The Official Gazette
(EXTRAORDINARY)
OF GUYANA

Published by the Authority of the Government

GEORGETOWN, THURSDAY 30TH MARCH, 2023

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GEORGETOWN, Demerara – Printed and Published every Saturday and on such Extraordinary Days as may be directed by the Government by Guyana National Printers Limited, 1 Public Road, La Penitence, Greater Georgetown.

THE OFFICIAL GAZETTE 30TH MARCH, 2023
LEGAL SUPPLEMENT — B

GUYANA No. 29 of 2023

ORDER

Made Under

THE INCOME TAX ACT

(Cap. 81:01)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 89 OF THE INCOME TAX ACT, I MAKE THE FOLLOWING ORDER:-

Citation.

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (United Arab Emirates) Order.

Arrangements with the Government of the United Arab Emirates.

2. I hereby declare that-

(a) the arrangements specified in the Agreement set out in the Schedule to this Order have been made with the Government of the United Arab Emirates with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of the United Arab Emirates; and

Schedule

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

SCHEDULE **Cl. 2**

AGREEMENT

BETWEEN
THE GOVERNMENT OF THE COOPERATIVE REPUBLIC OF GUYANA

AND
THE GOVERNMENT OF THE UNITED ARAB EMIRATES
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Government of the United Arab Emirates and the Government of the Co-operative Republic of Guyana;

Desiring to promote their mutual economic relations through the conclusion between them of an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital

Intending to conclude a Convention for the elimination of double taxation with respect to taxes on income without creating opportunities for non- taxation or reduced taxation through tax evasion or avoidance (including treaty shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefits of residents of third States)

Have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which this Agreement shall apply are, in particular:

a) In the case of UAE:

(1) the income tax;

(2) the corporate tax:

(Hereinafter referred to as "UAE tax");

b) In the case of the Cooperative Republic of Guyana

1. Income tax (For avoidance of doubt, Income tax includes Withholding tax); and
2. Corporation tax
3. Capital Gains Tax, and
4. Property tax

4. This Agreement shall apply also to any identical or substantially similar taxes, which are imposed under the laws of a Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes, which have been made in their respective taxation laws.

Article 3

Income from Hydrocarbons

Notwithstanding any other provision of this convention nothing shall affect the right of either one of the Contracting States, or of any of their local Governments or local authorities thereof to apply their domestic laws and regulations related to the taxation of income, and profits derived from hydrocarbons.

Article 4

General definition

1. For the purposes of this Agreement, unless the context otherwise requires:
   a) The terms "a Contracting State" and "the other Contracting State" mean United Arab Emirates or the Cooperative Republic of Guyana, as the context requires;

   b) The term " United Arab Emirates" when used in a geographical sense , means the territory of the United Arab Emirates which is under its sovereignty as well as the area outside the territorial water, airspace and submarine areas over which the United Arab Emirates exercises, sovereign and jurisdictional rights in respect of any activity carried on in its water, sea bed, sup soil, in connection with the exploration for or the exploitation of natural resources by virtue of its law and international law;

   c) The term "Guyana" means the Co-operative Republic of Guyana; and when used in a geographical sense, the term "Guyana" includes the territorial seas thereof including any area beyond such territorial seas

which in accordance with international law and the Laws of Guyana, is an area within which the rights of sovereignty with respect to the sea bed and subsoil and their natural resources may be exercised.

d) The term "person" includes an individual –a State, a trust, a partnership, a company and any other body of persons, treated as a taxable unit under the taxation laws in force in the respective Contracting State

e) The term "national" means:

(1) any individual possessing the nationality or citizenship of a contracting State:

(2) any legal person, partnership or association or other entity deriving its status as such from the laws in force in a Contracting State or of a political subdivision or a local government thereof;

f) The term "company" means anybody corporate or any entity that is treated as a body corporate for tax purposes under the taxation laws in force in the respective Contracting State;

g) A pension scheme means any plan, scheme, fund, trust, or other arrangement established in a Contracting, is generally exempt from tax in that State and operated principally either to administer or provide pension or retirement benefit or to earn income for the benefit of one or more such arrangements;

h) 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;

i) 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 one Contracting State and includes traffic between places in one country in the course of a journey which extends over more than one country;

j) The term "business" includes the performance of professional services and of other activities of an independent character.

k) The term "qualified government entity" means, Central bank of a Contracting State and any person, Agency, institution, authority, fund, enterprise, organization, or other entity owned or controlled directly or indirectly by a contracting State or any political subdivision or local government thereof.

l) the term "tax" means UAE tax or Guyana tax, as the context requires;

m) the term "competent authority" means:

(1) in the case of the UAE: the Minister of Finance or a duly authorized representative of the Minister of Finance;

(2) in the case of Guyana: Minister of Finance or his duly authorized representative.

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

Article 5

Resident

1. For the purposes of this Agreement , the term "resident of a Contracting State" means:

   a) in the case of the UAE :

      i) an individual who is a UAE national or any other individual who is resident the United Arab Emirates according to its laws and regulation and any company or any other legal entity which is created under the laws of the United Arab Emirates;
      ii) any person other than an individual that is incorporated or otherwise recognized under the laws of the UAE or any political subdivision or local government thereof

   b) in the case of the Co-operative Republic of Guyana:

      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 the terms resident of the UAE and resident of Guyana shall be construed accordingly.

2. For the purposes of paragraph 1, a resident of a Contracting State includes:

   a) the Government of that Contracting State and any political subdivision or local Government or local authority thereof;

   b) any person other than an individual owned or controlled directly or indirectly by that State or any political subdivision or local government or local authority thereof;

   c) a qualified government entity

   d) a pension fund

   e) charities or religious, educational and cultural organizations

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

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

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

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

(d) If his status cannot be determined under the provisions of subparagraph c), the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the Contracting State where it was incorporate.

Article 6

Permanent Establishment

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

2. The term "permanent establishment' includes especially:
   a) a place of management;
   b) a branch;
   c) an office;
   d) a factory;
   e) a workshop;
   f) A mine, an oil or gas well, a quarry or any other place of exploration extraction exploitation of natural resources or any activities related thereof including an offshore drilling site.

3. a building site, a construction, assembly or installation project or supervisory activities in connection therewith or drilling rig or ship used for the exploring or exploiting of natural resources constitute a permanent establishment. only if such site, project or activities continue for a period of more than 6 months.

4. the furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, in the other Contracting State constitutes a permanent establishment only if activities of that nature continue for a period or periods aggregating more than 183 days in any 12-month period commencing or ending in the fiscal year concerned.

5. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if substantial, mechanical or scientific equipment or machinery is used for more than eighteen months or installed, in that other contracting State by, for or under contract with the enterprise.

6. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

    a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

    b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

    c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

    d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

    e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise any other activity of a preparatory or auxiliary character;

    f) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

7. Notwithstanding the provisions of paragraphs 1 and 2, where a person-other than an agent of an independent status to whom paragraph 9 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 the first-mentioned Contracting State, an authority to conclude contracts in the name of such enterprise, unless the activities of such person are limited to those mentioned in paragraph 6 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph;

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

    c) Habitually secures orders in the first-mentioned Contracting State, exclusively or almost exclusively for the enterprise itself or for such enterprise and other enterprises, which are controlled by it or have a controlling interest in it.

    d) In so acting, he manufactures or processes in that Contracting State for the enterprise goods or merchandise belonging to the enterprise.

8. 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 9 applies.

9. 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 Contracting 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 and other enterprises, which are controlled by it or have a controlling interest in it, he will not be considered an agent of an independent status within the meaning of this paragraph.

10. Notwithstanding the provision of paragraph 9 of this Article, insurance companies that owned or controlled by a contracting State or its Local Governments or local authorities. Shall be treated differently for tax purposes and shall be subject to tax only in the state of residence.

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

12. For the purposes of this Article, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

Article 7

Limitation of Benefits

1. Notwithstanding the application of the other Articles of the Agreement, with respect to taxation in the Co-operative Republic of Guyana only the following residents of the United Arab Emirates may invoke Articles 9, 10, 13, 15, 16 and 24:

the Co-operative Republic of Guyana and the local governments of the United Arab Emirates;

a government institution of the United Arab Emirates as defined in sub-paragraph (c) of paragraph 2 of Article 5;

a company provided that such company can prove that at least 75 per cent of its capital is beneficially owned by the United Arab Emirates and or by a government institution of the United Arab Emirates and give substantial evidence that the remaining capital is beneficially owned by individuals being residents of the United Arab Emirates and that the company is controlled by the aforementioned residents through an official tax resident certificate issued by the competent authority of the United Arab Emirates.

2. Notwithstanding the provisions of paragraph 1, also the following residents of the United Arab Emirates may invoke Articles 10, and 13:

an individual;

a company provided that such company can give substantial evidence that its capital is beneficially owned exclusively by the United Arab Emirates and / or by a government institution of the United Arab Emirates and / or by individuals being residents of the United Arab Emirates and the company is controlled by the aforementioned residents.

3. A further prerequisite for relief from the Co-operative Republic of Guyana taxes under paragraphs 1 and 2 is that the company resident in the United Arab Emirates proves that it was not a principal purpose of the company or of the conduct of its business or of the acquisition or maintenance by it of the shareholding or other property from which the income in question is derived to obtain any of such benefits to the advantage of a person who is not a resident of the United Arab Emirates.

4. The provisions of paragraphs I and 2 do not apply to the State, any political subdivision or local authority thereof and government institutions as defined in sub-paragraph of paragraph 2 of Article 5.

Article 8

Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture, forestry or mining) situated in the other Contracting State may be taxed in that other Contracting State.

2. The term "immovable property" shall have the meaning, which it has under the national laws 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 laws respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right of work, mineral deposits, sources and other natural resources Ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article shall apply to income derived from the direct use, letting, or use in any other term of immovable property.

4. The provisions of paragraphs 1 and 3 of this Article shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

5. The provisions of paragraphs 3 shall not apply if the beneficial owner of the income is the State itself or local authorities, political subdivision, local Governments or their financial institution.

Article 9

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated in that other Contracting State. If the enterprise carries on or has carried on business in that manner, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as 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.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions those deductible expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere, taking into consideration any applicable law or regulations in the concerned Contracting State.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the

method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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 or gains which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 10

Shipping and Air Transport

Notwithstanding the provisions of Article 7 of this Agreement:

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2. For the purposes of this Article profits from the operation of ships or aircraft in international traffic include:

   a) profits from the charter or rental on a bareboat basis of ships or aircraft;

   b) profits from the use, maintenance or rental of containers, including trailers and related equipment for the transport of containers, used for the transport of goods or merchandise; and

   c) the gains from the alienation of ships, aircraft, containers and related equipment owned and operated by enterprise in international traffic.

3. The provisions of paragraph (1) shall also apply to profits derived from:

   1. The participation in a pool, a joint business or an international operating agency.
   2. selling of tickets on behalf of another enterprise

   3. Income deriving from short term deposits at the Bank, bonds, Shares, stocks and other debentures.

Article 11

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,

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.

Article 12

Dividends

1. Dividends paid by a company which is a resident of a Contracting State, to a resident of the other Contracting State shall be taxable only in that other Contracting State.

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 10 per cent of the gross amount of the profit.

Notwithstanding the provisions of paragraphs 1 and 2, dividends arising in a Contracting State and paid to the Government of the other Contracting State including political subdivisions, local governments, and local authorities thereof, or any institution wholly owned directly or indirectly by that Government, shall be exempt from tax in the first-mentioned Contracting State.

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 taxation laws of the Contracting State of which the company making the distribution is a resident.

4. The provisions of paragraph (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 in that other Contracting State, or performs in that other Contracting State independent personal services from a fixed base situated in that other Contracting State, and

the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 9, 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 who is the beneficial owner of the dividends or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Contracting State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other contracting State.

6. The provision of paragraphs 3 and 4 shall not apply if the beneficial owner of the dividends is the state itself, local government, local authority or their financial institutions. Such income shall be subject to tax at the state of residence.

Article 13

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, if such resident is the beneficial owner of the interest.

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

   For the purpose of this Article penalty charges for late payment shall not be regarded as interest.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated in that other Contracting State, or performs in that other Contracting State independent personal services from a fixed base situated in that other Contracting State, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 9, as the case may be, shall apply.

4. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting State. Where, however, the person paying the 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 Contracting State in which the permanent establishment or fixed base is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner of the interest, or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 14

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such royalties shall be taxed in the Contracting State of which the company paying the royalties is a resident and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the profit.

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 and works on films , tapes or other means of reproduction for use in connection with television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State , carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated in that other Contracting State, or performs in that other Contracting State independent personal services from a fixed base situated in that Contracting State 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 9, 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 Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 Contracting 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 of the royalties or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the

laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 15

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 9 and situated in the other Contracting State may be taxed in that other Contracting State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State 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, shall be taxable only in that Contracting State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

4. Gains derived by a resident of a Contracting State from the alienation of shares of a company whose capital stock is formed, directly or indirectly, in more than 50% by immovable property located in the other Contracting State, may be taxed in that other State, unless it is listed in a recognized stock market.

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

Article 16

Management/Technical Services Fees

1. Management fees arising in one Contracting State and paid to a resident in the other Contracting State shall be taxed only in the first mentioned state.

2. The rate of tax shall not exceed 5 per cent of the management fee.

Notwithstanding the provisions of paragraphs 1 and 2, management fees arising in a Contracting State and paid to the Government of the other Contracting State including political subdivisions, local governments, and local authorities thereof, or any institution wholly owned directly or indirectly by that Government, shall be exempt from tax in the first-mentioned Contracting State.

3. In this Article, the term "management fees" means payment of any kind to any person, for or in respect of the provision of industrial or commercial advice or for management or technical services or similar services or facilities, but does not include payment for professional services mentioned in Article 17.

4. Management fees shall be deemed to arise in a Contracting State when the payer is the Contracting State itself, a local authority or a resident of that Contracting State.

5. Where owing to a special relationship between the payer and the recipient of the management fees or between both of them and some other person, the amount of the management fees paid, having regard to the advice or services for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case the excess part of the payment shall remain taxable according to the laws of the Contracting State in which the management fees arise.

Article 17

Independent personal services

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State except in any of 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;

   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 12month 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 Contracting State during the aforesaid period or periods may be taxed in that other Contracting State.

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

3. In determining the income attributable to such services or activities, there shall be allowed as a deduction such expenses wherever incurred as would be deductible in accordance with the laws of that other Contracting State.

Article 18
Income from Employment

1. Subject to the provisions of Articles 19, 20, and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived there from may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State shall be taxable only in the first-mentioned Contracting State if all the following conditions are met:

    a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in 12 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 Contracting State, and

    c) the remuneration is not borne by a permanent establishment or a fixed base, which the employer has in the other Contracting State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that Contracting State.

Article 19

Government Services

1. Subject to the provisions of Articles 18, 20, and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived there from may be taxed in that other Contracting State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State shall be taxable only in the first-mentioned Contracting State if all the following conditions are met:

    a) The recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183days in 12month period commencing or ending in the fiscal year concerned;

    b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State.

    c) The remuneration is not borne by a permanent establishment or a fixed base, which the employer has in the other Contracting State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that Contracting State.

4. An individual who is both a national of a Contracting State and an employee of an enterprise of that Contracting State the principal business of which consists of the operation of aircraft or ship in international traffic and who derives remuneration in respect of duties performed in the other Contracting State shall be taxable only in that Contracting State on remuneration derived from his employment with that enterprise.

5. The provisions of paragraphs 1, 2 and 3 of this Article shall likewise apply in respect of salaries, wages and other similar remuneration and pensions paid by a government owned institution performing functions of a governmental nature which in the case of the UAE shall include: the Central Bank of the U.A.E.the Abu Dhabi Investment Authority ;the Abu Dhabi Investment Council; the U.A.E. Investment Authority; the Dubai Government Investment Corporation.

Article 20

Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or other similar organ of a company, which is a resident of the other Contracting State, shall be taxable only in the first-mentioned Contracting State.

Article 21

Entertainers and Sportsmen

1. Notwithstanding the provisions of Article 18, 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 sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Article 18 be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived by entertainers or sportsmen who are residents of a Contracting State from personal activities as such exercised in the other Contracting State if their visit to that other Contracting State is substantially supported from the public funds of the first-mentioned Contracting State, including those of any political subdivision, a local authority or statutory body thereof, nor to income derived by a non-profit making organization in respect of such activities provided no part of its income is payable to , or is otherwise available for the personal benefit of its proprietors, founders or members.

Article 22

Pensions and Annuities

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration and annuities paid to an individual who is a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

2. As used in this Article:

    a) The terms "pensions and other similar remuneration" mean periodic payments made after retirement in consideration of past employment or by way of compensations for injuries received in connection with past employment;

    b) The term "annuity" means a stated sum payable to an individual periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

    c) In this article "alimony" shall be regarded as similar remuneration, and denotes periodic payments made pursuant to a decree of divorce or of separate maintenance or of separation.

Article 23

Professors, Teachers and Researchers

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

This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

Article 24

Students and Trainees

1. Payments which a student or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be

taxed in that Contracting State, provided that such payments arise from sources outside that Contracting State.

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business trainee described in paragraph 1 shall in addition, be entitled during such education or training to the same exemptions, relief's or reductions in respect of taxes available to residents of the Contracting State which he is visiting.

Article 25

Other Income

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

Article 26

Capital

Capital represented by immovable property referred to in Article 8, owned by a resident of a Contracting State and situated in the other Contracting State, shall be taxed in that State.

Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or by 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, may be taxed in that State.

Capital represented by Ships operated in international traffic and by movable property pertaining to the operation of such ships, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article 27

Elimination of Double Taxation

1. Double Taxation shall be eliminated in the Contracting States as follows:

   a) Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall allow:

   b) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State;

   c) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax,

as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital, which may be, taxed in that other State.

2. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of that resident, take into account the exempted income or capital.

Article 28

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting State result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Contracting State, 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 30, 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 provision of this Agreement.

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

3. The competent authorities of the Contracting State shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting State may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 29

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws of the Contracting State concerning taxes covered by this Agreement imposed on behalf of a Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to,

the taxes covered by this Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (order public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. in no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 30

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment, which an enterprise of a Contracting State has in the other Contracting State, shall not be less favorably levied in that other 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, relieves 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 11, paragraph 5 of Article 12 or paragraph 6 of Article 14 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. Nothing in this agreement shall prevent a Contracting State from granting exemption from tax or reduction to its own national companies in accordance to its domestic laws and regulations

6. In this Article the term "taxation" means taxes which are the subject of this Convention.

Article 31

Miscellaneous Rules

1. The provisions of this Agreement shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:

   a) by the laws of a Contracting State in the determination of the tax imposed by that Contracting State;

   b) By any other special arrangement on taxation between the Contracting States or between one of the Contracting States and residents of the other Contracting State.

Article 32

Income of Government and Institutions

The Federal or the Local Governments and their financial institutions of one of the Contracting States shall be exempt from tax in the other Contracting State in respect of any income or capital gains and management fees derived by such federal or Local Government from that other Contracting State except income from hydrocarbons and gains and capital gains therewith associated as stated in article (3).

Article 33

Diplomatic Missions, Consular Posts and International Organizations

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

Article 34

Entry into Force

Each of the Contracting States shall notify to the other in writing the completion of its constitutional procedures for the entry into force of this Agreement. This agreement shall enter into force on the date of receipt of the latter of these notifications and its provisions shall thereupon have effect in both Contracting States:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year in which this Agreement is signed; and

b) In respect of other taxes, for taxable periods beginning on or after the first day of January of the year in which this Agreement is signed.

Article 35

Duration and Termination

The Agreement shall remain in force for a period of five years and shall continue in force thereafter for a similar period or periods unless either Contracting State notifies the other in writhing, at least six months before the expiry of the initial or any subsequent period, of its intention to terminate this Agreement. In such event, this Agreement shall cease to have effect in both Contracting States:

a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following that in which the notice of termination is given;

b) in respect of other taxes, for taxable periods beginning on or after the first day of January of the year next following that in which the notice of termination is given.

Protocol

At the moment of signing the Convention between the government of the United Arab Emirates and the government of the Co-operative Republic of Guyana for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, the government of the United Arab Emirates and the government of the Co-operative Republic of Guyana have agreed that the following provisions shall form an integral part of the Convention.

1. With respect to subparagraph 1 of Article 8 (income from immovable property), Article 12 (dividends), Article 13 (interest), Article 15 (capital gains) and subparagraph 2 of Article 16 (management fees) of this Convention, it is understood that the Contracting State, political subdivisions, local authorities, entities or subparagraph 2 statutory bodies thereof wholly owned directly or indirectly by that Government shall include:

(i) In case of the United Arab Emirates:

(1) Central Bank of the United Arab Emirates;

(2) Abu Dhabi Investment Authority;

(3) Abu Dhabi Investment Council;

(4) Emirates Investment Authority;

(5) Mubadala Investment Company;

(6) Investment Corporation of Dubai;

(7) the Abu Dhabi Retirement Pensions and Benefits Fund;

(8) the General Pension and Social Security Authority; and

any other entity the capital of which is wholly or partially directly or indirectly owned by the federal or local Governments of the United Arab Emirates, including a political subdivision and local authority thereof shall be exchanged through the diplomatic channels.

(ii) In the case of the Co-operative Republic of Guyana:

(1) Ministry of Foreign Affairs;

(2) Ministry of Finance;

(3) The Revenue Authority.

any other entity the capital of which is wholly or partially directly or indirectly owned by the federal or local Governments of the United Arab Emirates, including a political subdivision and local authority thereof shall be exchanged through the diplomatic channels.

2. For greater certainty government institutions mentioned in Article 31 shall be considered as those mentioned in this Protocol.

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

Done at Durban on 29th March ,2022, in two originals Arabic and the English language. In case of divergence between the two texts the English text shall prevail.

For the Government of
The Cooperative Republic of Guyana

For the Government of the
United Arab Emirates

Made this 29th day of March, 2023

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Hon. Dr. Ashni K. Singh, M.P.
Senior Minister in the Office of the President
with Responsibility for Finance