هيئة الزكاة والضريبة والجمارك
Zakat, Tax and Customs Authority

CONVENTION BETWEEN

THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA AND THE SWISS FEDERAL COUNCIL

FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND THE PREVENTION OF TAX EVASION

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THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA
AND THE SWISS FEDERAL COUNCIL
FOR THE AVOIDANCE OF DOUBLE TAXATION
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THE SWISS FEDERAL COUNCIL

AND

THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA

DESIRING to further develop the economic relationship and to enhance their cooperation in tax matters.

DESIRING to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States),

HAVE AGREED as follows:

Article 1

Persons covered

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 and on capital imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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 this Convention shall apply are in particular:

   a) in the case of Switzerland

   the federal, cantonal and communal taxes:

   (i) on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income); and

   (ii) on capital (total property, movable and immovable property, business assets, paid-up capital and reserves, and other items of capital),

   (hereinafter referred to as "Swiss tax");

   b) in the case of the Kingdom of Saudi Arabia

   (iii) the Zakat; and

   (iv) the income tax, including the natural gas investment tax,

   (hereinafter referred to as "Saudi tax").

4. This Convention shall apply also to any identical or substantially similar taxes, and to taxes on capital, which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial 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 "Switzerland" means the territory of the Swiss Confederation as defined by its laws in accordance with international law;

   b) the term "Saudi Arabia" means the territory of the Kingdom of Saudi Arabia which also includes the area outside the territorial waters, where the Kingdom of Saudi Arabia exercises its sovereign and jurisdictional rights with respect to waters, sea bed, sub-soil and natural resources according to its law and international law;

   c) the terms "a Contracting State" and "the other Contracting State" mean the Swiss Confederation or the Kingdom of Saudi Arabia, 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 that 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 Switzerland, the Head of the Federal Department of Finance or his authorised representative;

(ii) in the case of the Kingdom of Saudi Arabia, the Ministry of Finance represented by the Minister of Finance or his authorized representative;

i) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of this Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which this Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political or administrative subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 of this Article 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 only 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 only 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 only 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 only 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 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only 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, and

   f) a mine, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" also includes:

   a) A building site, a construction, assembly or installation project, or supervisory activities, in connection therewith, but only where such site, project or activities continue for a period of more than 6 months;

   b) The furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than 183 days within any 12-month period commencing or ending in the fiscal year concerned.

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 subparagraphs 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 of this Article, where a person - other than an agent of an independent status to whom paragraph 6 of this Article 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 of this Article 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 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 of this Article 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 of this Article 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 of this Article, 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of income from debt-claim with regard

to moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of income from debt-claim with regard to moneys lent to the head office of the enterprise or any of its other offices.

4. Business profits derived by an enterprise of a Contracting State from the exportation of merchandise to the other Contracting State shall not be taxed in that other Contracting State, provided that the profit from the exportation is not attributable to a permanent establishment situated in the other Contracting State. Where export contracts include other activities carried on through a permanent establishment situated in the other Contracting State, profits derived from such other activities carried on through that permanent establishment may be taxed in the other Contracting State.

5. Nothing in this Article shall affect the operation of any law of a Contracting State relating to tax imposed on profits from insurance relating to risks situated in that State with non-residents provided that if the relevant law in force in either Contracting State at the date of signature of this Convention is varied (otherwise than in minor respects so as not to affect its general character) the Contracting States shall consult with each other with a view to agreeing to any amendment of this paragraph as may be appropriate.

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

7. 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.

8. For the purposes of the preceding paragraphs of this Article, 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.

9. Where profits include items of income which are dealt with separately in other Articles of this Agreement, 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.

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 of this Article 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 shall 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

   a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the capital of the company paying the dividends;

   b) 5 per cent on the gross amount of dividends paid by a company which is a resident of a Contracting State if the beneficial owner of the dividends is the Central Bank of the other Contracting State or an institution or fund, wholly owned by the other Contracting State or a pension scheme which is a resident of that other State; or

   c) 15 per cent of the gross amount of the dividends in all other cases.

3. Paragraph 2 of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' 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.

5. The provisions of paragraphs 1 and 2 of this Article 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 of this Convention, as the case may be, shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Income from debt-claims

1. Income from debt-claims arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such "income from debt-claims" may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the income from debt-claims is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the income from debt-claims.

3. Notwithstanding the provisions of paragraph 2 of this Article, income from debt-claims arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner thereof shall be taxable only in that other State to the extent that such income from debt-claims is paid:

   a) to the Government of the other Contracting State including its administrative subdivisions or local authorities;

   b) to the Central Bank of that other State;

   c) to a pension scheme of that other Contracting State;

   d) with respect to in indebtedness arising as a consequence of the sale on credit of any equipment, merchandise, or services;

   e) on any loan of whatever kind granted by a financial institution; or

   f) on loans between companies.

4. The term "income from debt-claims" 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 income from debt-claims for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the income from debt-claims, being a resident of a Contracting State, carries on business in the other Contracting State in which the income from debt-claims 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 income from debt-claims is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

6. Income from debt-claims shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying such income, 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 such income is paid was incurred, and such income is borne by such permanent establishment or fixed base, then such income 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 income, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

   a) 5 per cent of the gross amount of the royalties which are paid for the use of, or the right to use, industrial, commercial or scientific equipment; or

   b) 7 per cent of the gross amount of the royalties in all other cases.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 of this Article 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 of this Convention, as the case may be, shall apply.

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

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

Article 13

Capital gains

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

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

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. Gains, other than those to which paragraph 4 of this Article applies, derived by a resident of a Contracting State from the alienation of shares of a non-listed company which is a resident of the other Contracting State, may be taxed in that other State if the alienator, at any time during the 12-month period preceding such alienation, held directly or indirectly at least 10 per cent of the capital of that company. However, the tax so charged by the other Contracting State shall not exceed 15 per cent of the gains.

6. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

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 State, except in the following circumstances, when such income may also be taxed in the other Contracting State:

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

   b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any 12-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18, 19 and 21 of this Convention 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 of this Article, 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 12-month period commencing or ending in the fiscal year concerned, and

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration 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 16

Directors' fees

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

Article 17

Artistes and sportspersons

1. Notwithstanding the provisions of Articles 14 and 15 of this Convention, 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 sportsperson, 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 sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

3. Paragraphs 1 and 2 of this Article shall not apply to income from activities performed in a Contracting State by entertainers or sportspersons if such income is funded, directly or indirectly, wholly or mainly from public funds of the other Contracting State, a political or an administrative subdivision or a local authority thereof. In such a case, the income shall be taxable only in the Contracting State of which the entertainer or sportsperson is a resident.

Article 18

Pensions

Subject to the provisions of paragraph 2 of Article 19 of this Convention, pensions and other similar remuneration in consideration of past employment, and other retirement benefits arising in a Contracting State and paid to a resident of the other Contracting State, may be taxed in the first-mentioned State.

Article 19

Government service

1.

a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political or an administrative 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 salaries, wages and other similar 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) Notwithstanding the provisions of paragraph 1 of this Article, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political or an administrative 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 pensions and other similar remuneration 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, 17 and 18 of this Convention shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political or an administrative subdivision or a local authority thereof.

Article 20

Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned 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 State, provided that such payments arise from sources outside that State.

Article 21

Teachers and Researchers

Remunerations which a teacher or researcher who is or was resident in a Contracting State immediately prior to being invited to the other Contracting State for the purpose of teaching or conducting research in a public university receives in respect of such activities from sources in the first mentioned State shall not be taxed in that Contracting State for a period not exceeding two years.

Article 22

Other income

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

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Convention, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State 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 income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

Article 23

Capital

1. Capital represented by immovable property referred to in Article 6 of this Convention, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by 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 by 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, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24

Elimination of double taxation

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

   a) where a resident of Switzerland derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Saudi Arabia, Switzerland shall, subject to the provisions of subparagraphs b) and c), exempt such income or capital from tax but may, in calculating tax on the remaining income of that resident, apply the rate of tax which would have been applicable if the exempted income had not been so exempted. However, such exemption shall apply to gains referred to in paragraphs 4 and 5 of Article 13 and income referred to in paragraphs 1 and 3 of Article 15, Article 16, paragraphs 1 and 2 of Article 17 and Article 18 only if actual taxation of such gains or income in Saudi Arabia is demonstrated.

   b) where a resident of Switzerland derives dividends, income from debt-claims and royalties which, in accordance with the provisions of Articles 10, 11 and 12, may be taxed in Saudi Arabia, Switzerland shall allow, upon request, a relief to such resident. The relief may consist of:

      (i) a deduction from the tax on the income of that resident of an amount equal to the tax levied in Saudi Arabia in accordance with the provisions of Articles 10, 11 and 12; such deduction shall not, however, exceed that part of the Swiss tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Saudi Arabia; or

(ii) a lump sum reduction of the Swiss tax; or

(iii) a partial exemption of such dividends, income from debt-claims and royalties from Swiss tax, in any case consisting at least of the deduction of the tax levied in Saudi Arabia from the gross amount of the dividends, income from debt-claims and royalties.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions of the Swiss Confederation for the avoidance of double taxation.

c) a company which is a resident of Switzerland and which derives dividends from a company which is a resident of Saudi Arabia shall be entitled, for the purposes of Swiss tax with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.

2. In the case of the Kingdom of Saudi Arabia, double taxation shall be avoided as follows:

a) Where a resident of the Kingdom of Saudi Arabia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the Switzerland, then the Kingdom of Saudi Arabia shall allow:

(i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Switzerland;

(ii) as a deduction from the tax on capital of that resident, an amount equal to the tax on capital paid in Switzerland.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Switzerland.

b) In the case of the Kingdom of Saudi Arabia, the methods for elimination of double taxation will not prejudice to the provisions of the Zakat collection regime.

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 either Contracting State. 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, but in any case not later than ten years after the end of the concerned taxable year.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of 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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. The competent authorities of the Contracting States may by mutual agreement settle the appropriate 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 State, the tax reliefs or exemptions provided for by this Convention.

Article 26

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political or administrative subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2 of this Convention.

2. Any information received under paragraph 1 of this Article 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1 of this Article, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorizes such use.

3. In no case shall the provisions of paragraphs 1 and 2 of this Article be construed so as to impose on a Contracting State the obligation:

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

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

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

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 of this Article but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, trust, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 27

Members of diplomatic missions and consular posts

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

Article 28

Miscellaneous provisions

1. Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

2. Nothing in this Convention shall affect the application of the domestic provisions to prevent tax evasion and tax avoidance against the abuse of this Convention. When applying such provisions, however, the rules of paragraph 1 of this Article shall be taken into account.

Article 29

Entry into force

1. Each Contracting State shall notify to the other, through diplomatic channels, the completion of the procedures required by its law for the entry into force of this Convention. This Convention shall enter into force on the first day of the second month following the month in which the latter of these notifications was received.

2. The provisions of this Convention shall have effect:

   a) with respect to taxes withheld at source on amounts paid or credited on or after the first day of January of the calendar year next following the year of the entry into force of this Convention;

   b) with respect to other taxes for taxable years beginning on or after the first day of January of the year next following the year of the entry into force of this Convention.

Article 30

Termination

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate this Convention, through diplomatic channels, by giving written notice of termination not later than 30 June of any calendar year.

2. In such event, this Convention shall cease to have effect:

   a) with respect to taxes withheld at source on amounts paid or credited on or after the first day of January of the calendar year next following that in which the notice was given;

   b) with respect to other taxes for taxation years beginning on or after the first day of January of the calendar year next following that in which the notice was given.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

Done in duplicate at Riyadh, on 18th February 2018 corresponding to 2nd Jumada'll 1439h in the, Arabic, German and English languages, all texts being equally authentic. In case there is any divergence of interpretation the English text shall prevail.

For the Government of the Kingdom of Saudi Arabia

Mohammad Abdullah Al-Jadaan
Minister of Finance

For the Swiss Federal Council

Ueli Maurer
Minister of Finance

PROTOCOL

At the moment of signing the Convention between the Swiss Federal Council and the Government of the Kingdom of Saudi Arabia for the avoidance of double taxation with respect to taxes on income and on capital and the prevention of tax evasion, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

1. Ad Article 2 of the Convention:

It is understood that the Convention shall not apply to taxes withheld at source on income by chance covered by Article 6 of the Swiss Anticipatory Tax Law.

2. Ad paragraph 1 of Article 3 of the Convention:

a) with respect to subparagraph d, the term "person" also includes the State, its political sub-divisions or local authorities;

b) it is understood that the term "pension scheme" means any fund, foundation, plan, scheme or other arrangement established in a Contracting State which is:

(i) regulated by that State and generally exempt from income taxation in that State; and

(ii) operated principally to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such schemes.

3. Ad Article 4 of the Convention:

It is understood that the term "resident of a Contracting State" includes:

a) a pension scheme in that Contracting State and

b) an organization that is established and operated exclusively for religious, charitable, scientific, sportive, cultural or educational purposes (or for more than one of those mentioned purposes) and that is a resident of a Contracting State according to its laws.

4. Ad Article 7 of the Convention:

a) it is understood that the term "business profits" includes, but is not limited to income derived from manufacturing, mercantile, banking, insurance, from the operation of inland transportation, the furnishing of services and the rental of tangible personal movable property. Such a term does not include the performance of personal services by an individual either as an employee or in an independent capacity.

b) Subject to paragraph 9, it is understood that the principles of paragraph 4 are also applicable to other business activities of an enterprise.

c) In case Saudi Arabia agrees with another state regarding the determination of the profit of a permanent establishment on a wider extent of deductions compared to the deductions mentioned in paragraph 3, such agreement shall also apply to enterprises resident in Switzerland.

5. Ad Article 8 of the Convention:

With reference to the Agreement between the Swiss Federal Council and the Government of the Kingdom of Saudi Arabia for the Avoidance on a Reciprocal Basis of Double Taxation on Revenues Arising from the Business of International Air Transport, signed at Riyadh on 20 February 1999, it is understood that nothing in this Convention shall affect the provisions of that Agreement to the extent that they have effect as regards taxes to which this Convention applies. However, where any greater relief for such taxes is afforded by any provision of this Convention, that provision shall apply.

6. Ad Articles 18 and 19 of the Convention:

It is understood that the terms „pensions" and „pension" as used in Articles 18 and 19, respectively, cover periodic as well as lump sum payments paid under a pension arrangement.

7. Ad Article 26 of the Convention:

a) It is understood that an exchange of information will only be requested once the requesting Contracting State has exhausted all regular sources of information available under the internal taxation procedure.

b) It is understood that the tax authorities of the requesting State shall provide the following information to the tax authorities of the requested State when making a request for information under Article 26:

(i) the identity of the person under examination or investigation;

(ii) the period of time for which the information is requested;

(iii) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;

(iv) the tax purpose for which the information is sought;

(v) to the extent known, the name and address of any person believed to be in possession of the requested information.

c) It is understood that the standard of "foreseeable relevance" is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that the Contracting States are not at liberty to engage in "fishing expeditions" or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. While subparagraph (b) contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, clauses (i) through (v) of subparagraph (b) nevertheless are not to be interpreted in order to frustrate effective exchange of information.

d) It is understood that Article 26 does not require the Contracting States to exchange information on an automatic or a spontaneous basis, neither does it prevent such forms of exchange of information if the Contracting States so agree later.

e) It is understood that in case of an exchange of information, the administrative procedural rules regarding taxpayers' rights provided for in the requested Contracting State remain applicable. It is further understood that these provisions aim at guaranteeing the taxpayer a fair procedure and not at preventing or unduly delaying the exchange of information process.

f) It is understood that the Contracting States exchange only information that relates to taxable years beginning on or after the first day of January of the calendar year following the entry into force of the Convention.

8. Ad paragraph 1 of Article 28 of the Convention:

It is understood that the last part of the paragraph has the object to allow the person to whom the benefits would otherwise be denied the possibility to prove that obtaining the benefit in the concrete circumstances would be in accordance with the object and purpose of the Convention.

9. In the event that Saudi Arabia agrees to include an arbitration provision in an Agreement or Convention for the avoidance of double taxation with another country, the competent authorities of Saudi Arabia and Switzerland will start negotiations, as soon as possible, with a view to concluding an amending protocol aiming at inserting an arbitration provision into the Convention.

10. Saudi Arabia shall with respect to its national laws and regulations treat nationals or residents of Switzerland for taxation purposes not less favorable than residents or nationals from third countries except countries that are member of the Gulf Cooperation Council or of the League of Arab States.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Protocol.

Done in duplicate at Riyadh, on 18th February 2018 corresponding to 2nd Jumada'll 1439h in the, Arabic, German and English languages, all texts being equally authentic. In case there is any divergence of interpretation the English text shall prevail.

For the Government of the Kingdom of Saudi Arabia

Mohammad Abdullah Al-Jadaan
Minister of Finance

For the Swiss Federal Council

Ueli Maurer
Minister of Finance