

LEGAL NOTICE NO. 239

REPUBLIC OF TRINIDAD AND TOBAGO

THE INCOME TAX ACT, CHAP. 75:01

ORDER

MADE BY THE PRESIDENT UNDER SECTION 93(1) OF THE
INCOME TAX ACT

THE DOUBLE TAXATION RELIEF (FRANCE) ORDER, 1987

WHEREAS it is provided by subsection (1) of section 93 of the Income Tax Act that if the President by Order declares that arrangements specified in the Order have been made with the Government of any country with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any written law:

And whereas by a Convention dated August 5, 1987, made between the Government of the Republic of Trinidad and Tobago and the Government of the French Republic, arrangements were made *inter alia* for the avoidance of double taxation:

Now, therefore, the President in pursuance of the said subsection (1) of section 93 of the Income Tax Act is pleased to order, and it is hereby ordered as follows:

1. This Order may be cited as the Double Taxation Relief (France) Order, 1987.
2. It is hereby declared -

- (a) that the arrangements specified in the Schedule have been made with the Government of the French Republic;
- (b) that it is expedient that those arrangements should have effect.

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND FOR THE ENCOURAGEMENT OF INTERNATIONAL TRADE AND INVESTMENT

The Government of the Republic of Trinidad and Tobago and the Government of the French Republic, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and for the encouragement of international trade and investment, have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

Taxes Covered

- 1. The existing taxes to which this Convention shall apply are:
 - (a) in the case of Trinidad and Tobago:

- (i) the income tax;
- (ii) the corporation tax;
- (iii) the unemployment levy;
- (iv) the petroleum profits tax;
- (v) the supplemental petroleum tax;

including any withholding tax or advance payment with respect to the aforesaid taxes; (hereinafter referred to as "Trinidad and Tobago tax");

(b) in the case of France:

- (i) the income tax;
- (ii) the corporation tax;

including any withholding tax, prepayment (précompte) or advance payment with respect to the aforesaid taxes; (hereinafter referred to as "French tax").

2. This Convention shall apply also to any identical or substantially similar taxes which are imposed by a Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes referred to above. The competent authorities of the Contracting State shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

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

(a) (i) the term "Trinidad and Tobago" means the islands of Trinidad and Tobago and

(ii) when used in a geographical sense, the term "Trinidad and Tobago" includes (A) the territorial sea thereof and (b) the seabed and subsoil of the adjacent submarine areas beyond the territorial sea over which Trinidad and Tobago exercises sovereign rights, in accordance with Trinidad and Tobago legislation and international law concerning the continental shelf, for the purpose of exploration and exploitation of natural resources of such areas, but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation;

- (b) the term "France" means the European and overseas departments of the French Republic including the territorial sea, and any area outside the territorial sea within which, in accordance with international law, the French Republic has sovereign rights for the purpose of exploring and exploiting the natural resources of the seabed and their subsoil and of the superjacent waters;
- (c) the terms "a Contracting State" and "the other Contracting State" mean the Republic of Trinidad and Tobago or the French Republic, as the context requires;
- (d) the term "person" includes an individual, a company and any other body of persons;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term "competent authority" means:
 - (i) in the case of the Republic of Trinidad and Tobago, the Minister to whom the responsibility for Finance is assigned or his authorized representative;
 - (ii) in the case of the French Republic, the Minister in charge of the Budget or his authorized representative;
- (i) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the law in force in a Contracting State;
- (j) the terms "paid", "distributed", and "received" when used with respect to income shall include amounts "credited".

2. In the application of this 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 Contracting State relating to the taxes which are the subject of this Convention.

Article 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who under the law of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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 in accordance with the following rules:

- (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);
- (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 settle the question by mutual agreement.

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

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a warehouse;
- (g) a store or other sales outlet;
- (h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (i) a drilling rig or ship used for or in connection with the exploration or development of natural resources; and
- (j) a building site, a construction, assembly, dredging or installation project but only where such site or project continues for a period of more than six months.

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

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraph (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 an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 which, if exercised through a fixed place of business would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

5. An enterprise 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph but in such cases the provisions of paragraph 4 shall apply.

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 and aircraft shall not be regarded as immovable property.

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

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

Article 7

Business Profits

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

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

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

5. 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.

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

Article 8

Shipping and Air Transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. These profits also include incidental income derived by the enterprise from the use of containers only to the extent that such containers are used for the transport of goods or merchandise in international traffic.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits derived 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 profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 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.

2. However, such dividends may be 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 or indirectly 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, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income treated as a distribution by the taxation laws of the Contracting 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

5. A resident of Trinidad and Tobago who receives dividends paid by a company which is a resident of France may obtain the refund of the prepayment (précompte) relating to such dividends, in the event it had been paid by such company. Such refund shall be taxable in France according to the provisions of paragraph 2. The gross amount of the prepayment (précompte) refunded shall be deemed to be dividends for the purposes of the provisions of this Convention.

6. Where a company which is a resident of a Contracting State having a permanent establishment in the other Contracting State, derives profits or income from that permanent establishment, any remittance or deemed remittance of such profits or income by the permanent establishment to the company which is a resident of the first-mentioned Contracting State may, notwithstanding any other provision of this Convention, be taxed

in accordance with the law of the other Contracting State, but the rate of tax imposed on such remittances shall not exceed 10 per cent.

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 law of that State but where the beneficial owner of such interest is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2,

(a) interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by:

(i) the Government of the other Contracting State or a local authority thereof or any agency or instrumentality of that Government or local authority;

(ii) the Central Bank of the other Contracting State;

(b) interest arising in a Contracting State shall be exempt from tax in that State if it is beneficially owned by a resident of the other Contracting State and if derived in connection with a loan or credit extended or endorsed by any institution of a Contracting State with responsibility for public financing of external trade.

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 but shall not include any item which is treated as a distribution under the provisions of Article 10 (Dividends) of this Convention.

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 and debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment then such interest shall be deemed to arise in the State in which the permanent establishment 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 paid exceeds, for whatever reason, 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 payment shall remain taxable according to the law 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 law of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraphs 1 and 2 copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (excluding royalties and like payments in respect of motion picture films and films or video tapes for use in connection with television and tapes for use in connection with radio) arising in a Contracting State and which are derived and beneficially owned by a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

4. (a) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and films or tapes 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.

(b) The term does not include any royalties, rentals or other amounts paid in respect of the operation of mines, quarries or other natural resources.

5. The provisions of paragraphs 1, 2 and 3 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 and the right or property in respect of which the royalties are paid is effectively connected with such a permanent establishment. In such case the provisions of Article 7 (Business Profits) shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, 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 with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment then such royalties shall be deemed to arise in the State in which the permanent establishment 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 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 payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Investment or Holding Companies

A company of one of the Contracting States deriving dividends, interest, or royalties from sources within the other Contracting States shall not be entitled to the benefits of Article 10 (Dividends), Article 11 (Interest), or Article 12 (Royalties) if:

(a) by reason of special measures granting tax benefits to investment or holding companies the tax imposed on such company by the first-mentioned Contracting State with respect to such dividends, interest, or royalties is substantially less than the tax generally imposed by such Contracting State on company profits; and

(b) twenty-five per cent or more the capital of such company is held of record or is otherwise determined, after consultation between the competent authorities of the Contracting States, to be owned, directly or indirectly, by one or more persons who are not residents of the first-mentioned Contracting State.

Article 14

Management Charges

1. Management charges paid by a resident of a Contracting State to an enterprise of the other Contracting State may be taxed in that other State.
2. However, such management charges may also be taxed in the Contracting State of which the person paying the management charges is a resident and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the charges.
3. The term "management charges" as used in this Article means charges made for the provision of management services and includes charges made for the provision of personal services and technical and managerial skills.
4. The provisions of paragraphs 1 and 2 shall not apply if the enterprise to which the management charges are paid, being an enterprise of a Contracting State, carries on business in the other Contracting State from which the management charges are paid, through a permanent establishment situated therein and the services for which the management charges are paid are effectively connected with such a permanent establishment. In such cases the provisions of Article 7 (Business Profits) shall apply.
5. Where by reason of a special relationship between the payer and the recipient, or between both of them and some other person, the amount of the management charges having regard to the services for which they are paid exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 15

Independent Personal Services

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

(a) if the remuneration earned in the other Contracting State in the year of income exceeds a gross amount in the currency of that State equivalent to European Currency Units (ECU) 9,000; or

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

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

Article 16

Dependent Personal Services

1. Subject to the provisions of Articles 17 (Directors' Fees), 19 (Pensions), 20 (Government Service), 21 (Students and Trainees) and 22 (Teaching and Research), salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of 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 therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the year of income concerned;
 - (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 which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17

Directors' Fees

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

Article 18

Entertainers and Athletes

1. Notwithstanding the provisions of Article 15 (Independent Personal Services), and 16 (Dependent Personal Services), income derived by a resident of a Contracting State as an entertainers, such as a theatre, motion picture, radio or television artiste or a musician, or as an athlete, 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person that income may, notwithstanding the provisions of Articles 7 (Business Profits), 15 (Independent Personal Services) and 16 (Dependent Personal Services) be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 income derived from such activities as defined in paragraph 1 shall be exempt from tax in the Contracting State in which these activities are performed if these activities are:

- (a) substantially supported by public funds of the other Contracting State;
or
- (b) performed within the framework of cultural exchange between Contracting States.

Article 19

Pensions

1. Subject to the provisions of paragraph 2 of Article 20 (Government Service), pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

3. The term "annuity" means a stated sum payable 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) Remuneration other than a pension, paid by a Contracting State or a local authority thereof, or by a statutory body to an individual in respect of services rendered to that State or authority or statutory body 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 local authority thereof, or by a statutory body to an individual in respect of services rendered to that State or authority or statutory body 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.
3. The provisions of Article 16 (Dependent Personal Services), 17 (Directors' Fees) and 19 (Pensions), shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority or a statutory body thereof.

Article 21

Students and Trainees

An individual who is or was a resident of a Contracting State immediately before his visit to the other Contracting State and who is temporarily present in the other Contracting State for the primary purpose of:

(a) studying in that other Contracting State at a University or other educational institution approved by the appropriate educational authority of that Contracting State;

(b) securing training required to qualify him to practice a profession or for acquiring a vocation or a professional or technical speciality; or

(c) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organization, or as a participant in other programmes sponsored by such an organization,
shall be exempt from tax in that other Contracting State in respect of:

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

(ii) remuneration for personal services performed in that other Contracting State provided that this benefit shall extend only for such period of time as may be reasonably or customarily required to complete the education, training or practice undertaken but shall in no event exceed a period of seven years;

(iii) the amount of such grant, allowance or award.

Article 22

Teaching and Research

1. An individual who is or was a resident of a Contracting State at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of that other Contracting State or of a university or other educational institution situated in that other Contracting State and approved by the appropriate educational authority of that other Contracting State, visits that other Contracting State for the primary purpose of teaching or engaging in research or both at such university or other educational institution shall be exempt from tax by that other Contracting State on his income from personal services for teaching or research at such university or other educational institution for a period not exceeding two years from the date of his arrival in that other Contracting State.

2. The exemption granted under paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or specific persons.

Article 23

Other Income

Notwithstanding the provisions of any other Article of this Convention, items of income of a resident of a Contracting State, wherever arising, which are not expressly mentioned in the foregoing Articles of this Convention may be taxed by each Contracting State in accordance with the provisions of its domestic law.

Article 24

Elimination of Double Taxation

1. In the case of Trinidad and Tobago, double taxation shall be avoided as follows:

(a) subject to the provisions of the law of Trinidad and Tobago regarding the allowance of a credit against Trinidad and Tobago tax of tax payable in a Territory outside Trinidad and Tobago (which shall not affect the general principle hereof):

(i) French tax payable under the law of France and in accordance with this Convention, whether directly or by deduction on profits or income from sources within France (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Trinidad and Tobago tax computed by reference to the same profits or income by reference to which the French tax is computed;

(ii) in the case of a dividend paid by a company which is a resident of France to a company which is a resident of Trinidad and Tobago and which controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividends the credit shall take into account [in addition to any French tax creditable under (i)] the French tax payable by the company paying the dividends in respect of the profits out of which such dividend is paid;

(b) the credit, however, shall in no case exceed that part of the tax, as computed before the credit is given, which is appropriate to the income which may be taxed in France.

2. In the case of France, double taxation shall be avoided as follows:

(a) income other than that referred to in sub-paragraph (b) below shall be exempt from the French taxes referred to in sub-paragraph (b) of paragraph 1 of Article 2 (Taxes Covered) if the income is taxable in Trinidad and Tobago under this Convention. However, no exemption shall be granted if such income is not subjected to tax in Trinidad and Tobago, under the law of that State;

(b) income referred to in Article 10 (Dividends), 11 (Interest), 12 (Royalties), 14 (Management Charges), 17 (Directors' Fees), 18 (Entertainers and Athletes) and 23 (Other Income), received from Trinidad

and Tobago may be taxed in France in accordance with the provisions of these Articles, on the gross amount. The Trinidad and Tobago tax levied on such income entitles residents of France to a tax credit corresponding to the amount of Trinidad and Tobago tax levied but which shall not exceed the amount of French tax attributable to such income. Such credit shall be allowed against taxes referred to in sub-paragraph (b) of paragraph 1 of Article 2 (Taxes Covered) in the bases of which such income is included.

(c) For the purposes of the tax credit referred to in sub-paragraph (b), in relation to Articles 10 (Dividends), 11 (Interest) and 12 (Royalties), the term "Trinidad and Tobago tax" shall be deemed to include any amount which would have been payable as Trinidad and Tobago Tax under the law of Trinidad and Tobago in accordance with this Convention for any year but for an exemption from, or reduction of tax granted for that year under:

- (i) (a) sections 5 and 6 of the Fiscal Incentives Act, (Chap. 85:01);
(b) section 3 of the Hotel Development Act, (Chap. 85:02);
(c) any Acts, Ordinances and Legal Notices granting exemption in respect of interest on monies borrowed by a statutory body established in order to carry on in Trinidad and Tobago a public utility undertaking under national control;

so far as they were in force on, and not being modified since, the date of the signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

(ii) any other provisions which may be enacted after this Convention enters into force granting a deduction in computing the taxable income or an exemption or reduction from tax which the competent authorities of the Contracting States agree to be for the purposes of the economic development of Trinidad and Tobago.

(d) Notwithstanding the provisions of sub-paragraphs (a), (b) and (c) French tax is computed on income chargeable in France by virtue of this Convention at the rate appropriate to the total of the income chargeable in accordance with the French law.

Article 25

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1 (Personal Scope), also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of Article 9, paragraph 7 of Article 11, paragraph 7 of Article 12, or paragraph 5 of Article 14, apply, interest royalties, management charges and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State, shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Nothing in this paragraph shall be construed as preventing France from applying the provisions of its domestic law regarding "thin-capitalization".
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State, are or may be subjected.
5. The provisions of this Article shall, notwithstanding the provisions of Article 2 (Taxes Covered), apply to taxes of every kind and description.

Article 26

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25 (Non-discrimination), to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of 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 with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation of the application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.
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. The competent authorities shall through consultations develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.
5. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Convention and, especially, the requirements to which the residents of a Contracting State shall be subjected in order to obtain, in the other Contracting State, the tax reliefs or exemptions provided for by this Convention.

Article 27

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic law of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Article 1 (Personal Scope). Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic law 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 this 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. The competent authorities shall through consultation develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchange of information regarding tax avoidance.

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

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

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

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

Article 28

Diplomatic Agents and Consular Officers

Nothing in this Convention 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 29

Territorial Extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the overseas territories of the French Republic which impose taxes substantially similar in character to those to which this Convention applies. Any such extension shall take effect from the date which may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures. This agreement provides also for the necessary modifications of this Convention and for the conditions of its application to the overseas territories to which it is extended.

2. Unless otherwise agreed by both Contracting States, the termination of this Convention by one of them under Article 31 (Termination) shall also terminate, in the manner provided for in that Article, the application of this Convention to any territory to which it has been extended under this Article.

Article 30

Entry into Force

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the first day of the second month following the day when the later of these notification has been received.

2. Its provisions shall apply for the first time:
 - (a) in respect of taxes withheld at source on or after the first day of January in the calendar year next following that in which the later of these notifications is given;
 - (b) in respect of other taxes on income for the year of income commencing the first day of January, in the calendar year next following that in which the later of these notification is given.

Article 31

Termination

1. This Convention shall remain in force indefinitely, but either of the Contracting States may on or before 30th June in any calendar year beginning after the expiration of a period of three years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.
2. In such event this Convention shall cease to have effect:
 - (a) in respect of taxes withheld at source on or after the first day of January next following the notice of termination; and
 - (b) in respect of other taxes on income derived on or after the first day of January next following the notice of termination.

In witness whereof, the undersigned, duly authorized thereto, have signed this Convention.

Done at Port of Spain this 5th day of August, 1987 in duplicate, in the English and French languages, both texts being equally authoritative.

BASDEO PANDAY
For the Government of the Republic
of Trinidad and Tobago

JANE DEBENEST
For the Government of
the French Republic

PROTOCOL

At the time of proceeding to the signature of this Convention between the Government of the Republic of Trinidad and Tobago and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and for the encouragement of international trade and investment, the undersigned have agreed on the following provisions which shall form an integral part of this Convention:

1. In respect of Article 6, (Income from Immovable Property) income from shares, rights or participations in a company or a legal person owning immovable property situated in France, which, under French law, is subjected to the same taxation treatment as income from immovable property, may be taxed in France.
2. It is understood that in respect of paragraph 1 of Article 7 (Business Profits) where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of this permanent establishment must be determined on the basis of the remuneration which is attributable to the actual activity of the permanent establishment for such sales or business. When the enterprise carries on in the other Contracting State business of the same or similar nature otherwise than through the permanent establishment, then in order to prevent abuses, each Contracting State reserves its right to properly allocate the business profits derived therefrom according to the actual nature of the operations carried out by the permanent establishment or by the enterprise.
3. In respect of Article 13 (Investment or Holding Companies), it is understood that the tax regime normally applicable to dividends received from its subsidiary by a parent company is not a special measure granting tax benefits to investment or holding companies.

Done at Port of Spain this 5th day of August, 1987 in duplicate, in the English and French Languages, both texts being equally authoritative.

BASDEO PANDAY
For the Government of the Republic
of Trinidad and Tobago

JANE DEBENEST
For the Government of the
French Republic

Dated this 22nd day of December, 1987.

K. BOSWELL INNISS
Secretary to Cabinet