

P.U. (A) 70/1996
Signed: 18 July 1993 (Riyadh)
Effective Date: 1 January 1987

AGREEMENT BETWEEN THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF SAUDI ARABIA FOR RECIPROCAL EXEMPTION WITH RESPECT TO TAXES ON INCOME OF AIR TRANSPORT ENTERPRISES OF THE TWO COUNTRIES

The Government of Malaysia and the Government of the Kingdom of Saudi Arabia desiring to conclude an Agreement for reciprocal exemption with respect to taxes of air transport enterprises of the two countries,

Have agreed as follows:

Article 1

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable property.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in the case of Malaysia, the income tax and development tax
(hereinafter referred to as "Malaysian Tax");
 - (b) in the case of Kingdom of Saudi Arabia the income tax
(hereinafter referred to as "Saudi Tax").
4. This Agreement shall also apply to any identical or substantially similar taxes as are subsequently imposed in addition to, or in place of the existing taxes.

Article 2

DEFINITIONS

In this Agreement, unless the context otherwise requires:

- (a) the terms "a Contracting State" and "the other Contracting State" means Malaysia or the Kingdom of Saudi Arabia, as the context requires;

- (b) the terms "air transport enterprise of a Contracting State" and the "air transport enterprise of the other Contracting State" mean respectively Saudi Arabian Airlines Corporation (SAUDIA) and Malaysian Airlines System Bhd. (MAS) as the context requires;
- (c) the term "exercise of air transport" means the operational activity of transportation by air of persons, livestock, goods and mail conducted by an air transport enterprise of a Contracting State including sale of tickets and similar airline documents used for the purpose of transportation;
- (d) the term "international traffic" means any transport by aircraft operated by an air transport enterprise of a Contracting State, except when such transport is made solely between places in the other Contracting State;
- (e) the term "competent authority" means:
 - (i) in the case of Malaysia, the Minister of Finance or his authorised representative; and
 - (ii) in the case of the Kingdom of Saudi Arabia, the Minister of Finance and National Economy or his representative;
- (f) the term "resident of a Contracting State" means any person, who under the law of that State, is liable to taxation therein by reason of his domicile, resident, place of control and management or any other criterion of a similar nature;
- (g) the term "person" includes an individual, a corporation, a company or any other body of persons.

Article 3

AIR TRANSPORT

1. Income and profits derived by an air transport enterprise of a Contracting State from the exercise of air transport in international traffic shall be exempted from tax in the other Contracting State.
2. The provisions of paragraph 1 shall also apply to income and profits derived by an air transport enterprise of a Contracting State from its participation in a pool or a joint business.
3. For the purposes of this Article, profits derived by an enterprise of a Contracting State, from the exercise of air transport in international traffic also include income derived from:
 - (a) the rental, lease or maintenance of aircraft;

- (b) training schemes, management and other services rendered by an air transport enterprise of one Contracting State to the air transport enterprise of the other Contracting State.

Article 4

REMUNERATION FOR PERSONAL SERVICES

1. Remuneration in respect of an employment exercised on an aircraft operated in international traffic by an air transport enterprise of a Contracting State, shall be taxable only in that State.
2. Remuneration derived by an employee of an air transport enterprise of a Contracting State in respect of employment exercised in the other State for a period exceeding in the aggregate 183 days in any fiscal year shall be taxable in that other State.

Article 5

MUTUAL AGREEMENT PROCEDURE

Consultation may be requested at any time by either Contracting State for the purpose of amendment to the present Agreement or for its application or its interpretation. Such consultation shall begin within 60 days from the date of receipt of any such request and decisions shall be by mutual consent.

Article 6

ENTRY INTO FORCE

1. This Agreement shall be ratified and the instruments of ratification exchanged immediately after the completion of the internal legal procedures in both Contracting States.
2. The Agreement shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect on income arising on or after 1 January 1987.

Article 7

TERMINATION

This Agreement shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year give to the other Contracting State, through the diplomatic channel, written notice of termination. In such event this Agreement shall cease to have effect for income derived on the first day of January in the year next following the year in which the notice of termination is given and thereafter.

In WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Agreement in duplicate at Riyadh this 18th day of July 1993, corresponding to 28th Muharram 1414H in Bahasa Malaysia, Arabic and the English Languages, all the three texts being equally authentic. In the case of any divergence between the texts the English text shall prevail.