

Double Taxation Avoidance Agreement

Agreement Between The Government Of The Republic Of India And The Government Of The State Of Kuwait For The Avoidance Of Double Taxation Of Income Derived From International Air Transport.

Notification F. No. 501/1/800-FTD dated 31-3-1983.

G.S.R. 302(E). -Whereas the annexed Agreement between the Government of the Republic of India and the Government of the State of Kuwait for the avoidance of double taxation of Income derived from international air transport as come into force on the notification by both the Contracting States to each other of completion of the procedures required by their respective laws, as required by Article 5 of the said Agreement.

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961) and section 24A of the Companies (Profits) Sur-tax Act, 1964 (7 of 1964), the Central Government hereby directs that all the provisions of the said agreement shall be given effect to in the Union of India.

ANNEXURE

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE STATE OF KUWAIT FOR THE AVOIDANCE OF DOUBLE TAXATION OF INCOME DERIVED FROM INTERNATIONAL AIR TRANSPORT

The Government of India and the Government of Kuwait desiring to conclude an Agreement for the avoidance of double taxation of income derived from international air transport.

Have agreed as follows:

ARTICLE 1

1. The existing taxes to which this Agreement shall apply are:
 - a. In the case of Kuwait:**
 - i. the income-tax imposed under the Income-Tax Decree No. 3 of 1955;
 - ii. the additional income-tax imposed under the Law No. 34 of 1970 (hereinafter referred to is "Kuwait tax").
 - b. In the case of India:**
 - i. the income-tax including any surcharge thereon imposed under the Income-tax Act, 1961 (43 of 1961):
 - ii. the surtax imposed under the companies (Profits) Surtax Act, 1964, (7 of 1964) (hereinafter referred to as "Indian tax").
2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the taxes referred to in paragraph 1 of this Article.

ARTICLE 2

1. In this Agreement, unless the context otherwise requires:
 - a. the term "Kuwait" means the territory of Kuwait and includes the territorial sea and airspace above;

- b. the term " India " means the territory of India and includes the territorial sea and airspace above it as well as any other maritime zone referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (Act No. 80 of 1976), in which India has certain rights and to the extent that these rights can be exercised therein as if such maritime zone is a part of the territory of India;
 - c. the term " a Contracting State " and the " other Contracting State " mean Kuwait or India, as the context requires;
 - d. the term " tax " means " Kuwait tax " or " Indian tax " as the context requires;
 - e. the term " enterprise of a Contracting State " means an airline which is authorised by the Government of that State by a general or special arrangement between the two Contracting States to operate scheduled or non-scheduled flights between or beyond their territories;
 - f. the term " international traffic " means any transport by an aircraft operated by an enterprise of a Contracting State, except when the aircraft is operated solely between places in the other Contracting State;
 - g. the expression " operation of aircraft " means a business of carriage by air of persons, livestock, baggage, cargo or mail and includes the sale of tickets and airway bills for, and the provision of services connected with, such carriage either for the enterprise itself or for any other enterprise engaged in such operations.
2. In the application of the provisions of this Agreement by one of the Contracting States, any term used but not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that State relating to the taxes which are the subjects of this Agreement.

ARTICLE 3

1. Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be exempt from tax in the other Contracting State.
2. The provisions of paragraph 1 shall also apply to the share of profits from the operation of aircraft in international traffic derive by an enterprise of a Contracting State through participation in a pooled service, in a joint air transport operation or in an international operating agency.
3. For the purpose of paragraph 1, interest on funds directly connected with the operation of aircraft in international traffic shall regarded as income from the operation of aircraft.

ARTICLE 4

The laws in force in either of the Contracting States will continue to govern the assessment and taxation of income in the contracting States except where express provisions to the contrary is made in this Agreement.

ARTICLE 5

1. This Agreement shall be approved in accordance with the laws in force in each of the Contracting States. It shall enter into force thirty days after the exchange of letters certifying that the proper procedure was fulfilled in each Contracting State. The exchange of letters shall take place at New Delhi.
2. The provisions of this Agreement shall have effect in respect of the earnings arising from 1-1-1967.
3. No action would be taken to reopen assessments in respect of the period prior to 1-1-1967.

ARTICLE 6

This Agreement shall continue in effect indefinitely but either Contracting State may, on or before the thirtieth day of June in any calendar year after the year 1986 give notice of termination to the other Contracting State and in such event this Agreement shall cease to be effective:

- a. In Kuwait, in respect of any year of tax commencing on or after the 1st day of July of the second calendar year following the year in which the notice is given;
- b. In India, in respect of any assessment year commencing on or after the 1st day of April of the second calendar year following the year in which the notice is given.

In witness whereof the undersigned, duly authorised thereto have signed the present Agreement.

Done in duplicate at Kuwait this twenty-first day of April, one thousand nine hundred and eighty-two in the Hindi, Arabic, and English languages and in the event of any doubt, the English text shall prevail.

Sd/ Sd/

For the Government of India For the Government of Kuwait.