

# Kazakhstan - Pakistan

## Income Tax Treaties

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1995 Income Tax Convention and Final Protocol

Signatories: Kazakhstan; Pakistan

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Status: In Force

**CONVENTION BETWEEN THE GOVERNMENT OF THE ISLAMIC  
REPUBLIC OF PAKISTAN AND THE GOVERNMENT OF THE REPUBLIC OF  
KAZAKHSTAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE  
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON  
INCOME**

The Government of the Islamic Republic of Pakistan and the Government of the Republic of Kazakhstan 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. This Convention shall apply to taxes on income imposed by or on behalf of a Contracting State or its subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) in the Islamic Republic of Pakistan:

(i) the income tax;

- (ii) the super tax; and
  - (iii) the surcharge;
- (hereafter referred to as "Pakistan tax");

b) in the Republic of Kazakhstan:

- (i) the tax on income of legal persons and individuals;
  - (ii) the tax on the property of legal persons and individuals;
- (hereafter referred to as "Kazakhstan 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.

### Article 3

#### General Definitions

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

- a) the term:
  - (i) "Pakistan" used in the geographical sense means Pakistan as defined in the Constitution of the Islamic Republic of Pakistan and includes any area outside the territorial waters of Pakistan which under the laws of Pakistan and international law is an area within which Pakistan exercises sovereign rights and exclusive jurisdiction with respect to the natural resources of the seabed, subsoil and superjacent waters;
  - (ii) "Kazakhstan" means the Republic of Kazakhstan. When used in a geographical sense, the term "Kazakhstan" includes the territorial waters, and also the exclusive economic zone and continental shelf in which Kazakhstan, for certain purposes, may exercise sovereign rights and jurisdiction in accordance with international law and in which the law relating to Kazakhstan tax are applicable;
- b) the term "person" includes 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 terms a "Contracting State" and "the other Contracting State" mean Pakistan or Kazakhstan, as the context requires;
- e) 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;

- f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship, aircraft or motor vehicles and railway is operated solely between places in the other Contracting State;
- g) the term "competent authority" means:
- (i) in Pakistan: the Central Board of Revenue or its authorized representative;
  - (ii) in Kazakhstan: the Ministry of Finance or its authorized representative;
- h) the term "national" means:
- (i) any individual possessing the nationality of a Contracting State;
  - (ii) any legal person, partnership or any other association deriving its status as such from the laws in force in a Contracting State.

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 laws of that State concerning the taxes to which the 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 management, place of incorporation, or any other criterion of a similar nature.

But this term does not include any person of a country other than the Contracting States 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);
- 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, the competent authorities of the Contracting States shall endeavor to settle the question by mutual agreement, but if the competent authorities are unable to reach such an agreement, a person shall be treated as a resident of neither Contracting State for the purposes of deriving benefits under 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) warehouse maintained for rental purposes;
- g) premises for receiving or soliciting orders;
- h) permanent sales exhibition;
- i) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" also includes:

- a) a building site or construction or installation or assembly project, or supervisory services connected therewith, only if such site or project lasts for more than 6 months, or such services continue for more than 6 months; and
- b) an installation or structure used for the exploration of natural resources, or supervisory services connected therewith, or a drilling rig or ship used for the exploration of natural resources, only if such use last for more than 6 months, or such services continue for more than 6 months; and
- c) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the resident for such purpose, but only

where the activities of that nature continue (for the same or connected project) within the country for more than 6 months.

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

- a) the use of facilities solely for the purpose of storage, 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-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.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 6 applies is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. 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.

7. 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 laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general 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, aircraft, motor vehicles and rail road rolling stock 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 or has carried on business in the other Contracting State through a permanent establishment situated therein.

If the enterprise carries on or has carried 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:

- a) that permanent establishment;
- b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
- c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on or has carried 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.

The permanent establishment shall not be allowed a deduction for amounts paid to its head office or any of the other office of the resident by way of royalties, fees or other similar payment in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or by way of interest on moneys lent to the permanent establishment.

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. Where the information available to or readily obtainable by the competent authority of a Contracting State is not adequate to determine the profit or expenses of permanent establishment, profits may be calculated in accordance with the tax laws of that State. For purposes of this paragraph 5, information will be considered to be readily obtainable if the taxpayer provides the information to the requesting competent authority within 91 days of a written request by the competent authority for such information.

6. Where profits include items of income or capital gains 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.

7. 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.

## Article 8

### **Shipping, Air, Road and Railway Transport**

1. Profits derived by a resident of Contracting State from the operation of ships, aircraft or motor vehicles and railway in international traffic shall be taxable only in that State.

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

## Article 9

### **Associated Enterprises**

1. Where

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

2. Where a Contracting State includes in the profits of an enterprise of that State and taxes accordingly profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State may make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

## **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 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) 12.5 per cent of the gross amount of the dividends if the beneficial owner is a company 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 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 laws 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.

## 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 12.5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it derived and beneficially owned by the Government of the other Contracting State or a local authority thereof or any agency of that Government or local authority.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that 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 case 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, its subdivision, 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.

8. The provision of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

## 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 and the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall 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 computer programs, cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience, and payments for the use of, or the right to use, industrial, commercial or scientific equipment, or for any services of a technical, managerial or consultancy nature.

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 case 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 paid for the use of or the right to use the right or property in that State.

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 provisions of this Convention.

7. The provisions of this Article shall not apply if it is the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

## 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 derived by a resident of a Contracting State from the alienation of:

- a) shares, other than shares in which there is substantial and regular trading on an approved Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or
- b) an interest in a partnership or trust the assets of which consist principally of immovable property situated in the other Contracting State, or of shares referred to in sub-paragraph (a) above,

may be taxed in that other State.

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

4. Gains derived by a resident of a Contracting State from the alienation of ships, boats, aircraft or motor vehicles and railway operated in international traffic, or movable property pertaining to the operation of such ships, aircraft, shall be taxable only in that Contracting State.

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

## Article 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 unless such services are performed or were performed in the other Contracting State; and

- a) the income is attributable to a fixed base which the individual has or had regularly available to him in that other State; or
- b) such individual is present or was present in that other State for a period or periods exceeding in the aggregate 183 days in any twelve month period.

In such a case the income attributable to the services may be taxed in that other State in accordance with principles similar to those of Article 7 for determining the amount of business profits and attributing business profits to a permanent establishment.

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

## Article 15

### **Dependent Personal Services**

1. Subject to the provisions of Articles 16, 18, 19 and 20, 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 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 any twelve month period, 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 derived in respect of an employment exercised aboard a ship, boat, aircraft or motor vehicle and railway operated in international traffic, may be taxed in the Contracting State in which the operating enterprise is a resident.

## 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 or similar organ 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 Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraph 1, income derived by an entertainer or an athlete who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State, shall be taxable only in the first-mentioned Contracting State if the activities in the other State are supported wholly or substantially from the public funds of the first-mentioned Contracting State, including any of its subdivisions or local authorities.

## Article 18

### **Pensions and Other Payments**

1. 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 and any annuity paid to such a resident shall be taxable only in that State.

2. The term "annuity" means a stated sum payable to an individual periodically at stated times during his 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.

3. Alimony and other similar amounts (including child support payments) arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

## Article 19

### Government Service

1.
  - a) Remuneration, other than a pension, paid by a Contracting State or a 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 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.
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 its subdivision or a local authority thereof.

## Article 20

### Students, Apprentices and Trainees

1. A student or trainee or business apprentice who is or was resident of one of the Contracting States immediately before visiting the other State solely for the purpose of his education or training, shall be exempt from tax in that other State on:
  - (a) payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; and
  - (b) remuneration from employment in that State in an amount not exceeding 500 dollars USA during any "fiscal year", provided that such employment is directly related to his studies or is undertaken for the purpose of his maintenance.

2. The benefits of this Article shall extend only for such period or time as may be reasonable or academically or customarily required to complete the education or training undertaken; but in no event shall any individual have the benefits of this Article for more than five consecutive years from the date of his first arrival in that other Contracting State.

## Article 21

### **Professors, Teachers and Research Scholars**

1. A professor or teacher who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State for the purpose of teaching or engaging in approved institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period not exceeding five years from the date of his arrival in that other State.

2. This Article shall nor apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purpose this Article an individual shall be deemed to be a resident of a Contracting State in the "income year" in which he visits the other Contracting State or in the immediately preceding "income year".

4. For the purpose of paragraph 1, "approved institution" means an institution which has been approved in this regard by the competent authority of the concerned Contracting State.

## Article 22

### **Other Income**

Items of income of a resident of a Contracting State, arising in the other Contracting State and not dealt with in the foregoing Articles of this Convention, may be taxed in that other State.

## Article 23

### **Elimination of Double Taxation**

1. In the case of Pakistan double taxation shall be avoided as follows:

- a) Where a resident of Pakistan derives income which, in accordance with the provisions of this Convention, may be taxed in Kazakhstan, Pakistan shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Kazakhstan;

The amount of the tax to be deducted pursuant to the above provision shall not exceed the lesser of the tax which would have been charged on the same income in Pakistan under the rates applicable therein.

- b) Where a resident of Pakistan derives income which in accordance with the provisions of this Convention, shall be taxable only in Kazakhstan. Pakistan may include this income in the tax base but only for purposes of determining the rate of tax on such other income as is taxable in Pakistan.

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

- a) Where a resident of Kazakhstan derives income which, in accordance with the provisions of this Convention, may be taxed in Pakistan, Kazakhstan shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Pakistan;

The amount of the tax to be deducted pursuant to the above provision shall not exceed the lesser of the tax which would have been charged on the same income in Kazakhstan under the rates applicable therein.

- b) Where a resident of Kazakhstan derives income capital, which in accordance with the provisions of this Convention, shall be taxable only in Pakistan, Kazakhstan may include this income in the tax base but only for purposes of determining the rate of tax on such other income as is taxable in Kazakhstan.

3. For the purposes of paragraphs 1 and 2 of this Article, tax payable in a Contracting State shall be deemed to include any amount which would have been payable but for an exemption or privilege according to which such amount is not payable under the incentive laws of the respective Contracting State.

## 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. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.



Provided that the competent authorities of the Contracting States shall certify that such stateless persons are not nationals of any other State and qualify for the purpose of benefits of paragraphs 1 and 2 of this Article.

3. 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.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5. 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.

6. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for tax purposes which are granted to its residents.

7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

## Article 25

### **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 24, 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 the 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 the 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 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. Notwithstanding, the competent authorities of the Contracting States shall meet at least once in two years at the respective capital, alternatively, to discuss matters relating to the implementation of this Convention.

4. If any difficulty or doubt arising as to the interpretation or application of this Convention cannot be resolved by the competent authorities pursuant to the previous paragraphs of this Article, the case may, if both competent authorities and the taxpayer(s) agree, be submitted for arbitration, provided that the taxpayer agrees in writing to be bound by the decision of the arbitration board. The decision of the arbitration board in a particular case shall be binding on both States with respect to that case. The procedures shall be established between the States by notes to be exchanged through diplomatic channels. After a period of three years after the entry into force of this Convention, the competent authorities shall consult in order to determine whether it is appropriate to make the exchange of diplomatic notes. The provisions of this paragraph shall have effect after the States have so agreed through the exchange of diplomatic notes.

## 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. The exchange of information is not restricted by Article 1. 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 on 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 (ordre public).

## Article 27

### **Diplomatic Agents and Consular Officers**

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

## Article 28

### **Entry Into Force**

1. This Convention shall be subject to ratification in each Contracting State and the instruments of ratification shall be exchanged at as soon as possible.
2. The Convention shall enter into force on the date of the exchange of instruments of ratification and its provisions shall have effect on the first day of January, 1996.

## Article 29

### **Termination**

This Convention shall remain in force until terminated by one of the Contracting State. 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 the year beginning after the expiry of five years from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect:

- a) in respect of taxes withheld at source, for amounts paid or credited on or after first January in the year next following the expiration of the six month period; and
- b) in respect of other taxes, for taxable periods beginning on or after first January in the year next following the expiration of the six month period.

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

DONE in duplicate at Almaty this 23rd day of August, 1995, in the English, Kazakh, Russian languages, all texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

FOR THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN:

## PROTOCOL

At the signing today of the Convention between the Government of the Republic of Kazakhstan and the Government of the Islamic Republic of Pakistan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, the undersigned have agreed upon the following provisions , which shall form an integral part of the Convention

1. With regard to Article 7:

it is understood that

- in case of Pakistan income tax levied on presumptive basis, as a percentage of the gross payments or receipts shall be considered applicable irrespective of any provisions to the contrary contained in paragraphs 2 and 3 of this Article, or any provision of Article 24;
- similarly, such taxation shall be allowed in case of Kazakhstan, as and when it is levied,

2. With regard to Article 10:

in the event that the Government of the Islamic Republic of Pakistan enacts a law imposing a Branch Profits Tax, the Republic of Kazakhstan agrees to enter into negotiations with a view to amending the provisions of the Convention signed on August 23, 1995, through a supplementary protocol to reflect such provision.

3. With regard to Article 25:

notwithstanding the legislation of the Contracting States, the information to be exchanged in accordance with this Article shall include banking information, including the information in respect of a third party, dealing with the taxpayer(s) of the two Contracting States, and would be easily accessible.

4. With regard to Article 27:

the Convention shall take effect in respect of taxation of income of air transport enterprises as derived from their international operation as from the date such enterprises had started their flight operations in the other State.

DONE in duplicate at Almaty this 23rd day of August, 1995, in the English and Russian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN:

FOR THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF PAKISTAN:

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