraenti.

2. Dwar l-applikazzjoni tal-Ftehim f'kull żmien minn Stat Kontraenti, kull frazi li ma tkunx imfissra fih għandu jkollha, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort' oħra, it-tifsira mogħtija lilha li jkollha f'dak il-waqt taħt il-ligi ta' dak l-Istat għall-finijiet tat-taxxi li dwarhom ikun japplika l-Ftehim, hekk li kull tifsira taħt il-ligijiet tat-taxxa ta' dak l-Istat tkun tipprevali fuq tifsira mogħtija lil dik il-frazi taħt ligijiet oħra ta' dak l-Istat.

Artiklu 4

Domicilju għal Skop ta' Taxxa

Mingħajr preġudizzju għal kull dispożizzjoni oħra f'dan il-Ftehim, id-domicilju għal skop ta' *income* hu l-Istat Kontraenti fejn jorigina dak l- *income*.

Artiklu 5

Residenti

1. Għall-finijiet ta' dan il-Ftehim, il-frazi "residenti ta' Stat Kontraenti" tfisser kull persuna li, taħt il-ligijiet ta' dak l-Istat, tkun soġġetta għat-taxxa fih minhabba fid-domicilju, residenza, post ta' inkorporazzjoni, post tal-manigġ tagħha jew kull kriterju ieħor ta' xorta bħal dawk, u tinkludi wkoll lil dak l-Istat u lil kull sottodivizjoni politika jew awtorità lokali tiegħu. Din il-frazi, madankollu, ma tinkludix lil xi persuna li tkun soġġetta għat-taxxa f'dak l-Istat f'dak li għandu x'jaqsam biss ma' *income* minn ghejjun f'dak l-Istat jew kapital li jkun jinsab fih.

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

(a) Huwa għandu jitqies li jkun residenti biss ta' l-Istat li fih ikollu dar permanenti għad-dispożizzjoni tiegħu; jekk huwa jkollu dar permanenti għad-dispożizzjoni tiegħu fiż-żewg Stati, huwa għandu jitqies li jkun residenti biss ta' l-Istat li miegħu jkunu l-aktar marbuta r-relazzjonijiet

personali u ekonomiċi tiegħu (ċentru ta' interessi vitali);

(b) Jekk l-Istat li fih huwa jkollu ċ-ċentru ta' interessi vitali ma jkunx jista' jiġi stabbilit, jew jekk huwa ma jkollux għad-dispożizzjoni tiegħu dar permanenti f'xi Stat wiehed jew l-ieħor, huwa għandu jitqies li jkun residenti biss ta' l-Istat li fih ikun soltu jirrisjedi;

(ċ) Jekk huwa soltu jirrisjedi fiż-żewg Stati jew f'ebda wiehed minnhom, huwa għandu jitqies li jkun residenti biss ta' l-Istat li jkun ċittadin tiegħu;

(d) Jekk huwa ċittadin taż-żewg Stati jew ta' ebda wiehed minnhom, l-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jiddeċiedu l-każ bi ftehim reċiproku bejnithom.

3. Meta minhabba fid-dispożizzjonijiet tal-paragrafu 1 persuna li ma tkunx individwu tkun residenti taż-żewg Stati Kontraenti, allura dik il-persuna għandha titqies bħala residenti biss fl-Istat fejn ikun jinsab il-post ta' maniġġ effettiv tagħha.

Artiklu 6 **Stabbiliment Permanenti**

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

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

(a) Post ta' maniġġ;

(b) Fergħa;

(ċ) Uffiċċju;

(d) Fabbrika;

(e) Ħanut tax-xogħol;

(f) Minjiera, bir taż-żejt jew tal-gass, barriera jew kull post ieħor ta' estrazzjoni ta' riżorsi naturali;

(g) Sit fejn ikun qed jittella' bini, kostruzzjoni, proġett ta' assemblaġġ jew installazzjoni jew attivitajiet supervizorji li jkollhom x'jaqsmu ma' dan, iżda biss jekk dak is-sit, proġett jew attivitajiet idumu għal iżjed minn tliet xhur.

3. Minkejja l-provvedimenti ta' qabel ta' dan l-artiklu, il-frazi "stabbiliment permanenti" għandha titqies li ma tinkludix:

(a) L-użu ta' faċilitajiet bl-iskop uniku ta' hżin jew wiri ta' oġġetti jew merkanzija li jkunu jappartjenu lill-impriza;

(b) Iż-żamma ta' hażna ta' oġġetti jew merkanzija li tkun tappartjeni lill-impriza bl-iskop uniku ta' hżin jew wiri;

(c) Iż-żamma ta' hażna ta' oġġetti jew ta' merkanzija li tkun tappartjeni lill-impriza bl-iskop uniku ta' ipproċessar minn impriza oħra;

(d) Iż-żamma ta' post fiss ta' negozju bl-iskop uniku ta' xiri ta' oġġetti jew ta' merkanzija, jew ta' gbir ta' taġħrif, għall-impriza;

(e) Iż-żamma ta' post fiss ta' negozju bl-iskop uniku li tiġi mmexxija, għall-impriza, kull attività oħra ta' xorta preparatorja jew awżiljarja;

(f) Iż-żamma ta' post fiss ta' negozju unikament biex tkun tista' ssir xi kombinazzjoni ta' attivitajiet imsemmija fis-subparagrafi (a) sa (e), sakemm l-attività kollha tal-post tan-negozju fiss li tirriżulta minn din il-kombinazzjoni tkun wahda ta' xorta preparatorja jew awżiljarja.

4. Minkejja l-provvedimenti tal-paragrafi 1 u 2, meta persuna - li ma tkunx aġent bi status indipendenti li għalih japplika l-paragrafu 6 - tkun qegħda taġixxi fi Stat Kontraenti f'isem impriza tal-Istat Kontraenti l-ieħor, dik l-impriza għandha titqies li jkollha stabbiliment permanenti fl-Istat Kontraenti l-ewwel imsemmi għar-rigward ta' kull attività li dik il-persuna taġħmel għall-impriza, jekk dik il-persuna:

(a) Ikollha u tkun abitwalment teżerċita f'dak l-Istat awtorità li taġħmel kuntratti f'isem l-impriza, sakemm l-attivitajiet ta' dik il-persuna ma jkunux limitati għal dawk imsemmija fil-paragrafu 4 illi, jekk dawn jiġu eżerċitati minn go post tan-negozju fiss, ma jkunux jirrendu lil dan il-post tan-negozju fiss bħala stabbiliment permanenti taħt il-provvedimenti ta' dak il-paragrafu; jew

(b) Ma jkollha ebda awtorità bħal dik imma tkun soltu żżomm fl-Istat l-ewwel imsemmi hażna ta' oġġetti jew merkanzija li minnha tkun regolament tikkunsinna oġġetti jew merkanzija f'isem l-impriza.

5. Impriza ta' Stat Kontraenti ma għandhiex titqies li jkollha stabbiliment permanenti fl-Istat Kontraenti l-ieħor biss minhabba li tkun tmexxi negozju f'dak l-Istat l-ieħor permezz ta' sensal, aġent b'kummissjoni ġenerali jew kull aġent ieħor bi status indipendenti, sakemm dawk il-persuni jkunu qegħdin jaġixxu fil-kors ordinarju tan-negozju taġħhom.

6. Il-fatt li kumpannija li tkun residenti ta' Stat Kontraenti tkun tikkontrolla jew tkun kontrollata minn kumpannija li tkun residenti ta' l-Istat Kontraenti l-iehor, jew li tkun tmexxi negozju f'dak l-Istat l-iehor (sew permezz ta' stabbiliment permanenti sew xort'ohra), m'ghandux fih innifsu jikkostitwixxi lil kumpannija wahda jew l-ohra stabbiliment permanenti tal-kumpannija l-ohra.

Artiklu 7

***Income* minn Proprjeta Immobbli**

1. *Income* li jinkiseb minn residenti ta' Stat Kontraenti minn proprjeta immobbli (inkluż *income* mill-agrikoltura jew mill-hidma fil-boskijiet) li tkun tinsab fl-Istat Kontraenti l-iehor jista' jigi intaxxat f'dak l-Istat l-iehor.

2. Il-frazi "proprjeta immobbli" ghandu jkollha t-tifsira li ghandha taht il-ligi ta' l-Istat Kontraenti fejn tkun tinsab il-proprjeta involuta. Il-frazi ghandha f'kull kaz tinkludi proprjeta aċċessorja ghal proprjeta immobbli, bhejjem f'razzett u tagħmir li jintuza fl-agrikoltura u fil-hidma fil-boskijiet, drittijiet li ghalihom japplikaw il-provvedimenti tal-ligi generali dwar il-proprjeta ta' l-art, l-użufrutt tal-proprjeta immobbli u drittijiet dwar hlasijiet varjabbli jew fissi bhala korrispettiv ghal hidma fi, jew id-dritt li jinhadmu, depożiti minerali, ghejjun u rizorsi ohra naturali; bastimenti u ingenji tal-baħar u ta' l-ajru ma ghandhomx jitqiesu bhala proprjeta immobbli.

3. Il-provvedimenti tal-paragrafu 1 ghandhom ikunu japplikaw ukoll ghal *income* li jinkiseb mill-użu dirett, kiri jew uzu b'kull mod iehor ta' proprjeta immobbli.

4. Il-provvedimenti tal-paragrafi 1 u 3 ghandhom japplikaw ukoll ghal *income* minn proprjeta immobbli ta' impriza u ghal *income* minn proprjeta immobbli uzata għall-għemil ta' servizzi personali indipendenti.

Artiklu 8

Profitti minn Negozju

1. Il-profitti ta' impriza ta' Stat Kontraenti ghandhom jigu intaxxati biss f'dak l-Istat kemm-il darba l-impriza ma tkunx tmexxi negozju fl-Istat Kontraenti l-iehor permezz ta' stabbiliment permanenti li jkun jinsab hemmhekk. Jekk l-impriza tkun qeghda tmexxi negozju kif hawn qabel imsemmi, il-profitti ta' l-impriza jistghu jigu intaxxati fl-Istat l-iehor izda biss ghal dik il-parti minnhom daqs kemm tkun attribwibbli ghal (a) dak l-istabbiliment permanenti; (b) bejgħ f'dak l-Istat l-iehor ta' oġġetti jew merkanzija ta' l-istess xorta jew ta' xorta simili bhala dawk mibjugħin permezz ta' dak l-istabbiliment permanenti; jew (c) attivitajiet kummerċjali ohra li jigu mmexxija f'dak l-Istat l-iehor li jkunu tal-istess xorta jew ta' xorta simili bhala dawk li jsiru permezz ta' dak l-istabbiliment permanenti.

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

3. Sabiex jiġu stabbiliti l-profitti ta' stabbiliment permanenti, għandhom ikunu permessi b'ħala tnaqqis dawk l-ispejjeż li jsiru għall-għanijiet tan-negozju ta' l-istabbiliment permanenti, inklużi l-ispejjeż eżekuttivi u amministrattivi ġenerali li jkunu saru, sew fl-Istat li fih ikun jinsab l-istabbiliment permanenti sew band'oħra sakemm kull tnaqqis b'hal dak ma għandux ikun iżjed mit-tnaqqis li kieku kien ikun permess skond il-liġi domestika tal-Istat Kontraenti fejn ikun jinsab stabbiliment permanenti.

4. Sakemm tkun il-konswetudni fi Stat Kontraenti li jiġu stabbiliti l-profitti li għandhom jiġu attribwiti lil stabbiliment permanenti abbażi ta' tqassim tal-profitti totali ta' l-impriża lill-partijiet diversi tagħha, ebda haġa fil-paragrafu 2 ma għandha tipprekludi lil dak l-Istat Kontraenti milli jistabbilixxi l-profitti li għandhom jiġu intaxxati b'dak it-tqassim skond ma tista' tkun il-konswetudini; il-metodu ta' tqassim li jiġi adottat għandu, madankollu, isir b'tali mod li r-riżultat ikun skond il-prinċipji li jinsabu f'dan l-artiklu.

5. Jekk l-informazzjoni li tkun disponibbli għall-awtorità kompetenti ta' Stat Kontraenti ma tkunx biżżejjed sabiex jiġu stabbiliti l-profitti li għandhom jiġu attribwiti lill-istabbiliment permanenti, ebda haġa f'dan l-Artiklu ma għandha taffettwa l-applikazzjoni ta' xi liġi jew regolament ta' dak l-Istat Kontraenti li jkollhom x'jaqsmu ma kif tiġi determinata r-responsabbiltà għat-taxxa ta' dak l-istabbiliment permanenti billi ssir stima tal-profitti li għandhom jiġu intaxxati ta' dak l-istabbiliment permanenti mill-awtorità kompetenti ta' dak l-Istat Kontraenti, sakemm dik il-liġi jew dawk ir-regolamenti jiġu applikati, fil-qjies ta' l-informazzjoni disponibbli lill-awtorità kompetenti, konsistentement mal-prinċipji ta' dan l-Artiklu.

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

7. Meta l-profitti jkunu jinkludu oġġetti ta' *income* li jkunu qegħdin jiġu trattati separatament f'artikli oħra ta' dan il-Ftehim, għaldaqshekk il-provvedimenti ta' dawk l-artikli ma għandhomx jintlaqtu bil-provvedimenti ta' dan l-artiklu.

Artiklu 9 Tbahhir u Trasport bl-Ajru

1. Il-profitti li jinkisbu mit-tħaddim ta' bastimenti jew inġenji ta' l-ajru fi traffiku internazzjonali għandhom jiġu intaxxati biss fl-Istat Kontraenti fejn ikun jinsab il-post ta' manigġ effettiv ta' l-impriza.

2. Għall-finijiet ta' dan l-Artiklu, profitti mit-tħaddim fi traffiku internazzjonali ta' bastimenti jew inġenji ta' l-ajru għandhom b'mod partikolari jinkludu profitti minn:

(a) Kiri ta' bastimenti jew inġenji ta' l-ajru *charter* li jkunu mgħammra, ekwipaġġati u fornuti għalkollox, li jiġu użati fit-trasport internazzjonali;

(b) Il-kiri li jsir minn żmien għall-ieħor ta' bastimenti jew inġenji ta' l-ajru abbażi tal-kiri *bare boat*;

(ċ) L-użu jew il-kiri ta' *containers* (inklużi *trailers* u tagħmir anċillari użat għat-trasport ta' *containers*),

Meta dak il-kiri jew użu jkun supplimentari jew inċidentali għat-tħaddim ta' bastimenti jew inġenji ta' l-ajru fit-trasport internazzjonali.

3. Jekk il-post ta' manigġ effettiv ta' impriza tat-tbaħħir jew impriza tkun abbord bastiment, għaldastant dan jitqies li jkun jinsab fl-Istat Kontraenti fejn ikun jinsab il-port ewlieni tal-bastiment, jew, jekk ma jkunx jeżisti port ewlieni bħal dak, fl-Istat Kontraenti fejn min iħaddem il-bastiment ikun residenti.

4. Il-provvedimenti tal-paragrafu 1 għandhom ikunu japplikaw ukoll għal profitti miksubin mill-parteciġazzjoni f'*pool*, negozju bi shab jew agenzija b'operat internazzjonali.

Artiklu 10 Imprizi Assoċjati

1. Meta

(a) impriza ta' Stat Kontraenti tipparteciġa direttament jew mhux direttament fit-tmexxija, il-kontroll jew il-kapital ta' impriza ta' l-Istat Kontraenti l-ieħor, jew

(b) l-istess persuni jipparteciġaw direttament jew mhux direttament fit-tmexxija, il-kontroll jew il-kapital ta' impriza ta' Stat Kontraenti u ta' impriza ta' l-Istat Kontraenti l-ieħor, u f'kull każ isiru jew jiġu imposti kondizzjonijiet bejn iż-żewġ imprizi fir-relazzjonijiet kummerċjali jew finanzjarji tagħhom li ma jkunux jaqblu ma' dawk li kieku kienu jiġu magħmulin bejn imprizi indipendenti, f'dak il-każ il-profitti li, kieku ma

kienx għal dawk il-kondizzjonijiet, kienu jakkumulaw favur xi wahda mill-impriži, imma, minhabba f'dawk il-kondizzjonijiet, ma jkunux ġew hekk akkumulati, jistgħu jiġu inklużi fil-profitti ta' dik l-impriża u jiġu intaxxati skond hekk. Għandu jftiehem li għandhom jiġu applikati l-proċeduri disponibbli fil-liġijiet rispettivi ta' kull Stat Kontraenti f'dan ir-rigward.

2. Meta Stat Kontraenti ikun jinkludi fil-profitti ta' impriża ta' dak l-Istat - u skond hekk jintaxxa - profitti li fuqhom impriża ta' l-Istat Kontraenti l-ieħor tkun ġiet intaxxata f'dak l-Istat l-ieħor u l-profitti li jiġu hekk inklużi jkunu profitti li kienu jinqalgħu mill-impriża ta' l-ewwel Stat imsemmi li kieku l-kondizzjonijiet magħmulin bejn iż-żewġ impriži kienu dawk li kieku kienu jsiru bejn impriži indipendenti, allura dak l-Istat l-ieħor għandu jagħmel tibdil adatt fl-ammont tat-taxxa hemm imposta fuq dawk il-profitti. Biex jiġi stabbilit dak it-tibdil, għandhom jitqiesu l-provvedimenti l-oħra tal-Ftehim u l-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom, jekk ikun hekk meħtieġ, jikkonsultaw lil xulxin.

3. Il-provvedimenti tal-paragrafu 2 ma għandhomx ikunu japplikaw meta preċedimenti ġudizzjarji, amministrattivi jew legali oħra jkunu irriżultaw f'deċiżjoni finali li b'azzjonijiet li jagħtu lok għal aġġustament ta' profitti taħt il-paragrafu 1, wahda mill-impriži involuti tkun soġġetta għal penali minhabba fi frodi, traskuraġni kbira jew qerq li jsir xjentement.

Artiklu 11

Dividendi

1. Id-dividendi mħallsa minn kumpannija li tkun residenti ta' Stat Kontraenti lil residenti ta' l-Istat Kontraenti l-ieħor għandhom jiġu intaxxati f'dak l-Istat l-ieħor.

2. Madankollu, dawk id-dividendi jistgħu jiġu intaxxati wkoll fl-Istat Kontraenti li l-kumpannija li tkun qegħda tħallas id-dividendi tkun residenti fih u skond il-liġijiet tal-Istat Kontraenti, imma:

(a) meta d-dividendi jithallsu minn kumpannija li tkun residenti tal-Libja lil residenti ta' Malta li jkun is-sid benefiċjarju tagħhom it-taxxa li hekk tingabar ma għandhiex tkun iżjed minn:

(i) jekk is-sid benefiċjarju tad-dividendi ikun kumpannija (minbarra soċjetà) li jkollha direttament mill-inqas 10 fil-mija tal-kapital tal-kumpannija li tkun qegħda tħallas id-dividendi, 5 fil-mija;

(ii) fil-każijiet l-oħra kollha, 15 fil-mija.

(b) meta d-dividendi jithallsu minn kumpannija li tkun residenti ta' Malta lil residenti tal-Libja li jkun is-sid benefiċjarju tagħhom, it-taxxa ta' Malta fuq l-ammont totali tad-dividendi ma għandux ikun iżjed minn dak li jithallas fuq il-profitti li minnhom jithallsu d-dividendi.

L-awtoritajiet kompetenti tal-Istati Kontraenti għandhom bi ftehim reċiproku jaqblu fuq il-mod ta' kif għandhom jiġu applikati dawn il-limitazzjonijiet. Dan il-paragrafu ma għandux jolqot it-taxxa li tingabar mill-kumpannija dwar dawk il-profitti li d-dividendi jithallsu minnhom.

3. Il-frazi "dividendi" skond ma tintuża f'dan l-Artiklu tfisser *income* minn ishma jew jeddijiet oħra, li ma jkunux pretensjonijiet ta' debitu, il-partecipazzjoni fi profitti, kif ukoll *income* minn drittijiet korporattivi oħra li jingħata l-istess trattament dwar it-taxxa bħallikieku kien *income* minn ishma skond il-liġijiet ta' l-Istat fejn tkun residenti l-kumpannija li tkun qeghda tagħmel it-tqassim.

4. Il-provvedimenti tal-paragrafi 1 u 2 m'għandhomx ikunu japplikaw jekk is-sid benefiċjarju tad-dividendi, li jkun residenti ta' Stat Kontraenti, ikun imexxi negozju fl-Istat Kontraenti l-ieħor li l-kumpannija li thallas id-dividendi tkun residenti tiegħu, permezz ta' stabbiliment permanenti li jkun sitwat hemmhekk, jew li jkun jagħmel f'dak l-Istat Kontraenti l-ieħor servizzi personali indipendenti minn bażi stabbilita sitwata fih, u l-*holding* li dwarhom jithallsu d-dividendi jkollu effettivament x'jaqsam ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ għandhom japplikaw il-provvedimenti ta' l-Artiklu 8 jew ta' l-Artiklu 15 ta' dan il-Ftehim, skond il-każ.

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

Artiklu 12

Mghax

1. Mghax li jinqala' fi Stat Kontraenti u jithallas lil residenti ta' l-Istat Kontraenti l-ieħor jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Madankollu, dak l-imghax jista' wkoll jiġi intaxxat fl-Istat Kontraenti fejn dan jinqala' u skond il-liġijiet ta' dak l-Istat, imma jekk is-sid benefiċjarju tal-imghax ikun residenti ta' l-Istat Kontraenti l-ieħor, it-taxxa li hekk tithallas ma għandhiex tkun iżjed minn ħamsa fil-mija mill-ammont totali tal-imghax.

3. Minkejja l-provvedimenti tal-paragrafu 2, l-imghax ikun eżenti mit-taxxa fl-Istat Kontraenti fejn dan jinqala' jekk l-imghax jithallas lil u jkollu bhala sid benefiċjarju lill-Istat Kontraenti l-ieħor jew lil awtorità lokali tiegħu, il-Bank

Ċentrali jew xi istituzzjoni finanzjarja li tkun għalkollox proprjetà ta' dak l-Istat Kontraenti l-ieħor, sottodivizjoni politika jew awtorità lokali.

4. Il-frazi 'mgħax' kif tintuża f'dan l-Artiklu tfisser *income* minn pretensjonijiet ta' debitu ta' kull xorta, sew jekk assikurati b'ipoteka sew jekk le u kemm jekk ikollhomx dritt li jipparteċipaw fil-profitti tad-debitur kemm jekk le, u b'mod partikolari, *income* minn titoli tal-Gvern u *income* minn bonds jew obbligazzjonijiet, inklużi *premiums* u premjijiet relatati ma dawk it-titoli, bonds jew obbligazzjonijiet. Il-ħlasijiet ta' penali għal ħlas tardiv ma jitqiesux bħala mgħax għall-finijiet ta' dan l-artiklu.

5. Il-provvedimenti tal-paragrafu 1 ma għandhomx ikunu japplikaw jekk is-sid benefiċjarju ta' l-imgħax, li jkun residenti ta' Stat Kontraenti, ikun qed imexxi negozju fl-Istat Kontraenti l-ieħor li fih jinqala' l-imgħax, permezz ta' stabbiliment permanenti li jkun jinsab hemmhekk, jew jagħmel servizzi personali indipendenti f'dak Istat l-ieħor minn bażi stabbilita li tkun tinsab fih u l-pretensjoni ta' debitu li dwarha jithallas l-imgħax tkun effettivament konnessa ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ, għandhom japplikaw il-provvedimenti ta' l-artiklu 8 jew ta' l-artiklu 15, skond il-każ.

6. Meta, minħabba f'relazzjoni speċjali bejn min iħallas u s-sid benefiċjarju jew bejn it-tnejn li huma u xi persuna oħra, l-ammont ta' l-imgħax, wara li titqies xi tkun il-pretensjoni ta' debitu li dwarha jithallas, ikun iżjed mill-ammont li kien ikun miftiehem bejn min iħallas u s-sid benefiċjarju li kieku ma kienx hemm dik ir-relazzjoni, il-provvedimenti ta' dan l-artiklu għandhom ikunu japplikaw biss għall-ammont l-aħhar imsemmi. F'dak il-każ, il-parti żejda tal-ħlasijiet għandha tibqa' taxxabbli skond il-liġijiet ta' kull Stat Kontraenti, fil-qies tal-provvedimenti l-oħra ta' dan il-Ftehim.

7. Jitqies li jinqala' mgħax fi Stat Kontraenti meta min iħallas ikun residenti ta' dak l-Istat. Madankollu, meta l-persuna li tkun qegħda thallas l-imgħax, kemm jekk din tkun kemm jekk ma tkunx residenti ta' Stat Kontraenti, ikollha fi Stat Kontraenti stabbiliment permanenti jew bażi stabbilita li f'konnessjoni magħhom ikun oriġina d-debitu li fuqu jithallas l-imgħax, u dak l-imgħax jiġġarrab minn dak l-istabbiliment permanenti jew bażi stabbilita, għaldaqstant dak l-imgħax għandu jitqies li jinqala' fl-Istat fejn ikunu sitwati l-istabbiliment permanenti jew il-baży stabbilita.

Artiklu 13

Royalties

1. *Royalties* li jinqalgħu fi Stat Kontraenti u li jithallsu lil residenti ta' l-Istat Kontraenti l-ieħor għandhom jiġu intaxxati biss f'dak Istat l-ieħor.

2. Madankollu dawk ir-*royalties* jistgħu ukoll jiġu intaxxati fl-Istat Kontraenti fejn jinqalgħu u skond il-liġijiet ta' dak l-Istat, imma jekk is-sid benefiċjarju tar-*royalties* ikun residenti tal-Istat Kontraenti l-ieħor, it-taxxa hekk

miġbura ma għandhiex tkun ta' iżjed minn 5 fil-mija ta' l-ammont totali tar-*royalties*. L-awtoritajiet kompetenti tal-Istrati Kontraenti għandhom bi ftehim reċiproku jiftiehem dwar il-mod kif tiġi applikata din il-limitazzjoni.

3. Il-frazi '*royalties*' skond ma tintuża f'dan l-artiklu tfisser hłasijiet ta' kull xorta li jiġu riċevuti b'korrissetiv għall-użu ta', jew għall-jedd ta' l-użu, ta' kull dritt ta' l-awtur ta' xogħol letterarju, artistiku jew xjentifiku inklużi films ċinematografiċi, jew films jew *tapes* użati għax-xandir bir-radju jew bit-televiżjoni, kull privattiva, *trade mark*, disinn jew mudell, pjan, formula jew proċess sigrieti, jew għall-użu ta', jew id-dritt li jintuża, tagħmir industrijali, kummerċjali jew xjentifiku jew għal informazzjoni dwar esperjenza industrijali, kummerċjali jew xjentifika.

4. Il-provvedimenti tal-paragrafi 1 u 2 ma għandhomx japplikaw jekk is-sid benefiċjarju tar-*royalties*, li jkun residenti ta' Stat Kontraenti, ikun qed imexxi negozju fl-Istat Kontraenti l-ieħor fejn jinqalgħu r-*royalties*, permezz ta' stabbiliment permanenti li jkun jinsab fih, jew ikun qiegħed jagħmel f'dak Istat l-ieħor servizzi personali indipendenti minn bażi stabbilita li tkun tinsab fih, u d-dritt jew il-proprjetà li dwarhom jithallsu r-*royalties* ikunu effettivament konnessi ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ għandhom japplikaw il-provvedimenti ta' l-Artiklu 8 jew ta' l-Artiklu 15, skond il-każ.

5. Ir-*royalties* għandhom jitqiesu li jinqalgħu fi Stat Kontraenti meta min iħallashom ikun residenti ta' dak l-Istat. Meta, madankollu, il-persuna li tkun qegħda tħallas ir-*royalties*, sew jekk tkun residenti ta' Stat Kontraenti sew jekk ma tkunx, ikollha fi Stat Kontraenti stabbiliment permanenti jew bażi stabbilita li f'konnessjoni magħha tkun oriġinat ir-responsabbiltà li jithallsu r-*royalties*, u dawk ir-*royalties* jiġġarrbu minn dak l-istabbiliment permanenti jew bażi stabbilita, allura dawk ir-*royalties* għandhom jitqiesu li jinqalgħu fl-Istat fejn ikunu jinsabu l-istabbiliment permanenti jew il-baży stabbilita.

6. Meta, minħabba fir-relazzjoni speċjali bejn min iħallas u s-sid benefiċjarju jew bejnithom it-tnejn u xi persuna oħra, l-ammont tar-*royalties*, meta jiġi kkunsidrat x'ikun l-użu, id-dritt jew l-informazzjoni li jithallsu dwarhom, ikun iżjed mill-ammont li kien ikun miftiehem bejn min iħallas u s-sid benefiċjarju li kieku ma kienx hemm dik ir-relazzjoni, il-provvedimenti ta' dan l-artiklu għandhom ikunu japplikaw biss għall-ahhar imsemmi ammont. F'dak il-każ, il-parti żejda tal-hłasijiet għandha tibqa' taxxabbli skond il-liġijiet ta' kull Stat Kontraenti, wara li jitqiesu l-provvedimenti l-oħra ta' dan il-Ftehim.

Artiklu 14

Qligh minn Kapital

1. Qligh li jinkiseb minn residenti ta' Stat Kontraenti mit-trasferiment ta' proprjetà immobbli imsemmija fl-artiklu 7 u li tkun tinsab fl-Istat Kontraenti l-ieħor jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Qligh mit-trasferiment ta' proprjeta' mobbli li taghmel parti mill-proprjeta' tan-negozju ta' stabbiliment permanenti li impriża ta' Stat Kontraenti jkollha fl-Istat Kontraenti l-iehor jew ta' proprjeta' mobbli li tkun tappartjeni ghal bażi stabbilita li tkun disponibbli ghal residenti ta' Stat Kontraenti fl-Istat Kontraenti l-iehor bil-għan li jitwettqu servizzi personali indipendenti, inkluż dak il-qligh mit-trasferiment ta' dak l-istabbiliment permanenti (wahdu jew flimkien ma' l-impriża kollha) jew ta' dik il-baži stabbilita, jista' jiġi intaxxat f'dak Istat l-iehor.

3. Kull qligh mit-trasferiment ta' bastimenti jew inġenji ta' l-ajru li jkunu qegħdin jiġu operati fi traffiku internazzjonali jew minn proprjeta' mobbli li tkun tappartjeni għall-operazzjoni ta' dawk il-bastimenti jew inġenji ta' l-ajru għandu jiġi intaxxat biss f'dak l-Istat Kontraenti l-iehor fejn ikun jinsab il-post ta' maniġġ effettiv ta' l-impriża.

4. Kull qligh li jinkiseb mit-trasferiment ta' ishma tal-istokk kapitali ta' kumpannija, jew ta' interess f'soċjeta', *trust* jew *estate*, li l-proprjeta' tagħhom tkun tikkonsisti direttament jew mhux direttament prinċipalment fi proprjeta' immobbli li tkun tinsab fi Stat Kontraenti jista' jiġi intaxxat f'dak l-Istat l-iehor. Partikolarment:

(a) Ebda haġa li tinsab f'dan il-paragrafu ma għandha tkun tapplika ghal xi kumpannija, soċjeta', *trust* jew *estate* li ma jkunux kumpannija, soċjeta', *trust* jew *estate* ingaġġati fil-kummerċ tal-maniġġ ta' proprjeta' immobbli, li l-proprjeta' tagħha tkun tikkonsisti direttament jew mhux direttament prinċipalment fi proprjeta' immobbli użata minn dik il-kumpannija, soċjeta', *trust* jew *estate* fl-attivitajiet kummerċjali tagħhom.

(b) Għall-finijiet ta' dan il-paragrafu, "prinċipalment" f'dak li għandu x'jaqsam mal-proprjeta' ta' proprjeta' immobbli tfisser il-valur ta' dik il-proprjeta' immobbli li jkun jeċċedi hamsin fil-mija tal-valur komplessiv tal-attiv kollu li jkun proprjeta' tal-kumpannija, soċjeta', *trust* jew *estate*.

5. Kull qligh mit-trasferiment ta' ishma li ma jkunux dawk imsemmija fil-paragrafu 4 u li jkunu jagħmlu parti minn parteċipazzjoni sostanzjali f'kumpannija li tkun residenti ta' Stat Kontraenti tista' tiġi intaxxata f'dak l-Istat. L-ishma jitqiesu li jkunu jagħmlu parti minn parteċipazzjoni sostanzjali f'kumpannija meta min jittrasferixxi, wahdu jew flimkien ma' persuni relatati, ikun direttament jew mhux direttament detentur ta' ishma f'dik il-kumpannija li jkunu lkoll flimkien jagħtuh jedd ghal 25 fil-mija jew iżjed mill-profitti ta' dik il-kumpannija.

6. Kull qligh mit-trasferiment ta' proprjeta' li ma tkunx dik imsemmija fil-paragrafi 1, 2, 3, 4 u 5 għandu jiġi intaxxat biss fl-Istat Kontraenti li min jittrasferixxi jkun residenti fih.

Artiklu 15

Servizzi Personali Indipendenti

1. *Income* li jinkiseb minn residenti ta' Stat Kontraenti għal servizzi professjonali jew attivitajiet oħra ta' xorta indipendenti għandu jiġi intaxxat biss f'dak l-Istat ħlief f'dawn iċ-ċirkostanzi li ġejjin, meta dak l-*income* ikun jista' jiġi intaxxat ukoll fl-Istat Kontraenti l-ieħor:

(a) Jekk huwa jkollu bażi stabbilita li tkun regolarment disponibbli għalih fl-Istat Kontraenti l-ieħor bil-għan li jwettaq l-attivitajiet tiegħu; f'dak il-każ ikun biss daqstant mill-*income* daqs kemm jista' jiġi attribwit lil dik il-bażi stabbilita li jkun jista' jiġi intaxxat f'dak l-Istat Kontraenti l-ieħor; jew

(b) Jekk il-qagħda tiegħu fl-Istat Kontraenti l-ieħor tkun għal perjodu jew perjodi li jammontaw għal jew li jkunu b'kollox jaqbu 183 ġurnata f'xi perjodu ta' tnax-il xahar li jibda għaddej jew itemm fis-sena ta' taxxa involuta; f'dak il-każ ikun biss daqstant mill-*income* daqs kemm jinkiseb mill-attivitajiet tiegħu li huwa jwettaq f'dak l-Istat l-ieħor li jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Il-frazi "servizzi professjonali" tinkludi l-aktar attivitajiet indipendenti ta' xorta xjentifika, letterarja, artistika, edukattiva jew ta' taġġim kif ukoll l-attivitajiet indipendenti ta' tobbi, avukati, inginiera, arkitetti, dentisti u *accountants*.

Artiklu 16

Servizzi Personali Dipendenti

1. Bla ħsara għall-provvedimenti ta' l-artikli 17, 19 u 20, is-salarji, il-pagi u kull kumpens ieħor li jinkiseb minn residenti ta' Stat Kontraenti dwar xi impjieg għandhom jiġu intaxxati biss f'dak l-Istat kemm-il darba l-impjieg ma jiġix eżerċitat fl-Istat Kontraenti l-ieħor. Jekk l-impjieg jiġi hekk eżerċitat, dak il-kumpens li jinkiseb minnu jista' jiġi intaxxat f'dak l-Istat l-ieħor.

2. Minkejja l-provvedimenti tal-paragrafu 1, il-kumpens li jinkiseb minn residenti ta' Stat Kontraenti dwar xi impjieg li jkun eżerċitat fl-Istat Kontraenti l-ieħor għandu jiġi intaxxat biss fl-Istat l-ewwel imsemmi jekk:

(a) Min jirċevih ikun joqgħod fl-Istat l-ieħor għal perjodu jew perjodi li b'kollox ma jkunx ta' iżjed minn 183 ġurnata f'perjodu ta' tnax-il xahar li jibda għaddej jew itemm fis-sena ta' taxxa involuta;

(b) Il-kumpens jithallas minn, jew f'isem, prinċipal li ma jkunx residenti fl-Istat l-ieħor; u

(ċ) Il-kumpens ma jkunx ta' piż fuq l-istabbiliment permanenti jew fuq bażi stabbilita li l-prinċipal ikollu fl-Istat l-ieħor.

3. Minkejja l-provvedimenti ta' qabel ta' dan l-artiklu, kumpens li jinkiseb minn impjeg eżerċitat abbord xi bastiment jew inġenji ta' l-ajru operati fi traffiku internazzjonali, jew abbord xi bastiment li jkun jopera fit-trasport tul mogħdijiet tal-ilma ġewwinija, jista' jiġi intaxxat fl-Istat Kontraenti fejn ikun jinsab il-post ta' maniġġ effettiv ta' l-impriza.

Artiklu 17 **Drittijiet tad-Diretturi**

Id-drittijiet tad-diretturi u hlasijiet oħra simili li jinkisbu minn residenti ta' Stat Kontraenti fil-kapaċità tiegħu ta' membru tal-Bord tad-Diretturi ta' kumpannija li tkun residenti fl-Istat Kontraenti l-ieħor jistgħu jiġu intaxxati f'dak l-Istat l-ieħor.

Artiklu 18 **Artisti u Sportivi**

1. Minkejja l-provvedimenti ta' l-artikli 15 u 16, *income* li jinkiseb minn residenti ta' Stat Kontraenti bħala persuni li jagħtu spetaklu, bħal artisti tat-teatru, tal-films ċinematografiċi, tar-radju jew tat-televiżjoni, jew bħala mużiċisti, jew bħala sportivi, mill-attivitajiet personali tagħhom bħala tali li jiġu eżerċitati fl-Istat Kontraenti l-ieħor, jistgħu jiġu intaxxati f'dak l-Istat l-ieħor.

2. Meta *income* dwar attivitajiet personali eżerċitati minn persuni li jagħtu spetaklu jew minn sportivi fil-kapaċità tagħhom bħala tali ma jingabarx favur il-persuna li tagħti spetaklu jew l-isportiv innifsu iżda favur xi persuna oħra, dak l-*income* jista', minkejja l-provvedimenti ta' l-artikli 8, 15 u 16, jiġi intaxxat fl-Istat Stat Kontraenti fejn jiġu eżerċitati l-attivitajiet tal-persuna li tagħti spetaklu jew ta' l-isportiv.

Artiklu 19 **Pensjonijiet u Hlasijiet tas-Sigurtà Soċjali**

1. Bla ħsara għall-provvedimenti tal-paragrafu 2 ta' l-artiklu 20, il-pensjonijiet u kull kumpens ieħor bħal dawk li jithallsu lil residenti ta' Stat Kontraenti minhabba f'xi impjeg li jkun sar qabel għandhom jiġu intaxxati biss f'dak l-Istat.

2. Minkejja l-provvedimenti tal-paragrafu 1, pensjonijiet imħallsa u hlasijiet oħra li jsiru taħt skema pubblika li tiffirma parti mis-sistema tas-sigurtà soċjali ta' Stat Kontraenti jew sottodivizjoni politika jew awtorità lokali tiegħu għandhom jiġu intaxxati biss f'dak l-Istat.

Artiklu 20 Servizz tal-Gvern

1. (a) Salarji, pagi u kumpens ieħor bħal dawk, minbarra pensjoni, imħallsin minn Stat Kontraenti jew minn sottodivizjoni politika jew awtorità lokali tiegħu lil xi individwu għar-rigward ta' servizzi mogħtijin lil dak l-Istat jew sottodivizjoni jew awtorità għandhom jiġu intaxxati biss f'dak l-Istat.

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

(i) Ikun ċittadin ta' dak l-Istat; jew

(ii) Ma jkunx sar residenti ta' dak l-Istat unikament bil-għan li jagħti dawk is-servizzi.

2. (a) Kull pensjoni mħallsa minn, jew li tohrog minn fondi mahluqa minn, Stat Kontraenti jew sottodivizjoni politika jew awtorità lokali tiegħu lil xi individwu għar-rigward ta' servizzi mogħtija lil dak l-Istat jew sottodivizjoni jew awtorità għandhom jiġu intaxxati biss f'dak l-Istat.

(b) Madankollu, dik il-pensjoni għandha tiġi intaxxata biss fl-Istat Kontraenti l-ieħor jekk l-individwu jkun residenti ta' dak l-Istat u ċittadin tiegħu.

3. Il-provvedimenti ta' l-artikli 16, 17, 18 u 10 għandhom japplikaw għal kull salarju, paga u kumpens ieħor bħalhom, u għall-pensjonijiet, għar-rigward ta' servizzi mogħtijin f'dak li għandu x'jaqsam ma' kummerċ immexxi minn Stat Kontraenti jew minn sottodivizjoni politika jew awtorità lokali tiegħu.

Artiklu 21 Studenti

Student jew apprendist li jkun jew kien minnufih qabel ma jżur Stat Kontraenti residenti ta' l-Istat Kontraenti l-ieħor u li jkun preżenti fl-ewwel imsemmi Stat unikament bil-għan ta' l-edukazzjoni jew it-taħriġ tiegħu, m'għandux jiġi intaxxat f'dak l-Istat l-ewwel imsemmi fuq:

(a) ħlasijiet li jirċievi għall-fini tal-manteniment, l-edukazzjoni jew it-taħriġ tiegħu, sakemm dawk il-ħlasijiet jinqalghu minn għejjun li ma jkunux jinsabu f'dak l-Istat; u

(b) *income* li huwa jaqla' minn impjeg f'dak l-Istat, sakemm dak l-impjeg ikun rilevanti għall-edukazzjoni jew it-taħriġ tiegħu u dak l-*income* ikun meħtieġ għall-fini tal-manteniment tiegħu.

Artiklu 22

Professuri, Għalliema u Riċerkaturi

1. Kull hlas li jingħata lil professuri, għalliema u riċerkaturi li jkunu residenti fi Stat Kontraenti u li jkunu preżenti fl-Istat Kontraenti l-ieħor għall-fini li jgħallmu jew li jwettqu riċerka xjentifika f'xi università jew f'xi istituzzjoni ta' edukazzjoni oghla rikonoxxuta ufficjalment oħra, ikun eżentat mit-taxxa f'dak l-Istat l-ieħor għal żmien sentejn mid-data meta dawn il-persuni jaslu f'dak l-Istat l-ieħor.

2. Il-provvedimenti tal-paragrafu 1 ta' dan l-artiklu ma għandhomx ikunu japplikaw għal hlas minn riċerka jekk dik ir-riċerka ssir mhux fl-interess pubbliku imma primarjament għall-benefiċċju privat ta' xi persuna jew persuni speċifiċi.

Artiklu 23

Income Ieħor

1. Elementi ta' *income* ta' residenti ta' Stat Kontraenti, jinqalgħu mnejn jinqalgħu, li ma jkunux ġew ittrattati fl-artikli ta' hawn aktar qabel ta' dan il-Ftehim għandhom jiġu intaxxati biss f'dak l-Istat.

2. Il-provvedimenti tal-paragrafu 1 ma għandhomx japplikaw għal *income*, li ma jkunx *income* minn proprjetà immobbli kif imfisser fil-paragrafu 2 ta' l-artiklu 7, jekk min jirċievi dak l-*income*, billi jkun residenti ta' Stat Kontraenti, ikun imexxi negozju fl-Istat Kontraenti l-ieħor permezz ta' stabbiliment permanenti li jkun jinsab fih, jew iwettaq f'dak l-Istat l-ieħor servizzi personali indipendenti minn bażi stabbilita li tkun tinsab fih, u d-dritt jew il-proprjetà li dwarhom jithallas l-*income* ikunu effettivament konnessi ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ għandhom japplikaw il-provvedimenti ta' l-artiklu 8 jew ta' l-artiklu 15, skond kif ikun il-każ.

3. Minkejja l-provvedimenti tal-paragrafi 1 u 2, elementi ta' *income* ta' residenti ta' Stat Kontraenti li ma jkunux ġew trattati fl-artikli ta' qabel ta' dan il-Ftehim u li jinqalgħu fl-Istat Kontraenti l-ieħor jistgħu jiġu intaxxati ukoll f'dak l-Istat l-ieħor.

Artiklu 24

Eliminazzjoni ta' Taxxa Doppja

1. Meta residenti tal-Libja jikseb *income* li, skond il-provvedimenti ta' dan il-Ftehim, jista' jiġi intaxxat f'Malta, il-Libja għandha, bla ħsara għall-provvedimenti tal-paragrafi 2 u 3, teżenta dak l-*income* mit-taxxa.

2. Meta residenti tal-Libja jikseb elementi ta' *income* li, skond il-provvedimenti ta' l-artikli 11, 12 u 13 jistgħu jiġu intaxxati f'Malta, il-Libja għandha tippermetti bhala tnaqqis mit-taxxa fuq l-*income* ta' dak ir-residenti ammont li jkun daqs it-taxxa mhallsa f'dak l-Istat l-ieħor. Dak it-tnaqqis ma

għandux, madankollu, ikun jeċċedi dik il-parti mit-taxxa, kif din tkun giet kalkolata qabel ma jingħata t-tnaqqis, li jkun attribwibbli għal dawk l-elementi ta' *income* li jkunu nkisbu minn dak l-Istat l-ieħor.

3. Meta skond xi provvediment ta' dan il-Ftehim *income* miksub minn residenti tal-Libja jkun eżenti mit-taxxa fil-Libja, il-Libja tista' madankollu, meta tkun qegħda tikkalkola l-ammont tat-taxxa fuq l-*income* li jifdal ta' dak ir-residenti, tiegħu in akkont l-*income* eżentat.

4. Meta residenti ta' Malta jikseb *income* li, skond il-provvedimenti ta' dan il-Ftehim jista' jiġi intaxxat fil-Libja, Malta għandha tippermetti bhala tnaqqis mit-taxxa fuq l-*income* ta' dak ir-residenti ammont li jkun daqs it-taxxa fuq l-*income* imhallsa fil-Libja. Dak it-tnaqqis ma għandux, madankollu, ikun jeċċedi dik il-parti mit-taxxa fuq l-*income*, kif din tkun giet kalkolata qabel ma jingħata t-tnaqqis, li jkun attribwibbli għall-*income* li jista' jiġi intaxxat fil-Libja.

5. Meta, skond xi provvediment ta' dan il-Ftehim, *income* miksub minn residenti ta' Malta jkun eżenti mit-taxxa f'Malta, Malta tista' madankollu, meta tkun qegħda tikkalkola l-ammont tat-taxxa fuq l-*income* li jifdal ta' dak ir-residenti, tiegħu in akkont l-*income* eżentat.

Artiklu 25

Ebda Diskriminazzjoni

1. Iè-ċittadini ta' Stat Kontraenti ma għandhom jiġu assoġġettati fl-Istat Kontraenti l-ieħor għal ebda tassazzjoni jew ebda htieġa li jkunu konnessi ma' dan jekk din tkun diversa jew ta' iktar piż mit-taxxa u l-htigiet konnessi li għalihom ċittadini ta' dak l-Istat l-ieħor fl-istess ċirkostanzi, b'mod partikolari għar-rigward ta' residenza, ikunu jew jistgħu jkunu assoġġettati. Dan il-provvediment għandu, minkejja l-provvedimenti ta' l-artiklu 1, ikun japplika ukoll għal persuni li ma jkunux residenti ta' xi wiehed jew taż-żewġ Stati Kontraenti.

2. It-taxxa fuq stabbiliment permanenti li impriza ta' Stat Kontraenti jkollha fl-Istat Kontraenti l-ieħor ma għandhiex tingabar b'mod inqas favorevoli f'dak l-Istat l-ieħor mit-taxxa migbura fuq imprizi ta' dak l-Istat l-ieħor li jkun qed iwettaq l-istess attivitajiet. Dan il-provvediment ma għandux jiftiehem bhala wiehed li jobbliga lil Stat Kontraenti li jikkonċedi lil residenti ta' l-Istat Kontraenti l-ieħor xi *allowances* personali, helsien u tnaqqis għal għanijiet ta' tassazzjoni minhabba fl-istatus ċivili jew fir-responsabbiltajiet familjari li dan jikkonċedi lir-residenti tiegħu stess.

3. Hlief meta japplikaw il-provvedimenti tal-paragrafu 1 ta' l-artiklu 10, tal-paragrafu 6 ta' l-artiklu 12, jew tal-paragrafu 6 ta' l-artiklu 13, mgħax, *royalties* u hlasijiet oħra li jithallsu minn impriza ta' Stat Kontraenti lil residenti ta' l-Istat Kontraenti l-ieħor għandhom, għall-fini li jiġu stabbiliti x'inhuma l-profitti li għandhom jiġu intaxxati ta' dik l-impriza, jiġu mnaqqsa taht l-istess kondizzjonijiet bħallikieku dawn kienu thallsu lil residenti ta' l-ewwel imsemmi

Stat.

4. Impriżi ta' Stat Kontraenti, li l-kapital tagħhom ikun għalkollox jew f'parti minnu proprjetà jew taħt il-kontroll, sew dirett sew mhux dirett, ta' xi residenti wiehed jew aktar ta' l-Istat Kontraenti l-iehor, ma għandhom ikunu assoġġettati fl-ewwel imsemmi Stat għal ebda taxxa jew għal ebda hteġa konnessa ma' dan li tkun xort'oħra jew ta' iktar piż mit-taxxa u mill-htigiet konnessi li għalihom ikunu jew jistgħu jkunu assoġġettati impriżi oħra bħal dawk ta' l-ewwel imsemmi Stat.

Artiklu 26

Proċedura ta' Ftehim Reċiproku

1. Meta persuna jidhrilha li l-azzjonijiet ta' xi wiehed jew taż-żewg Stati Kontraenti jirriżultawlu jew jistgħu jirriżultawlu f'taxxa li ma tkunx skond il-provvedimenti ta' dan il-Ftehim, huwa jista', irrispettivament mir-rimedji provduti mil-liġi domestika ta' dawk l-Istati, jippreżenta l-każ tiegħu quddiem l-awtorità kompetenti ta' l-Istat Kontraenti fejn huwa jkun residenti jew, jekk il-każ tiegħu jkun jaqa' taħt il-paragrafu 1 ta' l-artiklu 25, quddiem dik ta' l-Istat Kontraenti li huwa jkun ċittadin tiegħu. Il-każ għandu jiġi ppreżentat fi żmien tliet snin minn l-ewwel avviż ta' l-azzjoni li tirriżulta f'taxxa li ma tkunx skond il-provvedimenti tal-Ftehim.

2. L-awtorità kompetenti għandha ttipprova, jekk l-oġġezzjoni tkun tidhrilha bħala waħda ġustifikata u jekk hi nnifisha ma tkunx tista' tasal għal soluzzjoni sodisfaċenti, tirisolvi l-każ bi ftehim reċiproku ma' l-awtorità kompetenti ta' l-Istat Kontraenti l-iehor, bil-għan li tiġi evitata taxxa li ma tkunx skond dan il-Ftehim. Kull ftehim li jintlaħaq għandu jiġi implimentat minkejja kull skadenza ta' terminu fil-liġi domestika ta' l-Istati Kontraenti.

3. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jippruvaw jirrisolvu permezz ta' ftehim reċiproku kull diffikultà jew dubbju li jistgħu joriġinaw dwar l-interpretazzjoni jew l-applikazzjoni tal-Ftehim.

Dawn jistgħu wkoll jikkonsultaw flimkien dwar l-eliminazzjoni ta' taxxa doppja f'dawk il-każijiet li ma jkun hemm provdut xejn dwarhom fil-Ftehim.

4. L-awtoritajiet kompetenti ta' l-Istati Kontraenti jistgħu jikkomunikaw direttament ma' xulxin, ukoll permezz ta' kummissjoni kongunta li tkun magħmula minnhom infushom jew mir-rappreżentanti tagħhom, bl-iskop li jilhqu ftehim fis-sens tal-paragrafi ta' qabel dan. L-awtoritajiet kompetenti għandhom, permezz ta' konsultazzjonijiet, jiżviluppaw proċeduri, kundizzjonijiet, metodi u teknikalitajiet bilaterali adatti għall-implimentazzjoni tal-proċedura ta' ftehim reċiproku kif hemm provdut dwarha f'dan l-artiklu.

Artiklu 27

Skambju ta' Informazzjoni

1. L-awtoritajiet kompetenti ta' l-Istati Kontraenti għandhom jiskambjaw dik l-informazzjoni li tista' tkun meħtieġa għat-twettiq tal-provvedimenti ta' dan il-Ftehim jew tal-liġijiet domestiċi ta' l-Istati Kontraenti dwar it-taxxi koperti mill-Ftehim, sakemm it-taxxa li li taqa' taħthom ma tkunx tmur kontra l-Ftehim, partikolarment dwar il-prevenzjoni ta' frodi jew l-evażjoni ta' dawk it-taxxi. Kull informazzjoni li tiġi riċevuta minn Stat Kontraenti għandha tiġi ittrattata bħala waħda sigrieta bl-istess mod bħal informazzjoni li tinkiseb taħt il-liġijiet domestiċi ta' dak l-Istat. Madankollu, jekk l-informazzjoni oriġinarjament titqies bħala waħda sigrieta fl-Istat trasmittenti din għandha tiġi żvelata biss lil persuni jew awtoritajiet (inklużi qrati u korpi amministrattivi) li jkollhom x'jaqsmu ma' l-istima jew il-ġbir ta', l-infurzar jew prosekuzzjoni dwar, jew id-deċizjoni ta' appelli dwar, it-taxxi li jiffurmaw is-sugġett tal-Ftehim. Dawk il-persuni jew awtoritajiet għandhom jużaw dik l-informazzjoni biss għal dawk l-għanijiet imma jistgħu jiżvelaw l-informazzjoni fi proċeduri tal-qorti bil-miftuh jew f'deċiżjonijiet ġudizzjarji. L-awtoritajiet kompetenti għandhom, permezz ta' konsultazzjonijiet, jiżviluppaw kundizzjonijiet, metodi u teknikalitajiet adatti li jirrigwardaw dawk il-ħwejjeġ li dwarhom għandhom isiru dawk l-iskambji ta' informazzjoni, inkluż, fejn ikun adatt, skambji ta' informazzjoni dwar l-evitar ta' taxxa.

2. F'ebda każ m'għandhom il-provvedimenti tal-paragrafu 1 jiftiehemu bħala li jimponu fuq Stat Kontraenti l-obbligu:

(a) Li jwettaq miżuri amministrattivi li ma jkunux jaqblu mal-liġijiet u mal-prattika amministrattiva ta' dak l-Istat Kontraenti jew ta' l-Istat Kontraenti l-ieħor;

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

(ċ) Li jagħti informazzjoni li tkun tikxef xi sigriet ta' sengħa, negozju, industrija, kummerċ jew professjoni jew xi proċess kummerċjali, jew informazzjoni, li l-iżvelar tagħhom ikun imur kontra l-ordni pubbliku.

Artiklu 28

Membri ta' Missjonijiet Diplomatici u Karigi Konsulari

Ebda haġa f'dan il-Ftehim ma għandha tolqot il-privileġġi fiskali tal-membri ta' missjonijiet diplomatici jew ta' karigi konsulari taħt ir-regoli generali tad-dritt internazzjonali jew taħt il-provvedimenti ta' kull ftehim speċjali.

Artiklu 29 **Bidu fis-Sehh**

Dan il-Ftehim għandu jidhol fis-sehh 30 gurnata wara d-data li jasal l-avviż l-aktar tardiv permezz tal-kanali diplomatiċi li bih Stat Kontraenti wiehed javża lill-ieħor li r-rekwiżiti legali interni tiegħu għad-dhul fis-sehh ta' dan il-Ftehim ikunu twettqu. Il-Ftehim ikollu sehh dwar *income* li jinkiseb matul is-snin ta' taxxa li jibdew għaddejin fi jew wara l-ewwel jum ta' Jannar li jiġi minnufih wara d-data meta dan il-Ftehim jidhol fis-sehh.

Artiklu 30 **Terminazzjoni**

1. Dan il-Ftehim għandu jibqa' jsehh sakemm xi wiehed mill-Istati Kontraenti jagħti avviż bil-miktub li jkun bi ħsiebu jtemm il-Ftehim lill-Istati Kontraenti l-ieħor permezz tal-kanali diplomatiċi, fi jew qabel it-tletin gurnata ta' Ġunju f'xi sena kalendarja wara li jiskadi perjodu ta' hames snin mid-data meta dan jidhol fis-sehh. F'dak il-każ dan il-Ftehim itemm milli jkollu sehh dwar *income* miksub matul is-snin ta' taxxa li jibdew fi jew wara l-ewwel jum ta' Jannar tas-sena li tiġi minnufih wara dik meta jkun ingħata l-avviż ta' terminazzjoni.

2. Il-ftehim bejn Malta u r-Repubblika l-Kbira għall-Eżenzjoni mit-taxxa doppja dwar taxxi fuq l-*Income* iffirmit fil-5 ta' Ottubru 1972 u l-protokoll li hemm miegħu iffirmit fit-28 ta' April 1995 għandhom jintemmu fid-data meta dan il-Ftehim jidhol fis-sehh. F'dak il-każ il-ftehim hawn qabel imsemmi iffirmit fil-5 ta' Ottubru 1972 i l-Protokoll li hemm miegħu hawn qabel imsemmi għandhom itemmu milli jibqa' jkollhom sehh dwar *income* miksub matul is-snin ta' taxxa li jibdew għaddejin fi jew wara l-ewwel jum ta' Jannar tas-sena li tiġi minnufih wara dik meta dan il-Ftehim jidhol fis-sehh.

B'XHIEDA TA' DAN is-sottoskritti, awtorizzati kif imiss biex jagħmlu dan, iffirmaw dan il-Ftehim.

Magħmul fi Tripli illum it-28 ta' Diċembru tas-sena elfejn u tmienja f'duplikat, bl-ilsien Ingliż u bl-ilsien Għarbi, iż-żewġ testi awtentiċi ndaqs.

E.T. Dott. Joseph Cassar
Ambaxxatur
GĦAL MALTA

Is-Sur Ramadan Barq
Direttur għall-Affarijiet Ewropej

GĦALL-GVERN TAR-REPUBBLIKA L-
KBIRA GĦARBIJA TAL-LIBJA TAL-
POPLU SOĊJALISTA

PROTOKOLL

Malta u r-Repubblika l-Kbira Għarbija tal-Libja tal-Poplu Soċjalista qablu, meta kienu qegħdin jiffirmaw fi Tripli fit-28 Jum ta' Diċembru tas-sena elfejn u tmienja il-Ftehim bejn iż-żewġ Stati għall-ħelsien mit-taxxa doppja u l-prevenzjoni ta' evażjoni fiskali dwar it-taxxi fuq l-*income*, dwar dawn il-provvedimenti li ġejjin, li għandhom jiffurmaw parti shiħa minn dak il-Ftehim:

1. Dwar l-Artiklu 8 (Profitti minn Negozju), it-taxxa li tista' titħallas fi Stat Kontraenti fuq il-profitti minn Negozju Kongunt, sakemm daww il-profitti jinkisbu minn, jew jitqassmu direttament jew mhux direttament lil, Persuna Eliġibbli li tkun residenti ta' l-Istat Kontraenti l-ieħor, ma għandhiex tkun ta' iżjed minn ħmistax fil-mija (15%).

2. Dwar l-Artiklu 11 (Dividendi) –

(a) kumpannija li tkun residenti ta' Stat Kontraenti u li tkun Negozju Kongunt ikollha jedd teħtieġ li l-qlieġ jew profitti li miksubin minnha u li jistgħu jitqassmu, direttament jew mhux direttament, bħala dividend lil Persuna Eliġibbli li tkun residenti tal-Istat Kontraenti l-ieħor, minkejja li d-dividend jew parti minnu ma jkunx ġie distribwit, jiġi intaxxat b'rata li ma tkunx ta' iżjed minn ħmistax fil-mija (15 %);

(b) meta l-qlieġ jew profitti ta' kumpannija jkunu ġew assoġġettati għal taxxa b'rata ta' mhux i

(c) iżjed minn ħmistax fil-mija (15 %) kif hemm fil-paragrafu (a), ebda taxxa oħra u aktar ma għandha titħallas f'dak l-Istat Kontraenti jew fl-Istat Kontraenti l-ieħor fuq xi dividend imħallas, direttament jew mhux direttament, minn dak il-qlieġ jew profitti.

3. F'dan il-Protokoll –

(a) "Persuna Eliġibbli" tfisser:

(i) individwu residenti fi Stat Kontraenti; jew

(ii) Stat Kontraenti sottodivizjoni politika jew awtorità tiegħu; jew

(iii) kumpannija jew xi korp ieħor ta' persuni li jkollu bħala proprjetarji għalkollox tiegħu, direttament jew mhux direttament, persuni li jkunu Persuni Eliġibbli kif hemm fis-subparagrafi (i) u (ii);

(b) "Negozju Kongunt" tfisser impriża –

(i) immexxija konguntemment minn żewġ persuni jew aktar, sew jekk imwaqqfa bħala kumpannija sew jekk mħumiex, li jinkludu

mill-inqas Persuna Eligibbli waħda li tkun residenti ta' Stat Kontraenti and mill-inqas Persuna Eligibbli waħda li tkun residenti ta' l-Istat Kontraenti l-ieħor; u

(ii) li l-attivitajiet tagħha ma jkunux jikkonsistu unikament jew prinċipalment f'xiri ta' oġġetti (inklużi importazzjonijiet) għal bejgħ mill-ġdid (inklużi esportazzjonijiet); u

(iii) li l-profitti tagħha jinkisbu għalkollox jew prinċipalment minn attivitajiet imwettqa fi Stat Kontraenti jew fiż-żewġ Stati Kontraenti.

B'XHIEDA TA' DAN is-sottoskritti, awtorizzati kif imiss biex jagħmlu dan, iffirmaw dan il-Protokoll.

Magħmul fi Trippli, illum it-28 ta' Diċembru tas-sena elfejn u tmienja f'duplikat, bl-ilsien Ingliż u bl-ilsien Għarbi, iż-żewġ testi awtentiċi ndaqs.

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*GĦALL-GVERN TAR-REPUBBLIKA L-
KBIRA GĦARBIJA TAL-LIBJA TAL-
POPLU SOĊJALISTA*

L.N. 328 of 2010

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

**Double Taxation Relief (Taxes on Income) (The Great Socialist
People's Libyan Arab Jamahiriya) Order, 2010**

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

1. This title of this order is the Double Taxation Relief (Taxes on Income) (The Great Socialist People's Libyan Arab Jamahiriya) Order, 2010. Citation.

2. It is hereby declared:

Arrangements to
have effect.

(a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with The Great Socialist People's Libyan Arab Jamahiriya with a view to affording relief from double taxation in relation to the following taxes imposed by the laws of The Great Socialist People's Libyan Arab Jamahiriya:

- the income tax, law No (11) of 1372 P.D (2004) regarding income tax and the defence tax, law No (44) of 1970;

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

(c) that the Convention has entered into force on the 20 May, 2010.

SCHEDULE

**CONVENTION BETWEEN
MALTA
AND
THE GREAT SOCIALIST PEOPLE'S LIBYAN ARAB JAMAHIRIYA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

DESIRING to promote and develop the economic relations and co-operation between the two countries have decided to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and have agreed as follows:

**Article 1
Persons Covered**

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

**Article 2
Taxes Covered**

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

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which the Convention shall apply are in particular:

(a) in the Great Socialist People's Libyan Arab Jamahiriya:

the income tax, law No (11) of 1372 P.D (2004) regarding income tax and the defence tax, law No (44) of 1970; (hereinafter referred to as "Libyan tax"); and

(b) in Malta, the income tax;

(hereinafter referred to as the "Maltese tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition

to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes made to their tax laws.

Article 3 **General Definitions**

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

(a) The terms "a Contracting State" and "the other Contracting State" mean Libya or Malta as the context requires;

(b) The term "Libya", means the Great Socialist People's Libyan Arab Jamahiriya; used in a geographical sense, it means the territory of the Great Socialist People's Libyan Arab Jamahiriya, including the territorial sea and any other area in the sea and in the air within which the Great Socialist People's Libyan Arab Jamahiriya, in accordance with international law, exercises sovereign rights or its jurisdiction;

(c) The term "Malta" means the Republic of Malta and when used in a geographical sense means the island of Malta, the island of Gozo and the other islands of the Maltese archipelago including the territorial waters thereof as well as any area of the seabed, its subsoil and the super-adjacent water column adjacent to the territorial waters, where the Republic of Malta exercises sovereign rights, jurisdiction or control in accordance with international law and its national law including its legislation relating to the exploration of the continental shelf and exploitation of its natural resources

(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;

(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 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;

(h) The term "competent authority" means:

(i) In Libya, the Secretary of the General People's Committee

for Finance or the General Director of the Taxation Authority or their authorised representatives;

(ii) In Malta, the Minister responsible for finance or his authorised representative.

(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.

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

Article 4 **Tax Domicile**

Without prejudice to any of the other provisions of this Convention, the tax domicile for income is the Contracting State in which such income arises.

Article 5 **Resident**

1. For the purposes of this Convention, 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 incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

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

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

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

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

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

Article 6

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

(a) A place of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

(f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(g) A building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than three 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 or display 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 or display;

(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 6 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 4 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; or

(b) Has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other 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. 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 7

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 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 also 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.

Article 8

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

- (a) that permanent establishment;
- (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
- (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

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

activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In 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 provided that these deductions shall not exceed the deduction that would be allowed according to domestic law of the Contracting State where a permanent establishment is situated.

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. 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, 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 of the profits to be taxed 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.

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

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

Article 9

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 profits from:

- (a) Leasing of ships or aircraft on charter fully equipped, manned and supplied, used in international transport;
- (b) Occasional rental of ships or aircraft on a bare boat basis; and
- (c) The use or rental of containers (including trailers and ancillary equipment used for transporting of containers),

Where such rental or use is supplementary or incidental to the operation of ships or aircraft in international transport.

3. If the place of effective management of a shipping enterprise or 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.

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 10 **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. It is to be understood that the procedures available in the respective laws of each Contracting State in this regard shall be applied.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged

therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting States shall, if necessary, consult each other.

3. The provisions of paragraph 2 shall not apply where judicial, administrative or other legal proceedings have resulted in a final ruling that by actions giving rise to an adjustment of profits under paragraph 1, one of the enterprises concerned is liable to penalty with respect to fraud, gross negligence or wilful default.

Article 11 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 Contracting State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that Contracting State, but:

(a) where the dividends are paid by a company which is a resident of Libya to a resident of Malta who is the beneficial owner thereof the tax so charged shall not exceed :

(i) if the beneficial owner of the dividends is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends, 5 per cent;

(ii) in all other cases, 15 %.

(b) where the dividends are paid by a company which is a resident of Malta to a resident of Libya who is the beneficial owner thereof, the Malta tax on the gross amount of the dividends shall not exceed that chargeable on the profits out of which the dividends are paid.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. 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, 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.

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, or performs in that other Contracting State independent personal services from a fixed base situated therein, 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 8 or Article 15, as the case may be, 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 Contracting 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 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 12

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. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of 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 five per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if the interest is paid to and beneficially owned by the other Contracting State or a local authority thereof, the Central Bank or any financial institution wholly owned by that other Contracting State, political subdivision or local authority.

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. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

5. 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 therein, or performs in that other State independent personal services from

a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of article 8 or article 15, as the case may be, shall apply.

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 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. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

7. 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

Article 13

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. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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 cinematograph films, or films or tapes 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of

which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 8 or Article 15, as the case may be, 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 or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base 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 Convention.

Article 14

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 7 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) or of such fixed base, 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 shares of the capital stock of a company, or of an interest in a partnership, trust or estate, the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State. In particular:

(a) Nothing contained in this paragraph shall apply to a company, partnership, trust or estate, other than a company, partnership, trust or estate engaged in the business of management of immovable properties, the property of which consists directly or indirectly principally of immovable property used by such company, partnership, trust or estate in its business activities.

(b) For the purposes of this paragraph, "principally" in relation to ownership of immovable property means the value of such immovable property exceeding fifty percent of the aggregate value of all assets owned by the company, partnership, trust or estate.

5. Gains from the alienation of shares other than those mentioned in paragraph 4 which form part of a substantial participation in a company which is a resident of a Contracting State may be taxed in that State. Shares shall be deemed to form part of a substantial participation in a company when the transferor, alone or together with related persons, holds directly or indirectly shares in that company which entitle him in the aggregate to 25 per cent or more of the profits of that company.

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

Article 15 **Independent Personal Services**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

(a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 16

Dependent Personal Services

1. Subject to the provisions of articles 17, 19 and 20, 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 there from 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 provisions of this article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17

Directors' Fees

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

Article 18

Artistes and Sportspersons

1. Notwithstanding the provisions of articles 15 and 16, 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 8, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

Article 19 **Pensions and Social Security Payments**

1. Subject to the provisions of paragraph 2 of article 20, 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 paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

Article 20 **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 other 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 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 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 articles 16,17, 18 and 19 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 thereof.

Article 21

Students

A student or 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 shall not be subject to tax in the first-mentioned State on:

(a) payments he receives for the purpose of his maintenance, education or training, provided that such payments arise from sources outside that State; and

(b) income he earns from an employment within that State, provided such employment is relevant to his education or training and the income there from is necessary for the purpose of his maintenance.

Article 22

Professors, Teachers and Researchers

1. Any remuneration paid to professors, teachers or researchers who are resident of a Contracting State and who are present in the other Contracting State for the purpose of teaching or carrying on scientific research at a university or other officially recognised higher educational institution, shall be exempt from tax in that other State for a period of two years from the date of arrival of these persons in that other State.

2. The provisions of paragraph 1 of this article shall not apply to remuneration from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 23

Other Income

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of article 7, 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 8 or article 15, as the case may be, 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 Convention and arising in the other Contracting State may also be taxed in that other State.

Article 24 **Elimination of Double Taxation**

1. Where a resident of Libya derives income which, in accordance with the provisions of this Convention, may be taxed in Malta, Libya shall, subject to the provisions of paragraphs 2 and 3, exempt such income from tax.

2. Where a resident of Libya derives items of income which, in accordance with the provisions of articles 11, 12 and 13 may be taxed in Malta, Libya shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from that other State.

3. Where in accordance with any provision of this Convention income derived by a resident of Libya is exempt from tax in Libya, Libya may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

4. Where a resident of Malta derives income which, in accordance with the provisions of this Convention, may be taxed in Libya, Malta shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Libya. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Libya.

5. Where, in accordance with any provision of this Convention, income derived by a resident of Malta is exempt from tax in Malta, Malta may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 25
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, is or may be subjected. This provision shall, notwithstanding the provisions of article 1, also apply to persons who are not residents of one or both of the Contracting States.

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

3. Except where the provisions of paragraph 1 of article 10, paragraph 6 of article 12 or paragraph 6 of article 13 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.

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.

Article 26
Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this article.

Article 27

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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, in so far as the taxation there under is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. 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 State. However, if the information is originally regarded as secret in the transmitting State it 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, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

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 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 28

Members of Diplomatic Missions and Consular Posts

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

Article 29

Entry Into Force

This Convention shall enter into force 30 days after the date of receipt of the latter notification through diplomatic channels by which one Contracting State notifies the other that its internal legal requirements for the entry into force of this Convention have been fulfilled. This Convention shall have effect in respect of income derived during the taxable years beginning on or after the 1st day of January next following that in which this Convention enters into force.

Article 30

Termination

1. This Convention shall remain in force until one of the Contracting States gives written notice of its intention to terminate the Convention to the other Contracting State through diplomatic channels, on or before the thirtieth day of June in any calendar year after the expiration of a period of five years from the date of its entry into force. In such event this Convention shall cease to have effect in respect of income derived during the taxable years beginning on or after the first day of January of the year next following that in which the notice of termination has been given.

2. The convention between Malta and the Great Jamahiriya for the Avoidance of double taxation with respect to taxes on Income signed on the 5th of October 1972 and the protocol thereto signed on the 28th April 1995 shall be terminated on the date on which this Convention comes into force. In such a case the above mentioned convention signed on the 5th of October 1972 and the above mentioned Protocol thereto shall cease to have effect with respect to income derived during the taxable years beginning on or after the first day of January of the year next following that on which this Convention enters into force.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

Done in Tripoli on the 28th this day of December of the year two thousand and eight in duplicate, in the English and Arabic languages, both texts being equally authentic.

H.E. Dr. Joseph Cassar
Ambassador
FOR MALTA

Mr. Ramadan Barq
Director European Affairs

FOR THE GREAT SOCIALIST
PEOPLE'S LIBYAN ARAB
JAMAHIRIYA

PROTOCOL

Malta and the Great Socialist People's Libyan Arab Jamahiriya have agreed, at the signing in Tripoli on the 28th Day of December of the year two thousand and eight of the Convention between the two States for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, upon the following provisions, which shall form an integral part of the said Convention:

1. With respect to Article 8 (Business Profits), the tax that may be charged in a Contracting State on the profits of a Joint Business, to the extent that those profits are derived by, or distributable directly or indirectly to, an Eligible Person who is a resident of the other Contracting State, shall not exceed fifteen per cent (15%).

2. With respect to Article 11 (Dividends) –

(a) a company which is a resident of a Contracting State and which is a Joint Business shall be entitled to require that the gains or profits derived by it and which are distributable, directly or indirectly, by way of a dividend to an Eligible Person who is a resident of the other Contracting State shall, notwithstanding that the dividend or part thereof has not been distributed, be taxed at a rate not exceeding fifteen per cent (15 %);

(b) when gains or profits of a company have been subject to tax at a rate not exceeding fifteen per cent (15 %) in accordance with paragraph (a), no further tax shall be charged in that or in the other Contracting State on any dividend paid, directly or indirectly, out of the said gains or profits.

3. In this Protocol –

(a) "Eligible Person" means:

(i) an individual resident in a Contracting State; or

(ii) a Contracting State or a political sub-division or authority thereof; or

(iii) a company or other body of persons which is fully owned, directly or indirectly, by persons who are Eligible Persons in terms of sub-paragraphs (i) and (ii);

(b) a "Joint Business" means an enterprise –

(i) carried on jointly by two or more persons, whether constituted as a company or not, who include at least one Eligible Person who is a resident of a Contracting State and at least one Eligible Person who is a resident of the other Contracting State; and

(ii) whose activities do not consist solely or mainly of purchasing goods (including imports) for resale (including exports); and

(iii) whose profits are derived wholly or mainly from activities carried on in a Contracting State or in both Contracting States.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Protocol.

DONE in Tripoli, on the 28th this day of December of the year two thousand and eight in duplicate, in the English and Arabic languages, both texts being equally authentic.

H.E. Dr. Joseph Cassar
Ambassador
FOR MALTA

Mr. Ramadan Barq
Director European Affairs

FOR THE GREAT SOCIALIST
PEOPLE'S LIBYAN ARAB
JAMAHIRIYA

