

CONVENTION
BETWEEN
THE ARAB REPUBLIC OF EGYPT
AND
THE REPUBLIC OF MALTA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the Arab Republic of Egypt and the Government of the Republic of Malta, hereinafter referred to as the contracting states .

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

Have agreed as follows :

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

- 1 The existing taxes to which this Convention shall apply are :
 - (a) in Egypt :
 - (i) the tax on income derived from immovable property (including the agriculture land tax and the building tax) ;
 - (ii) the unified tax on income of individuals ;
 - (iii) the tax on corporation profits ;
 - (iv) the development duty of the financial resources of the State ; and
 - (v) supplementary taxes imposed as percentage of taxes mentioned above or otherwise ;
(hereinafter referred to as "Egyptian tax")
 - (b) in Malta :
 - (i) the income tax ;
(hereinafter referred to as "Malta tax")

- 2 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 any substantial changes which have been made in their respective taxation laws .

ARTICLE 3

GENERAL DEFINITIONS

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

- (a) the term "Egypt" means the Arab Republic of Egypt and, when used in a geographical sense, means the territory and the territorial waters of the Arab Republic of Egypt and its exclusive economic zone and continental shelf as defined in accordance with international law ;
- (b) 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, and any area outside the territorial waters of Malta which has been or may hereafter be designated, in accordance with international law and under the law of Malta concerning the continental shelf, as an area within which the rights of Malta with respect to the seabed and subsoil and their natural resources may be exercised ;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Malta or Egypt, as the context requires ;
- (d) the term "person" includes an individual, a company and any other body of persons;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State ;
- (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term "competent authority" means :
 - (i) in Egypt : the Minister of Finance or his authorized representative.
 - (ii) in Malta : the Minister responsible for Finance or his authorized representative.

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- (j) 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 law in force in a Contracting State;

2 As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires , have the meaning which it has under the law of that State concerning the taxes to which the Convention applies .

ARTICLE 4

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 management or any other criterion of a similar nature . But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State .
- 2 Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows :
- (a) he shall be deemed to be a resident 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 of the State with which his personal and economic relations are closer (center of vital interests);
 - (b) if the State in which he has his center of vital interests cannot be determined , or if he has not a permanent home available to him in either State , he shall be deemed to be a resident 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 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 of the State in which its place of effective management is situated .

ARTICLE 5

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 ; and
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources including an offshore drilling site .

3 The term “permanent establishment” likewise encompasses :

- (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months ;
- (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than six months within any 12 month period .

- 4 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 sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
- 5 Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 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

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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 .

6 Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

8 The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1 Income derived by a resident of a Contracting State from immovable property (including income from agriculture) 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, 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, or to explore for, mineral deposits, sources and other natural resources; Ships, and aircraft shall not be regarded as immovable property.

- 3 The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
- 4 The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services .

ARTICLE 7

BUSINESS PROFITS

- 1 The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment .
- 2 Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment or with other associated enterprises with which it deals.