রেজিস্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, জানুয়ারি ২১, ২০২৪

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

জাতীয় রাজস্ব বোর্ড

(আয়কর)

প্রজ্ঞাপন

তারিখ: ৩০ পৌষ, ১৪৩০ বঙ্গাব্দ/১৪ জানুয়ারি, ২০২৪ খ্রিষ্টাব্দ

এস.আর.ও. নং ১১-আইন/আয়কর/২০২৪।—যেহেতু আয়কর আইন, ২০২৩ (২০২৩ সনের ১২ নং আইন), অতঃপর উক্ত আইন বলিয়া উল্লিখিত, এর অধীন আয়ের উপর দ্বৈত করারোপণ পরিহার এবং রাজস্ব ফাঁকি প্রতিরোধের উদ্দেশ্যে গণপ্রজাতন্ত্রী বাংলাদেশ সরকার এবং the Hong Kong Special Administrative Region of the People's Republic of China সরকারের মধ্যে ৩০ আগস্ট, ২০২৩ তারিখে নিম্ন তফসিলে বর্ণিত চুক্তি স্বাক্ষরিত হইয়াছে; এবং

যেহেতু উক্ত চুক্তির Article 30 এর উদ্দেশ্যপূরণকল্পে এবং উক্ত আইনের ধারা ২৪৪ এর বিধান অনুসারে উক্ত চুক্তির বিধানাবলি বাংলাদেশে কার্যকর করা প্রয়োজন;

সেহেতু উক্ত আইনের ধারা ২৪৪ এ প্রদত্ত ক্ষমতাবলে জাতীয় রাজস্ব বোর্ড এতদ্দ্বারা বিধান করিল যে, নিম্ন তফসিলে বর্ণিত উক্ত চুক্তির বিধানাবলি ১ জুলাই, ২০২৪ তারিখ হইতে বাংলাদেশে কার্যকর হইবে, যথা:—

মূল্য : টাকা ৩০.০০

Md Sajid Hossain Shimanto · smartaccountantbd.com

S.R.O. No. 11/2024 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com 1 / 32

তফসিল

AGREEMENT BETWEEN THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH AND THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

The Government of the People's Republic of Bangladesh and the Government of the Hong Kong Special Administrative Region of the People's Republic of China;

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters;

Intending to conclude an Agreement 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 through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third jurisdictions);

Have agreed as follows:

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 1

Persons Covered

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

Article 2

Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party, 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 and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which the Agreement shall apply are:

   (a) in the case of the Hong Kong Special Administrative Region,

      (i) profits tax;

      (ii) salaries tax; and

      (iii) property tax;

      whether or not charged under personal assessment;

   (b) in the case of Bangladesh, the income tax.

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed under the laws of a Contracting Party after the date of signature of the Agreement in addition to, or in place of, the existing taxes, as well as any other taxes falling within paragraphs 1 and 2 which a Contracting Party may impose in future. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their respective taxation laws.

5. The existing taxes, together with the taxes imposed after the signature of the Agreement, are hereinafter referred to as "Hong Kong Special Administrative Region tax" or "Bangladesh tax", as the context requires.

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 3

General Definitions

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

(a) the term "Bangladesh" means all the territory of the People's Republic of Bangladesh including the part of the seabed and its sub-soil thereof, to the extent that area in accordance with international law has been or may hereafter be designated under Bangladesh law as an area within which Bangladesh may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed or its sub-soil;

(b) the term "Hong Kong Special Administrative Region" means any place where the tax laws of the Hong Kong Special Administrative Region of the People's Republic of China apply;

(c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(d) the term "competent authority" means:

(i) in the case of the Hong Kong Special Administrative Region, the Commissioner of Inland Revenue or his authorized representative;

(ii) in the case of Bangladesh, the National Board of Revenue or its authorized representative;

(e) the terms "a Contracting Party" and "the other Contracting Party" mean the Hong Kong Special Administrative Region or Bangladesh, as the context requires;

(f) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party except when the ship or aircraft is operated solely between places in the other Contracting Party;

Md Sajid Hossain Shimanto · smartaccountantbd.com

(h) the term "national", in relation to Bangladesh, means:

(i) any individual possessing the nationality of Bangladesh; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in Bangladesh;

(i) the term "person" includes an individual, a company, a partnership, a trust and any other body of persons;

(j) the term "tax" means Hong Kong Special Administrative Region tax or Bangladesh tax, as the context requires.

2. As regards the application of the Agreement at any time by a Contracting Party, 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 Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

Resident

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

(a) in the case of the Hong Kong Special Administrative Region,

(i) any individual who ordinarily resides in the Hong Kong Special Administrative Region;

(ii) any individual who stays in the Hong Kong Special Administrative Region for more than 180 days during a year of assessment or for more than 300 days in two consecutive years of assessment one of which is the relevant year of assessment;

(iii) a company incorporated in the Hong Kong Special Administrative Region or, if incorporated outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

Md Sajid Hossain Shimanto · smartaccountantbd.com

(iv) any other person constituted under the laws of the Hong Kong Special Administrative Region or, if constituted outside the Hong Kong Special Administrative Region, being normally managed or controlled in the Hong Kong Special Administrative Region;

(b) in the case of Bangladesh, any person who, under the laws of Bangladesh, 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. This term, however, does not include any person who is liable to tax in Bangladesh in respect only of income from sources in Bangladesh;

(c) in the case of either Contracting Party, the Government of that Party.

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

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

(b) if the Party 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 Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

(c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party:

(i) in the case of the Hong Kong Special Administrative Region, in which he has the right of abode; or

(ii) in the case of Bangladesh, of which he is a national;

(d) if he has the right of abode in the Hong Kong Special Administrative Region and is also a national of Bangladesh, or if he does not have the right of abode in the Hong Kong Special Administrative Region nor is he a national of Bangladesh, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.

Md Sajid Hossain Shimanto · smartaccountantbd.com

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

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

(g) a sales outlet.

3. The term "permanent establishment" also encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, including an offshore drilling rig or working ship used for the exploration of natural resources, but only where such site, project or activities continue for a period or periods aggregating more than 183 days in any twelve-month period;

(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 Party for a period or periods aggregating more than 183 days in any twelve-month period;

(c) an enterprise which provides in a Contracting Party facilities, plant and machinery on hire used for the prospecting for, extraction or exploitation of mineral oils in that Party.

Md Sajid Hossain Shimanto · smartaccountantbd.com

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 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.

5. 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 Party on behalf of an enterprise of the other Contracting Party, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Party 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 Party 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 Party a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

Md Sajid Hossain Shimanto · smartaccountantbd.com

6. An enterprise of a Contracting Party shall not be deemed to have a permanent establishment in the other Contracting Party merely because it carries on business in that other Party 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 conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

7. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (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 Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party 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, quarries, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

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

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

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 7

Business Profits

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party 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 Party, 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 Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party 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 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 Contracting Party in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

Md Sajid Hossain Shimanto · smartaccountantbd.com

4. In so far as it has been customary in a Contracting Party 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, or on the basis of such other method as may be prescribed by the laws of that Party, nothing in paragraph 2 shall preclude that Party from determining the profits to be taxed by such apportionment or other method; the method adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

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

Article 8

Shipping and Air Transport

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

2. Profits of an enterprise of a Contracting Party derived in the other Contracting Party from the operation of ships in international traffic may be taxed in the other Party but the tax so charged shall be reduced by an amount equal to 50 per cent thereof.

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic shall include in particular:

   (a) revenues and gross receipts from the operation of ships or aircraft for the transport of persons, livestock, goods, mail or merchandise in international traffic including:

      (i) income derived from the lease of ships or aircraft on a bareboat charter basis where such lease is incidental to the operation of ships or aircraft in international traffic;

Md Sajid Hossain Shimanto · smartaccountantbd.com

(ii) income derived from the sale of tickets and the provision of services connected with such transport whether for the enterprise itself or for any other enterprise, provided that in the case of provision of services, such provision is incidental to the operation of ships or aircraft in international traffic;

(b) interest on funds directly connected with the operation of ships or aircraft in international traffic;

(c) profits from the lease of containers by the enterprise, when such lease is incidental to the operation of ships or aircraft in international traffic.

Article 9

Associated Enterprises

1. Where

(a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 this Agreement and for this purpose the competent authorities of the Contracting Parties shall, if necessary, consult each other.

Md Sajid Hossain Shimanto smartaccountantbd.com

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such dividends may also be taxed in the Contracting Party of which the company paying the dividends is a resident and according to the laws of that Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, the tax so charged shall not exceed:

   (a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;

   (b) 15 per cent of the gross amount of the dividends in all other cases.

   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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the Contracting Party 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 Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Party 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 7 or Article 15, as the case may be, shall apply.

Md Sajid Hossain Shimanto · smartaccountantbd.com

5. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other Party or in so far 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 Party, 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 Party.

6. Notwithstanding any other provisions of this Agreement, where a company which is a resident of a Contracting Party has a permanent establishment in the other Contracting Party, the profits of the permanent establishment may be subjected to an additional tax in that other Party in accordance with its laws, but the additional tax so charged shall not exceed 10 per cent of the amount of such profits.

Article 11

Interest

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

2. However, such interest may also be taxed in the Contracting Party in which it arises and according to the laws of that Party, but if the beneficial owner of the interest is a resident of the other Contracting Party, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting Party is exempt from tax in that Party, if it is paid:

   (a) in the case of the Hong Kong Special Administrative Region,

      (i) to the Government of the Hong Kong Special Administrative Region;

      (ii) to the Hong Kong Monetary Authority;

      (iii) to the Exchange Fund;

      (iv) to any entity wholly owned by the Government of the Hong Kong Special Administrative Region as may be agreed from time to time between the competent authorities of the Contracting Parties;

Md Sajid Hossain Shimanto . smartaccountantbd.com

(b) in the case of Bangladesh,

(i) to the Government of the People's Republic of Bangladesh;

(ii) to the Bangladesh Bank;

(iii) to the Investment Corporation of Bangladesh;

(iv) to any entity wholly owned by the Government of the People's Republic of Bangladesh as may be agreed from time to time between the competent authorities of the Contracting Parties.

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 paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises, through a permanent establishment situated therein, or performs in that other Party 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 case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Contracting Party or not, has in a Contracting Party 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 Party in which the permanent establishment or fixed base is situated.

7. 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 Party, due regard being had to the other provisions of this Agreement.

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 12

Royalties

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

2. However, such royalties may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including 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 information concerning industrial, commercial, agricultural 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 Party, carries on business in the other Contracting Party in which the royalties arise, through a permanent establishment situated therein, or performs in that other Party 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 7 or Article 15, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party 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 Party in which the permanent establishment or fixed base is situated.

Md Sajid Hossain Shimanto · smartaccountantbd.com

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 Party, due regard being had to the other provisions of this Agreement.

Article 13

Fees for Technical Services

1. Fees for technical services arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.

2. However, notwithstanding the provisions of Article 15 and subject to the provisions of Articles 8, 17 and 18, fees for technical services arising in a Contracting Party may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the fees is a resident of the other Contracting Party, the tax so charged shall not exceed 10 per cent of the gross amount of the fees.

3. The term "fees for technical services" as used in this Article means any payment in consideration for any service of a managerial, technical or consultancy nature, unless the payment is made:

   (a) to an employee of the person making the payment;

   (b) for teaching in an educational institution or for teaching by an educational institution; or

   (c) by an individual for services for the personal use of an individual.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the fees for technical services, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the fees for technical services arise, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the fees for technical services are effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

Md Sajid Hossain Shimanto . smartaccountantbd.com

5. For the purposes of this Article, subject to paragraph 6, fees for technical services shall be deemed to arise in a Contracting Party if the payer is a resident of that Party or if the person paying the fees, whether that person is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment or a fixed base in connection with which the obligation to pay the fees was incurred, and such fees are borne by the permanent establishment or fixed base.

6. For the purposes of this Article, fees for technical services shall be deemed not to arise in a Contracting Party if the payer is a resident of that Party and carries on business in the other Contracting Party through a permanent establishment situated therein or performs independent personal services through a fixed base situated therein, and such fees are borne by that permanent establishment or fixed base.

7. 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 fees for technical services, having regard to the services 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 fees shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 14

Capital Gains

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party or of movable property pertaining to a fixed base available to a resident of a Contracting Party in the other Contracting Party 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 Party.

3. Gains derived by an enterprise of a Contracting Party 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 Party.

Md Sajid Hossain Shimanto · smartaccountantbd.com

4. Gains derived by a resident of a Contracting Party from the alienation of shares of a company deriving more than 50 per cent of its asset value directly or indirectly from immovable property situated in the other Contracting Party may be taxed in that other Party. However, this paragraph does not apply to gains derived from the alienation of shares:

(a) quoted on such stock exchange as may be agreed between the competent authorities of the Parties; or

(b) alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation; or

(c) in a company deriving more than 50 per cent of its asset value from immovable property in which it carries on its business.

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

Article 15

Independent Personal Services

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

(a) if he has a fixed base regularly available to him in the other Party 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 Party; or

(b) if his stay in the other Contracting Party 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 taxable period concerned; in that case only so much of the income as is derived from his activities performed in that other Party may be taxed in that other Party.

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.

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 16

Dependent Personal Services

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:

   (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable period concerned;

   (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and

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

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 Party shall be taxable only in that Party.

Article 17

Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors or of a similar organ of a company which is a resident of the other Contracting Party may be taxed in that other Party.

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 18

Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting Party 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 Party from personal activities as such exercised in the other Contracting Party if their visit to that other Party is substantially supported from the public funds of the first-mentioned Party.

Article 19

Pensions

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration and annuities paid (whether in the form of periodic or lump sum payments) to a resident of a Contracting Party shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration made under a pension or retirement scheme which is:

   (a) a public scheme which is part of the social security system of a Contracting Party; or

Md Sajid Hossain Shimanto · smartaccountantbd.com

(b) a scheme in which individuals may participate to secure retirement benefits and which is recognized for tax purposes in a Contracting Party,

shall be taxable only in that Party.

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

Article 20

Government Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting Party to an individual in respect of services rendered to that Party shall be taxable only in that Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) in the case of the Hong Kong Special Administrative Region, has the right of abode therein and in the case of Bangladesh, is a national thereof; or

(ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. (a) Any pension and other similar remuneration paid by, or paid out of funds created or contributed by, the Government of a Contracting Party (whether in the form of periodic or lump sum payments) to an individual in respect of services rendered to that Party shall be taxable only in that Party.

Md Sajid Hossain Shimanto · smartaccountantbd.com

(b) However, if the individual who rendered the services is a resident of the other Contracting Party and the case falls within subparagraph (b) of paragraph 1, any corresponding pension and other similar remuneration (whether paid in the form of periodic or lump sum payments) shall be taxable only in that other Party.

3. The provisions of Articles 16, 17, 18 and 19 shall apply to salaries, wages, pensions (whether paid in the form of periodic or lump sum payments), and other similar remuneration in respect of services rendered in connection with a business carried on by the Government of a Contracting Party.

Article 21

Teachers and Researchers

1. Where an individual is employed by a university, college or school in a Contracting Party or by an educational institution or scientific research institution recognized by the Government of that Party and is, or was immediately before visiting the other Contracting Party, a resident of the first-mentioned Party and is present in that other Party for the primary purpose of teaching or research at a university, college or school in that other Party or at an educational institution or scientific research institution recognized by the Government of that other Party, the remuneration derived by the individual in respect of such teaching or research, to the extent it is paid by, or on behalf of, the employer of the first-mentioned Party, shall not be taxed in that other Party for a period of three years, provided that such remuneration is subject to tax in the first-mentioned Party.

2. The period of "three years" provided in paragraph 1 shall begin on the date of the individual's first arrival in the other Contracting Party for the above purpose or the date on which the provisions become effective in accordance with paragraph 2 of Article 30 of this Agreement, whichever is the later.

3. Paragraph 1 shall not apply to income derived from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Md Sajid Hossain Shimanto smartaccountantbd.com

Article 22

Students

1. Payments which a student who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Party solely for the purpose of his education receives for the purpose of his maintenance or education shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

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

Article 23

Other Income

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party through a permanent establishment situated therein, or performs in that other Party 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 7 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 Party not dealt with in the foregoing Articles of the Agreement and arising in the other Contracting Party may also be taxed in that other Party.

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 24

Methods for Elimination of Double Taxation

1. In the case of the Hong Kong Special Administrative Region,

   Subject to the provisions of the laws of the Hong Kong Special Administrative Region relating to the allowance of a credit against Hong Kong Special Administrative Region tax of tax paid in a jurisdiction outside the Hong Kong Special Administrative Region (which shall not affect the general principle of this Article), Bangladesh tax paid under the laws of Bangladesh and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of the Hong Kong Special Administrative Region from sources in Bangladesh, shall be allowed as a credit against Hong Kong Special Administrative Region tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Hong Kong Special Administrative Region tax computed in respect of that income in accordance with the tax laws of the Hong Kong Special Administrative Region.

2. In the case of Bangladesh,

   Subject to the provisions of the laws of Bangladesh relating to the allowance of a credit against Bangladesh tax of tax paid in a jurisdiction outside Bangladesh (which shall not affect the general principle of this Article), Hong Kong Special Administrative Region tax paid under the laws of the Hong Kong Special Administrative Region and in accordance with the Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of Bangladesh from sources in the Hong Kong Special Administrative Region, shall be allowed as a credit against Bangladesh tax payable in respect of that income, provided that the credit so allowed does not exceed the amount of Bangladesh tax computed in respect of that income in accordance with the tax laws of Bangladesh.

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

Md Sajid Hossain Shimanto · smartaccountantbd.com

4. For the purpose of allowance as a credit in a Contracting Party, the tax paid in the other Contracting Party shall be deemed to include the tax which is otherwise payable in that other Party but which has been reduced or exempted in accordance with special incentive laws designed to promote economic development in that other Party.

5. The provision of paragraph 4 shall cease to have effect after 10 years from:

(a) in the Hong Kong Special Administrative Region,

the year of assessment beginning on 1 April in the calendar year next following that in which the Agreement enters into force;

(b) in Bangladesh,

the year of assessment beginning on 1 July in the calendar year next following that in which the Agreement enters into force.

The competent authorities of the Contracting Parties may consult each other to determine whether this period shall be extended.

Article 25

Non-discrimination

1. Persons who, in the case of the Hong Kong Special Administrative Region, have the right of abode or are incorporated or otherwise constituted therein, and, in the case of Bangladesh, are nationals, shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which persons who have the right of abode or are incorporated or otherwise constituted in that other Party (where that other Party is the Hong Kong Special Administrative Region) or nationals of that other Party (where that other Party is Bangladesh) 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 Parties.

Md Sajid Hossain Shimanto smartaccountantbd.com

2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the other Contracting Party 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 9, paragraph 7 of Article 11, paragraph 6 of Article 12 or paragraph 7 of Article 13 apply, interest, royalties, fees for technical services and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party 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 Party.

4. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party 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 Party 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 Parties 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 internal laws of those Parties, present his case to the competent authority of either Contracting Party. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

Md Sajid Hossain Shimanto · smartaccountantbd.com

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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the internal laws of the Contracting Parties.

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

4. The competent authorities of the Contracting Parties 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.

Article 27

Exchange of Information

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the internal laws of the Contracting Parties concerning taxes covered by the Agreement, in so far as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the internal laws of that Party 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 referred to in paragraph 1. 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. Information received shall not be disclosed to any third jurisdiction for any purpose.

Md Sajid Hossain Shimanto · smartaccountantbd.com

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

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

(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 Party;

(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)*.

4. If information is requested by a Contracting Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party to decline to supply information solely because there is no tax interest in such information to that Party.

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

Article 28

Members of Government Missions

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

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 29

Entitlement to Benefits

Notwithstanding the other provisions of this Agreement, a benefit under the Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Agreement.

Article 30

Entry into Force

1. Each of the Contracting Parties shall notify the other in writing of the completion of the procedures required by its law for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of the Agreement shall thereupon have effect:

   (a) in the Hong Kong Special Administrative Region,

   in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after 1 April in the calendar year next following that in which the Agreement enters into force;

   (b) in Bangladesh,

   in respect of Bangladesh tax, for any year of assessment beginning on or after 1 July in the calendar year next following that in which the Agreement enters into force.

3. Until such time as the provisions of the Agreement become effective in accordance with paragraph 2, Article 9 of the Agreement between the Government of the Hong Kong Special Administrative Region of the People's Republic of China and the Government of the People's Republic of Bangladesh Concerning Air Services signed in Hong Kong on 24 October 2000 shall, notwithstanding paragraph 8 of that Article, continue to have effect.

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 31

Termination

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving the other Contracting Party written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect:

(a) in the Hong Kong Special Administrative Region,

in respect of Hong Kong Special Administrative Region tax, for any year of assessment beginning on or after 1 April in the calendar year next following that in which the notice is given;

(b) in Bangladesh,

in respect of Bangladesh tax, for any year of assessment beginning on or after 1 July in the calendar year next following that in which the notice is given.

Md Sajid Hossain Shimanto · smartaccountantbd.com

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

DONE in duplicate at Hong Kong this 30th day of August 2023 in the English language.

For the Government of the People's Republic of Bangladesh	**For the Government of the Hong Kong Special Administrative Region of the People's Republic of China**
Abu Hena Md. Rahmatul Muneem Senior Secretary Internal Resources Division and Chairman, National Board of Revenue Ministry of Finance	**Christopher Hui** Secretary for Financial Services and the Treasury

জাতীয় রাজস্ব বোর্ডের আদেশক্রমে

আবু হেনা মোঃ রহমাতুল মুনিম
সিনিয়র সচিব
অভ্যন্তরীণ সম্পদ বিভাগ, অর্থ মন্ত্রণালয়
ও
চেয়ারম্যান
জাতীয় রাজস্ব বোর্ড।

মোঃ তাজিম-উর-রহমান, উপপরিচালক (উপসচিব), বাংলাদেশ সরকারী মুদ্রণালয়, তেজগাঁও, ঢাকা কর্তৃক মুদ্রিত।
মোঃ নজরুল ইসলাম, উপপরিচালক (উপসচিব), বাংলাদেশ ফরম ও প্রকাশনা অফিস,
তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত। website: www.bgpress.gov.bd

Md Sajid Hossain Shimanto · smartaccountantbd.com