

Libya - Pakistan

Income Tax Treaties

1975 Income Tax Convention

Signatories: Libya; Pakistan

Signed: January 9, 1975

In Force: March 1, 1976

Effective: March 1, 1976. See Article 26.

Status: In Force

CONVENTION BETWEEN THE ISLAMIC REPUBLIC OF PAKISTAN AND THE LIBYAN ARAB REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Islamic Republic of Pakistan and the Libyan Arab Republic;
Desiring to conclude a Convention for the avoidance of double taxation; with respect to
taxes on income;

Have agreed as follows:

Chapter I. Scope of the Convention

Article 1

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State 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.

3. The existing taxes to which this Convention shall apply are:

A. With regards to the Libyan Arab Republic:

- (i) Real Estate Revenue Tax.
- (ii) Agricultural Revenue Tax.
- (iii) Taxes on Commercial, Industrial and Professional profits which comprise:
 - (a) Taxes on profits realised from Commercial Industrial and Professional activities.
 - (b) Taxes on Companies.
- (iv) Taxes on profits realised by practising Free Professions.
- (v) Taxes on wages, salaries and the like.
- (vi) Taxes on the interest of savings and current accounts in Banks.
- (vii) Taxes on Income realised abroad.
- (viii) General Tax on Income.

(ix) Al-Jihad Tax.

B. With regards to Islamic Republic of Pakistan:
The Income Tax, Super Tax and the Surcharge
(hereinafter referred to as "Pakistan Tax").

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

Chapter II. Definitions

Article 2

General Definitions

1. In this Convention, unless the context otherwise requires:

- (a) the term "a Contracting State" and "the other Contracting State" mean Pakistan or Libya, as the context requires;
- (b) the term "person" comprises an individual, a company and any other body of persons;
- (c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (d) the term "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 by a resident of the other Contracting State;
- (e) the term "competent authority" with respect to the Libyan Arab Republic means the Ministry of the Treasury, and with respect to Islamic Republic of Pakistan, means the Central Board of Revenue.

2. 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 taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

3. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article 3

The Tax Home

Without prejudice to the provisions of this Convention, the Tax Home of any income shall be deemed to be the Contracting State in which the income arises.

Article 4

Permanent Establishment

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

2. The term "permanent establishment" shall include especially:

- (a) a place of management.
- (b) a branch.
- (c) an office.
- (d) a factory.
- (e) a workshop.
- (f) a mine, quarry or other place of extraction of natural resources.

3. The term "permanent establishment" shall not be deemed to include:

- (a) the use of facilities solely for the purpose of storage and 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 and display.
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by an other enterprise.
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for 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.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State--other than an agent of an independent status to whom paragraph 5 applies--shall be deemed to be a permanent establishment in the first mentioned state if he has, and habitually exercise in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

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 for either company a permanent establishment of the other.

Chapter III. Taxation of Income

Article 5

Income From Immovable Property

1. Income from immovable property shall only be taxable in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated.

Article 6

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable in the State where the enterprise is situated and also in the State where it has a permanent establishment, in which case, the tax shall be limited to the profits attributable to the permanent establishment.

2. 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 the determination of the profits of a permanent establishment there shall be allowed as deduction expenses which are incurred for the purpose of the permanent establishment whether such expenses have been incurred 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 purpose 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 7

Shipping and Transport

Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in the State in which the place of effective management of the enterprise is situated.

Article 8

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 enterprise, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reasons of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly. It is to be understood that the procedures available in the respective laws of each Contracting State in this regard shall be applied.

Article 9

Dividends

1. Dividends paid by a company which is registered in one of the Contracting States shall only be taxable in that state.
2. The term "dividends" shall be defined in accordance with the law of the Contracting State of the company paying dividend.

Article 10

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall only be taxable in the Contracting State where it arises.
2. The provision of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debit-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 6 shall apply.

Article 11

Royalties

1. Royalties arising in a Contracting State shall be taxable in that State.
2. The term "Royalties" as used in this Article means payments of any kind as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, 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.
3. The term "royalties" as used in this Article shall, exclude rentals and other income in respect of cinematographic films, or television films and videotapes. Such rentals and income shall, for the purpose of this Convention, be considered the profits from business.

Article 12

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only as much of it as is attributable to that fixed base.
2. The term "professional services" includes, especially independent activities of physicians, lawyers, engineers, architects, dentists, accountants and the like according to the laws of each Contracting State.

Article 13

Dependent Personal Services

1. Salaries, wages and similar emoluments arising in one of the Contracting States shall only be taxable in the State where the services giving rise to that income are performed. Notwithstanding these provisions, remuneration in respect of an employment exercised

abroad a ship or aircraft operated in international traffic by an enterprise of a Contracting State, shall be taxable only in that 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 90 days 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.

Article 14

Directors' Fees

Directors' fees and 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 15

Artists and Athletes

1. Notwithstanding the provisions of Articles 12 and 13, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. The provision of paragraph 1 of this Article shall not apply in the case of cultural and sports programmes sponsored by or on behalf of each of the Contracting States.

Article 16

Pensions

Pensions and other similar income paid to a resident of a Contracting State in consideration of past employment shall be taxable only in the State from which the pension is paid.

Article 17

Government Functions

1. Remuneration paid by the Government of one of the Contracting States to any individual for services rendered to that Government in the discharge of Governmental

functions shall be exempt from tax in the other State if the individual is not resident in that other State or is resident in that other State solely for the purpose of rendering those services, so provided however, that such an individual has the nationality of that Contracting State.

2. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for purposes of profit.

3. In this Article, "Government" shall be deemed to include public corporations and any other similar parastatal bodies.

Article 18

Students

Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other state.

Article 19

Professors, Teachers and Researchers

A professor, teacher or research worker from one of the Contracting States who receives remuneration for teaching or carrying out research work during a period of temporary residence not exceeding three months at a university, college or some other institute of higher education or scientific research in the other Contracting State, shall be exempt from tax in that other state, in respect of that remuneration provided that the period of three months may be extended by similar periods.

Chapter IV. Elimination of Double Taxation

Article 20

Tax Credits

1. When a resident of a Contracting State derives income which has also suffered tax in the other Contracting State, the first mentioned State shall allow a deduction from its tax on the income of that person equal to the tax paid in the other Contracting State, provided that the deduction shall not exceed that part of the tax, as computed before the deduction is given, which is applicable to the income taxed in the other Contracting State.

2. Nothing in this Article shall prevent the granting of such further relief as may be appropriate under the provisions of the law of either Contracting State in respect of any amount by which the tax in one of the State exceeds the credit allowed on its account in the other State in accordance with the provisions of this Article.

Chapter V. Special Provisions

Article 21

Non-Discrimination

1. The 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 term "national" means;

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

(b) all legal persons partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. The taxation of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in the other State than the taxation levied on enterprises of that other State carrying on the same activities.

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 Contracting State to any taxation or any requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. Nothing contained in this Article shall be construed as obliging a Contracting State to grant 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.

Article 22

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 this Convention, he may, notwithstanding the remedies provided by the national laws of those states, present his case to the competent authority of the Contracting State of which he is a resident.

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 an appropriate 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 not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubt 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.

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 23

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is in accordance with the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligations;

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are 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.

Article 24

Diplomatic and Consular Officials

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

Article 25

Termination

This Convention shall continue in force indefinitely but either Contracting State may terminate the Convention through diplomatic channels by giving notice of termination at least six months before the end of any calendar year after three years from the end of the calendar year in which the Convention entered into force. In such event, the Convention shall cease to have effect in respect of all categories of income that are derived after the end of the calendar year during which notice of termination of the Convention is given by one Contracting State to the other.

Chapter VI. Final Provisions

Article 26

Entry Into Force

The Convention shall be ratified in accordance with respective Constitutional procedures of the Government of the Two Parties and shall enter into force one month after the Exchange of Instruments of Ratification.

Done at Islamabad on 25 Zilhaj 1394, corresponding to 9 January, 1975 in the English and Arabic languages, both the texts being equally authentic.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

Aziz Ahmed

Minister of State for Defence and Foreign Affairs

FOR THE GOVERNMENT OF THE LIBYAN ARAB REPUBLIC:

Abdul Atti el Obeidi

Minister of Labour and Civil Service
