রেজিষ্টার্ড নং ডি এ-১

বাংলাদেশ গেজেট

অতিরিক্ত সংখ্যা

কর্তৃপক্ষ কর্তৃক প্রকাশিত

রবিবার, মার্চ ৭, ১৯৯৯

গণপ্রজাতন্ত্রী বাংলাদেশ সরকার

অর্থ মন্ত্রণালয়

অভ্যন্তরীণ সম্পদ বিভাগ

(আয়কর)

—

প্রজ্ঞাপন

তারিখ, ২২শে আশ্বিন ১৪০৫ বাং/৭ই সেপ্টেম্বর ১৯৯৮ ইং

এস, আর, ও নং ২২২-আইন/৯৮—যেহেতু Income Tax Ordinance, 1984 (XXXVI of 1984) এবং The Kingdom of Thailand এ প্রচলিত এতদ্‌সংক্রান্ত আইনের অধীনে দ্বৈত করারোপণ পরিহার এবং আয়ের উপর কর সম্পর্কিত রাজস্ব ফাঁকি প্রতিরোধের উদ্দেশ্যে গণপ্রজাতন্ত্রী বাংলাদেশ সরকার The Government of the Kingdom of Thailand এর সহিত ২০শে এপ্রিল, ১৯৯৭ তারিখে একটি চুক্তি (Convention) সম্পাদন করিয়াছে, এবং

যেহেতু উক্ত চুক্তি বাংলাদেশে কার্যকর করার উদ্দেশ্যে বিধান প্রণয়ন করা সমীচীন ও প্রয়োজনীয়;

সেহেতু Income Tax Ordinance, 1984 (XXXVI of 1984) এর section 144 এ প্রদত্ত ক্ষমতাবলে সরকার এতদ্‌দ্বারা বিধান করিল যে, এতদ্‌সংগে সংযোজিত উক্ত চুক্তির বিধানাবলী ১লা জুলাই, ১৯৯৯ তারিখে আরব্ধ কর বৎসর হইতে বাংলাদেশে কার্যকর হইবে।

মূল্য : টাকা ৬.০০

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com 1 / 24

চুক্তি

CONVENTION BETWEEN
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
AND
THE GOVERNMENT OF THE KINGDOM OF THAILAND
FOR
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the People's Republic of Bangladesh And

The Government of the Kingdom of Thailand,

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

Have agreed as follows :

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. The Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its 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 amount of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The taxes which are the subject of this Convention are :

(a) in the case of Thailand :
- the income tax; and
- the petroleum income tax;

(hereinafter referred to as "Thai tax");

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

(b) in the case of Bangladesh :
– the income tax;
(hereinafter referred to as "Bangladesh tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

Article 3

GENERAL DEFINITIONS

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

(a) the term "Thailand" means of the Kingdom of Thailand and includes any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation and in accordance with international law, has been or may hereafter be designated as an area within which the right of the Kingdom of Thailand with respect to the seabed and sub-soil and their natural resources may be exercised;

(b) 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;

(c) The terms "a Contracting State" and "the other Contracting State" mean Thailand or Bangladesh as the context requires;

(d) The term "person" includes an individual, a company and any other body of persons;

(e) The term "Company" means anybody corporate or any entity which is treated as a body corporate for tax purposes;

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

Md Sajid Hossain Shimanto · smartaccountantbd.com

(g) the term "tax" means Thai tax or Bangladesh tax as the context requires;

(h) the term "nationals" means :

(i) all individuals possessing the nationality of a Contracting State;

(ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

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

(j) the term "competent authority" means, in the case of Thailand, the Minister of Finance or his authorised representative, and, in the case of Bangladesh, the National Board of Revenue or its authorised representative.

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

Article 4

RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of effective management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

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

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

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

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

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

3. Where by reason of the provisions of paragraph 1 a person is a resident of both Contracting States, then the competent authorities of the Contracting State shall determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of this Convention.

Article 5

PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially :

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

(g) a warehouse, in relation to a person providing storage facilities for others;

(h) a building site or construction or installation or project constitutes a permanent establishment only if it lasts more than 183 days.

Md Sajid ... Shimanto ... smartaccountantbd.com

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

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

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

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

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

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e);

Provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 5 applies—is acting in a Contracting State on behalf of the enterprise of the other Contracting State, the enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State, if such a person :

(a) has and habitually exercises in the first-mentioned State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders or makes deliveries on behalf of the enterprise; or

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

(c) has no such authority, but habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business and their activities do not involve securing of orders within the meaning of sub-paragraph (c) of paragraph 4.

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

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph I 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.

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com 7 / 24

Article 7

BUSINESS PROFITS

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

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the income or 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 of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment including executive and general adminstrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of a certain percentage of the gross receipt of the enterprise or of the permanent establishment or on the basis of an apportionment of the total profits of the enterprise to its various patrs, nothing in paragraph 2 of this article shall preclude that Contracting State from determining the profits to be taxed by such a method as may be customary; the method adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

6. For the purposes of the preceding paragraphs, the income or 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.

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

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 8

SHIPPING AND AIR TRANSPORT

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

2. Income or profits of an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50 per cent thereof.

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

Article 9

ASSOCIATED ENTERPRISES

Where

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

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any income or 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 income or profits of that enterprise and taxed accordingly.

Article 10

DIVIDENDS

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

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends 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 (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;

(b) 15 per cent of 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, mining shares, founder's 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 law of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, 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 State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State. Nothing in this paragraph shall be construed as preventing a Contracting State from imposing income tax, according to the laws of that State, on the disposal of profits made by a permanent establishment situated therein.

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountant60.com

Article 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed :

   (a) 10 per cent of the gross amount of the interest if it is received by any financial institution (including an insurance company);

   (b) 15 per cet of the gross amount of the interst in other cases.

3. Notwithstanding the provisions of paragraph 2 .

   (a) The Bank of Thailand shall be exempt from Bangladesh tax with respect to interest arising in Bangladesh;

   (b) The Bangladesh Bank shall be exempt from Thai tax with respect to interest arising in Thailand;

   (c) the Government of a Contracting State shall be exempt from tax in the other Contracting State with respect to interest arising in that other State;

   (d) interest arising in a Contracting State and paid in respect of a loan made by the Government of the other Contracting State, the Bank of Thailand, the Bangladesh Bank, as the case may be, or any agency inclduing a financial institution wholly owned by the Government of the other State as may be agreed from time to time between the competent authorities of the two Contracting States.

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 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com 11 / 24

other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision or a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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 State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shal not exceed 15 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 the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision or a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provision of this Convention.

Article 13

CAPITAL GAINS

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

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 of which the enterprise is a resident.

4. Gains from the alienation of any property or assets, other than those referred to in paragraphs 1, 2 and 3 of this Article, shall be taxable only in the Contracting State of which the alienator is resident.

Article 14

INDEPENDENT PERSONAL SERVICES

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

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

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

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

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 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 State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived thereform may be taxed in that other State.

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

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

(a) the recipient is present in the other State for a period, or periods not exceeding in the aggregate 183 days within any twelve-month period commencing or ending in the fiscal year concerned, and

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

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

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

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, 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 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 Artieles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived from activities performed in a Contracting State by an entertainer or a sportsman if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, or its local authorities.

4. Notwithstanding the provisions of Article 7, where the activities mentioned in paragraph 1 of this Article are provided in a Contracting State by an enterprise of the other Contracting State the profits derived from providing these activities by such an enterprise may be taxed in the first-mentioned Contracting State unless the enterprise is substantially supported from the public funds of the other Contracting State, or its local authorities, in connection with the provisions of such activities.

Article 18

PENSIONS

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

Article 19

GOVERNMENTAL FUNCTION

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

(i) is a national of that State; or

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

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of and a national of, that State.

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

STUDENTS AND TRAINEES

1. An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in the other Contracting State solely for the purpose of:

(a) studying in the other Contracting State at a university or other recognised educational institution; or

(b) securing training at a recognised educational institution required to qualify him to practise a profession ; or

(c) studying or carrying out research as a recipient of a grant, allowance or award from a governmental, religious, charitable, scientific, literary or educational organization ;

shall be exempt from tax in that other Contracting State on :

(i) remittances from abroad for the purposes of his maintenance, education, study, research or training ;

(ii) the grant, allowance or award ; and

(iii) income from personal services rendered in the other Contracting State provided that the income constitutes earnings reasonable necessary for his maintenance and education.

2. In no event shall an individual have the benefit of the provisions of this Article for more than five years.

Article 21

PROFESSORS, TEACHERS AND RESEARCHERS

1. An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution which is recognised by the competent authority in that other Contracting State, visits that other Contracting State for a period not

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other Contracting State on his remuneration for such teaching or research.

2. This Article shall not apply to income from research unless such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

Article 22

OTHER INCOME

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

2. Notwithstanding paragraph 1. items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may be taxed in that other State.

Article 23

ELIMINATION OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where provisions to the contrary are made in this Convention.

2. The amount of Thai tax payable, under the laws of Thailand and in accordance with the provisions of this Convention, whether directly or by deduction, by a resident of Bangladesh, in respect of profits or income arising in Thailand, which has been subjected to tax both in Bangladesh and in Thailand, shall be allowed as a credit against the Bangladesh tax payable in respect of such profits or income provided that such credit shall not exceed the Bangladesh tax (as computed before allowig any such credit) which in appropriate to the profits or income arising in Thailand.

3. For the purposes of the credit referred to in paragraph 2, the term "Thai tax payable" shall be deemed to include any amount which would have been payable as Thai tax for any year but for an exemption of reduction of tax granted for that year or any part thereof under the provisions of

the Investment Promotion Act (B ; E. 2520) or of the Revenue Code (B. E. 2481) which are designed to promote economic development in Thailand, or which may be introduced hereafter in modification of, or in addition to, the existing laws for promoting economic development in Thailand.

4. The amount of Bangladesh tax payable under the laws of Bangladesh and in accordance with the provisions of this Conventions, whether directly or by deduction, by a resident of Thailand, in respect of profits or income arising in Bangladesh, which has been subjected to tax both in Bangladesh and Thailand, shall be allowed as a credit against Thai tax payable in respect of such profits or income provided that such credit shall not exceed the Thai tax (as computed before allowing any such credit) which is appropriate to the profits or income arising in Bangladesh.

5. For the purposes of the credit referred to in paragraph 4, the term "Bangladesh tax payable" shall be deemed to include any amount which would have been payable as Bangladesh tax for any assessment year but for an exemption or reduction of tax granted for that year or any part thereof by the special incentive measures under the provisions of the Income Tax Ordinance 1984 (XXXVI of 1984), which are designed to promote economic development, or which may be introduced hereafter in modification of, or in addition to, the existing provisions for promoting economic development in Bangladesh.

6. Where under this Convention a resident of a Contracting State is exempt from tax in that Contracting State in respect of income derived from the other Contracting State, then the first-mentioned Contracting State may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the income exempted from tax in accordance with this Convention had not been so exempted.

Article 24

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 are or may be subjected.

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

3. 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.

4. In this Article the term "taxation" means taxes which are the subject of this convention.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. 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 this Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance wilh the Convention.

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

S.R.O. No. 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. 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.

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

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

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Md Sajid Hossain Shimanto · smartaccountantbd.com

Article 27

DIPLOMATIC AGENTS AND CONSULAR OFFICER

Nothing in this Covention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

Article 28

ENTRY INTO FORCE

1. The Government of the Contracting States shall notify each other that the constitutional requirements for the entry into force of the Convention have been complied with.

2. The Convention shall enter into force on the date of the latter of the notifications referred to in paragraph 1 and its provision shall have effect:

(a) in Thailand :

(i) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January next following that in which the Convention enters into force.

(ii) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January next following that in which the Convention enters into force.

(b) in Bangladesh :
in respect of taxes for any year of assessment beginning on or after July 1 in the calendar year next following that in which the Convention enters into force.

Article 29

TERMINATION

1. This Convention shall continue in effect indefinitely but either or the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from

the date of its entry into force, give to the other Contracting State, through the diplomatic channel, written notice of termination.

In such event this Convention shall cease to have effect :

(a) in Thailand :

(i) in respect of taxes withheld at the source, on amounts paid or remitted on or after the first day of January next following that in which the notice is given;

(ii) in respect of other taxes on income, for taxable years or accounting periods beginning on or after the first day of January next following that in which the notice is given.

(b) in Bangladesh :

in respect of taxes, for any year of assessment beginning on or after the first day of July in the calendar year next following that in which the notice is given.

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

Done in duplicate at **DHAKA** this **20TH** day of **APRIL, 1997** in the English language.

For the Government of the People's Republic of Bangladesh	For the Government of the Kingdom of Thailand
Sd/- A. H. CHOWDHURY	Sd/- PITAK INTRAWITYANUNT
Minister of State for Foreign Affairs	Deputy Foreign Minister

PROTOCOL

The Government of the Kingdom of Thailand and the Government of the People's Republic of Bangladesh, having entered into a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed, at the time of signing the said Convention, that in connection with paragraph 1(d) of Article 3 "General Definitions", the term "Person" in the case of Thailand, also includes an undivided Estate.

S.R.O. No: 222/1998 · unofficial copy for study · Md Sajid Hossain Shimanto · smartaccountantbd.com

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

Done in duplicate at **DHAKA** this **20TH** day of **APRIL, 1997** in the English language.

For the Government of the People's Republic of Bangladesh	For the Government of the Kingdom of Thailand
Sd/- A. H. CHOWDHURY	Sd/- PITAK INTRAWITYANUNT
Minister of State for Foreign Affairs	Deputy Foreign Minister

রাষ্ট্রপতির আদেশক্রমে

মুহাম্মদ আবদুস সাত্তার

অতিরিক্ত সচিব (পদাধিকারবলে)।

মোঃ আবদুল করিম সরকার (উপ-সচিব), উপ-নিয়ন্ত্রক, বাংলাদেশ সরকারী মুদ্রণালয়, ঢাকা কর্তৃক মুদ্রিত।
মোঃ আমিন জুবেরী আলম, উপ-নিয়ন্ত্রক, বাংলাদেশ ফরমস্ ও প্রকাশনী অফিস তেজগাঁও, ঢাকা কর্তৃক প্রকাশিত।

Md Sajid Hossain Shimanto · smartaccountantbd.com