

Seychelles

Business Tax Act, 2009

Business Tax (Double Taxation Agreement) Regulations, 2012 Statutory Instrument 13 of 2012

Legislation as at 8 November 2017

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Seychelles

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Statutory Instrument 13 of 2012

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1. Citation

These Regulations may be cited as the Business Tax (Double Taxation Agreement) Regulations, 2012.

2. Declaration and effect of Agreement

It is hereby declared that the Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Republic of Seychelles have entered into an Agreement for the purpose of avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and the Agreement shall have effect in relation to the tax imposed under the Act.

Schedule

The Government of the Democratic Socialist Republic of Sri Lanka and the Government of the Republic of Seychelles desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income have agreed as follows:

Article 1 – Persons covered

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2 – Taxes covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income.
3. The existing taxes to which the Agreement shall apply are—
 - (a) in Sri Lanka—
 - (i) the income tax, including the income tax based on the turnover of enterprises licensed by the Board of Investment; and
 - (ii) social Responsibility Levy imposed under the Finance Act No. 05 of 2005 in relation to income tax,(hereinafter referred to as “Sri Lanka tax”);

- (b) in the Republic of Seychelles—
 - (i) the business tax; and
 - (ii) petroleum income tax,
 (hereinafter referred to as “Seychelles tax”).

The Agreement shall apply also to any identical or substantially similar taxes on income, which are imposed after the date of signature of the Agreement 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 made in their taxation laws.

Article 3 – General definitions

1. For the purposes of this Agreement unless the context otherwise requires—
 - (a) the term “**Sri Lanka**” means the territory of the Democratic Socialist Republic of Sri Lanka, including its land territory, internal waters and territorial sea, air space above them as well as the exclusive economic zone and continental shelf where the Democratic Socialist Republic of Sri Lanka exercises or may hereafter exercise sovereign rights and jurisdiction in conformity with international law and its national legislation.
 - (b) the term “**Seychelles**” means the territory of the Republic of Seychelles including its exclusive economic zone and continental shelf where Seychelles exercises sovereign rights and jurisdiction in conformity with the provisions of the United Nations Convention on the Law of the Sea;
 - (c) the terms “**a Contracting State**” and “**the other Contracting State**” mean Sri Lanka or Seychelles as the context requires;
 - (d) the term “**person**” includes an individual, a company, a body of persons or any other entity which is taxable under the taxation laws in force in the respective Contracting States;
 - (e) the term “**company**” means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (f) the term “**enterprise**” applies to the carrying on of any business;
 - (g) 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;
 - (h) the term “**international traffic**” means any transport by a ship or aircraft operated by an enterprise which 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;
 - (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;
 - (j) the term “**competent authority**” means—
 - (i) in the case of Sri Lanka,
The Commissioner General of Inland Revenue or his authorized representative;
 - (ii) in the case of Seychelles,
The Minister of Finance or his authorized representative;

- (k) the term “**business**” includes the performance of professional services and of other activities of an independent character.
 - (l) the term “**tax**” means Sri Lankan tax or Seychelles tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty imposed relating to those taxes;
 - (m) The term “**fiscal year**” means—
 - (i) in the case of Sri Lanka the year beginning on the 1st day of April;
 - (ii) in the case of Seychelles the year beginning on the 1st day of January;
2. As regards the application of the Agreement 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 the Agreement 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 Agreement, 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 registration or any other criterion of a similar nature, and also includes that State. 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.
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 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 (center 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 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. If the State in which its place of effective management is situated cannot be determined, then the competent authorities of the Contracting States shall endeavor to settle the question by mutual agreement.

Article 5 – Permanent establishment

1. For the purposes of this Agreement 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) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - (g) a warehouse in relation to a person providing storage facilities for others;
 - (h) a farm, plantation or other place where agriculture, forestry, plantation or related activities are carried on;
 - (i) premises used as a sales outlet or for soliciting and receiving orders.
3. The term “**permanent establishment**” likewise encompasses—
- (a) a building site, a construction, assembly or installation project, a drilling rig or ship used for the exploration or development of natural resources, including supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than 183 days within any twelve month period commencing or ending in the fiscal year concerned.
 - (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 within the country for a period or periods aggregating more than 183 days within any twelve month period commencing or ending in the fiscal year concerned;
 - (c) the performance of professional services or other activities of an independent character by an individual, but only where those services or activities continue within a Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve 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 or display of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
 - (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 preparatory or auxiliary character.
- However, the provisions of subparagraph (a) to (f) shall not be applicable where the enterprise maintains any other fixed place of business in the other Contracting State through which the business of the enterprise is wholly or partly carried on.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in

- the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person—
- (a) has and habitually exercises in that state an authority to conclude contracts in the name of 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, or
 - (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise;
 - (c) habitually secures orders in the first-mentioned State for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.
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. However, when the activities of such an agent are devoted wholly or principally on behalf of that enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph, if it is shown that the transactions between the agent and the enterprise were not made under arm's length conditions.
7. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 6 applies.
8. 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 Contracting 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 shall also be considered as “immovable property”. Ships, boats and aircraft 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.
5. For the purposes of this Article, the term “agriculture” includes fish farming, processing, breeding and raising aquatic species including specifically prawns, crayfish, oysters and shellfish.

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—
 - (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 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. In any case where the correct amount of profits attributable to a permanent establishment is incapable of determination or the determination thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be estimated on a reasonable basis.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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 in accordance with the provisions of and subject to the limitations of the taxation laws of that State. 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 interest on 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 interest on moneys lent to the head office of the enterprise or any of its other offices.
4. In so far 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, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. 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.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. 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 derived in a Contracting State by an enterprise of the other Contracting State from the operation of ships in international traffic may be taxed in the first-mentioned State, but the tax so charged shall be reduced by an amount equal to 50 per cent thereof.
2. Profits from the operation of aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise operating the aircraft is a resident.
3. For the purpose of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular—
 - (a) profits derived from the lease by the enterprise on a bare boat charter basis of ships or aircraft used in international traffic where such lease is ancillary to the transportation of passengers or cargo;
 - (b) profits derived from the lease of containers by the enterprise where such lease is ancillary to the transportation of cargo.
4. The provisions of paragraphs 1 and 2 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 Agreement 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) 7.5 per cent of the gross amount of the dividends, if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
 - (b) 10 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 “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.
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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provision of Article 7 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 in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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 – 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State, including a local authority thereof the Central Bank or any financial institution controlled by that Government shall be exempt from tax in the first-mentioned State.
4. For the purposes of paragraph 3, the terms “the Central Bank” and “financial institution controlled by that Government” mean—
 - (a) In the case of Sri Lanka—
 - (i) the Central Bank of Sri Lanka;
 - (ii) such other financial institution, the capital of which is wholly owned by the Government of Sri Lanka, as may be agreed upon from time to time between the Governments of the Contracting States.
 - (b) In the case of Seychelles—
 - (i) the Central Bank of Seychelles;

- (ii) such other financial institution, the capital of which is wholly owned by the Government of Seychelles, as may be agreed upon from time to time between the Governments of the Contracting States.
5. 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.
6. The provisions of paragraphs 1 and 2 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 and the debt claim in respect of which the interest is paid is effectively connected with (a) such permanent establishment or with (b) business activities referred to in c) of paragraph 1 of Article 7. In such cases, the provisions of Article 7 shall apply.
7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment then such interest shall be deemed to arise in the State in which the permanent establishment is situated.
8. 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 Agreement.

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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 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 software, cinematograph films, or films or tapes or discs 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 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, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.
5. (a) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

- (b) Where under sub-paragraph (a) royalties do not arise in one of the Contracting States, and the royalties relate to the use of, or the right to use, the right or property, in one of the Contracting States, the royalties shall be deemed to arise in that Contracting 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 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 of royalties. 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 Agreement.

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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, 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 from the alienation of any property, other than that referred to in paragraphs, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

[Article 14 deleted]

Article 15 – Income from employment

1. Subject to the provisions of Articles 16, 18 and 19, 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 Contracting 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 that other Contracting State for a period or periods not exceeding in the aggregate 183 days within any twelve 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 that other Contracting State; and

- (c) the remuneration is not borne by a permanent establishment which the employer has in that other Contracting 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 by an enterprise of a Contracting State shall be taxable only in that State.

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 any other 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 sportspersons

1. Notwithstanding the provisions of Article 15, income derived by a resident of a Contracting State as an artiste such as a theater, 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 artiste or a sportsperson in his capacity as such accrues not to the artiste or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the artistes or sportsperson are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities referred to in paragraph 1 performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised if the visit to that State is wholly or substantially supported by funds of either Contracting State, a local authority or public institution thereof.

Article 18 – Pensions and annuities

1. Subject to the provisions of paragraph 2 of Article 19, any pensions or other similar remuneration paid to a resident of one of the Contracting States from a source in the other Contracting State in consideration of past employment or services in that other Contracting State and any annuity paid to such a resident from such a source may be taxed in that other State.
2. The term “**annuity**” means a stated sum payable periodically at stated times during 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. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State shall be taxable only in that State.

Article 19 – Government service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting State or a Local Authority to an individual in respect of services rendered to that State 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 other 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 such services.
- 2. (a) Any pension paid by, or out of funds created by, a Contracting State or a local authority or statutory body thereof to any individual in respect of services rendered to that State or authority or body 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 other State.
- 3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof.
- 4. For the purpose of this Article, the term “Government” shall include any State Government and the Central Bank of either Contracting State.

Article 20 – Professors, teachers and researchers

- 1. A professor, teacher or researcher who is or was a resident of the Contracting State immediately before visiting the other Contracting State for the purpose of teaching or engaging in research or both, at a university, college or other similar 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 two years from the date of his/her arrival in that other State.
- 2. This Article shall not apply to remuneration which a professor, teacher or researcher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.
- 3. The term “approved” in paragraph 1 means an approval given by the Contracting State in which the university, college, school or institution is situated.

Article 21 – Students, apprentices and trainees

- 1. Payments which a student, apprentice, or trainee 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 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.
- 2. An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is so present as an employee of, or under contract with, a resident of the first-mentioned State, or as a participant in a programme sponsored by the Government of the other State or by any international organization for the primary purpose of—
 - (a) acquiring technical professional, or business experience from a person other than that resident of the first-mentioned State or other than a person related to such resident; or
 - (b) studying at a university or other recognized educational institution in that other State,shall be exempt from tax in that other State for a period not exceeding one year with respect to his income from personal services.

Article 22 – Other income

The laws in force in either of the States shall continue to govern the taxation of income except when express provisions to the contrary are made in this Agreement.

Article 23 – Elimination of double taxation

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States. When income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.
2. Where a resident of a Contracting State derives income which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first mentioned State shall allow, as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in that other State.
3. The tax payable in a Contracting State mentioned in paragraph 1 shall be deemed to include the tax which would have been payable but for the tax incentives granted under the laws of that Contracting State and which are designed to promote economic development.

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, in particular with respect to residence, are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. 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.
4. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to its own individuals so resident.
5. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

Article 25 – Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, 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 two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavor, 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 Agreement. 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 shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for, in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent Authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

Article 26 – Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeable relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes covered by this Agreement in so far as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.
2. Any information received under paragraph 1 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, 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.
3. 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 the 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 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.

Article 27 – Members of diplomatic missions and consular posts

Nothing in this Agreement 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 – Entry into force

This Agreement shall enter into force on the thirtieth day after the date on which diplomatic notes indicating the completion of internal legal procedures necessary in each country for the entry into force of this Agreement have been exchanged. This Agreement shall have effect as respects to taxes withheld at source, in respect of the amounts paid or credited and with regard to other taxes on income derived during the taxable years beginning on or after the first day of January next following that in which this Agreement enters into force.

Article 29 – Termination

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the period of five years from the date on which the Agreement enters into force.

IN WITNESS WHEREOF the undersigned being duly authorized thereto have signed this Agreement.

Done in duplicate at Colombo on this 23rd day of September, 2011 in the Sinhala and English Languages, both texts being equally authentic. In the case of divergence in interpretation, the English text shall prevail.

For the Government of the Democratic Socialist Republic of Sri Lanka

For the Government of the Republic of Seychelles

Protocol

Article 13 – Capital gains

Both delegations acknowledged that their respective countries do not currently impose a tax on a Capital Gain. Notwithstanding this it was agreed that, at the time of signing this Agreement, an Article on Capital Gains be included in the Agreement, in the event that either or both Sri Lanka or Seychelles moved to introduce such tax.

It was also agreed that should either Sri Lanka and/or Seychelles introduce a capital gains tax in the future that they shall duly notify the other within 90 days of the introduction of such and provide a copy of such legislation; and on request of either, be prepared to enter into negotiations to amend the Article.