

B 1478

L.N. 118 of 2013**INCOME TAX ACT
(CAP. 123)
Double Taxation Relief (Taxes on Income)
(The Kingdom of Norway) Order, 2013**

IN exercise of the powers conferred by article 76 of the Income Tax Act, the Minister of Finance, the Economy and Investment has made the following order:-

Citation. **1.** This title of this order is the Double Taxation Relief (Taxes on Income) (The Kingdom of Norway) Order, 2013.

Arrangements to
have effect.

2. It is hereby declared:

(a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with The Kingdom of Norway with a view to affording relief from double taxation in relation to the following taxes imposed by the laws of The Kingdom of Norway:

(i) the national tax on income (inntektsskatt til staten);

(ii) the county municipal tax on income (inntektsskatt til fylkeskommunen);

(iii) the municipal tax on income (inntektsskatt til kommunen);

(iv) the national tax relating to income from the exploration for and the exploitation of submarine petroleum resources and activities and work relating thereto, including pipeline transport of petroleum produced (skatt til staten vedrørende inntekt i forbindelse med undersøkelse etter og utnyttelse av undersjøiske petroleumforekomster og dertil knyttet virksomhet og arbeid, herunder rørledningstransport av utvunnet petroleum); and

(v) the national tax on remuneration to non-resident artistes (skatt til staten på honorar til utenlandske artister);

(b) that it is expedient that those arrangements should have effect;

(c) that the Convention has entered into force on the 14 February 2013.

SCHEDULE

(Article 2)

CONVENTION
BETWEEN
MALTA
AND
THE KINGDOM OF NORWAY
FOR
THE AVOIDANCE OF DOUBLE TAXATION
AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES
ON INCOME

The Government of Malta and the Government of the Kingdom of Norway,
desiring to conclude a Convention for the Avoidance of Double Taxation and
the Prevention of Fiscal Evasion with respect to taxes on income,

have agreed as follows:

Chapter 1

Scope of the Convention

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

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

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

B 1480

- a) in the case of Norway:
- (i) the national tax on income (inntektsskatt til staten);
 - (ii) the county municipal tax on income (inntektsskatt til fylkeskommunen);
 - (iii) the municipal tax on income (inntektsskatt til kommunen);
 - (iv) the national tax relating to income from the exploration for and the exploitation of submarine petroleum resources and activities and work relating thereto, including pipeline transport of petroleum produced (skatt til staten vedrørende inntekt i forbindelse med undersøkelse etter og utnyttelse av undersjøiske petroleumforekomster og dertil knyttet virksomhet og arbeid, herunder rorledningstransport av utvunnet petroleum); and
 - (v) the national tax on remuneration to non-resident artistes (skatt til staten på honorar til utenlandske artister);
- (hereinafter referred to as "Norwegian tax");
- b) in the case of Malta:
- the income tax;
- (hereinafter referred to as "Malta tax").

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

Chapter 2

Definitions

Article 3

General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
- a) the term "Norway" means the Kingdom of Norway, and includes the land territory, internal waters, the territorial sea and the area beyond the territorial sea where the Kingdom of Norway, according to Norwegian

legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland");

b) the term "Malta" means the Republic of Malta and, when used in a geographical sense, means the Island of Malta, the Island of Gozo and the other islands of the Maltese archipelago including the territorial waters thereof, as well as any area of the sea-bed, its sub-soil and the superjacent water column adjacent to the territorial waters, wherein Malta exercises sovereign rights, jurisdiction, or control in accordance with international law and its national law, including its legislation relating to the exploration of the continental shelf and exploitation of its natural resources;

c) the terms "a Contracting State" and "the other Contracting State" mean Norway or Malta, 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 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, except when the ship or aircraft is operated solely between places in a Contracting State;

i) the term "business" includes the performance of professional services and of other activities of an independent character;

j) the term "competent authority" means:

(i) in Norway, the Minister of Finance or the Minister's authorised representative;

(ii) in Malta, the Minister responsible for finance or his authorised representative;

k) the term "national", in relation to a Contracting State, means:

(i) any individual possessing the nationality of that

B 1482

Contracting State; and

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

2. As regards the application of the 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 the 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 management or any other criterion of a similar nature, and also includes that State and any political 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.

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 (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.

2. 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.

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, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, where an enterprise of a Contracting State performs services in the other Contracting State

a) through an individual who is present in that other State for a period or periods exceeding in the aggregate 183 days in any twelve month period, and more than 50 per cent of the gross revenues attributable to active business activities of the enterprise during this period or periods are derived from the services performed in that other State through that individual, or

b) for a period or periods exceeding in the aggregate 183 days in any twelve month period, and these services are performed for the same project or connected projects through one or more individuals who are present and performing such services in that other State

the activities carried on in that other State in performing these services shall be deemed to be carried on through a permanent establishment of the enterprise situated in that other State, unless these services are limited to those mentioned in paragraph 5 which, if performed through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph. For the purposes of this paragraph, services performed by an individual on behalf of one enterprise shall not be considered to be performed by another enterprise through that individual unless that other enterprise supervises, directs or

B 1484

controls the manner in which these services are performed by the individual.

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

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. 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 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 5 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.

7. 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.

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.

Chapter 3

Taxation of Income

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 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. In the determination of the income from immovable property which a resident of a Contracting State has in the other Contracting State expenses (including interest on debt claims) which are incurred for the purposes of such property shall be allowed as deductions on the same conditions as are provided for residents of that other State.

5. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

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, 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

B 1486

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.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. 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.

6. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and Air Transport

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article, profits derived from the operation of ships or aircraft in international traffic include profits derived from the rental of ships or aircraft if such ships or aircraft are operated in international traffic or if such rental profits are incidental to other profits described in paragraph 1 of this Article.

3. 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.

4. The provisions of paragraphs 1, 2 and 3 shall apply to profits derived by the joint Norwegian, Danish and Swedish air transport consortium Scandinavian Airlines System (SAS), but only insofar as profits derived by SAS Scandinavian Airlines Norge AS, the Norwegian partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

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

a) where the dividends are paid by a company which is a resident of Norway to a resident of Malta who is the beneficial owner thereof, the tax so charged in Norway shall not exceed:

(i) 0 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 10 per cent of the capital of the company paying the dividends on the date the dividends are paid and has done so or will have done so for an uninterrupted 24-month period in which that date falls;

B 1488

(ii) 15 per cent of the gross amount of the dividends in all other cases;

b) where the dividends are paid by a company which is a resident of Malta to a resident of Norway who is the beneficial owner thereof, Malta tax on the gross amount of the dividends shall not exceed that chargeable on the profits out of which the dividends are paid.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. Where dividends are derived and beneficially owned by the Government of a Contracting State, such dividends shall be taxable only in that State. For the purposes of this paragraph, the term "Government of a Contracting State" shall include:

a) In the case of Norway:

(i) the Central Bank of Norway;

(ii) the Government Pension Fund Global; and

(iii) a statutory body or any institution wholly or mainly owned by the Government of Norway as may be agreed from time to time between the competent authorities of the Contracting States;

b) In the case of Malta:

(i) the Central Bank of Malta;

(ii) a statutory body or any institution wholly or mainly owned by the Government of Malta as may be agreed from time to time between the competent authorities of the Contracting States.

4. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights that 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 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 provisions of Article 7 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 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.

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

In the event that a resident of a Contracting State is denied relief from taxation in the other Contracting State by reason of the provisions of the first sentence of this paragraph, the competent authority of that other State shall notify the competent authority of the first-mentioned State.

Article 11

Interest

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. 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.

3. The provisions of paragraph 1 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 such permanent establishment. In such case the provisions of Article 7 shall apply.

4. 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

B 1490

had to the other provisions of this Convention.

Article 12

Royalties

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. 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, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 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.

4. 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, 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 derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic, or from movable property pertaining to the operation of such ships or aircraft shall be taxable only

in that State.

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 the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Income from employment

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period 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 which the employer has in that other State.

3. Paragraph 2 of this Article shall not apply to remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State and paid by, or on behalf of, an employer who is not resident of that other State if:

- a) the recipient renders services in the course of that employment to a person other than the employer and that person, directly or indirectly, supervises, directs or controls the manner in which those services are performed; and
- b) those services constitute an integral part of the business activities carried on by that person.

B 1492

4. 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 may be taxed in that State.

5. Where a resident of a Contracting State derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airline System (SAS) consortium, such remuneration shall be taxable only in that State.

Article 15

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 of a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16

Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportsmen if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof. In such a case, the income is taxable only in the Contracting State in which the entertainer or the sportsman is a resident.

Article 17

Pensions, Annuities, Social Security Payments and Alimony

1. Pensions, including payments under a social security system, and annuities arising in a Contracting State and paid to a resident of the other

Contracting State, may be taxed in the first-mentioned State, but the tax so charged shall not exceed 15 per cent.

2. The term "annuities" as used in this Article means a stated sum paid periodically at stated times during a specified number of years, or for life, under an obligation to make the payments in return for adequate and full consideration.

3. Alimony and other maintenance payments paid to a resident of a Contracting State shall be taxable only in that State. However, any alimony or other maintenance payments paid by a resident of a Contracting State to a resident of the other Contracting State shall, to the extent it is not allowable as a relief to the payer, be taxable only in the first-mentioned State.

Article 18

Government Service

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political 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. The provisions of Articles 14, 15, and 16 shall apply to salaries, wages and other similar remuneration other than pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 19

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.

B 1494

Article 20

Offshore Activities

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.

2. A person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the seabed or subsoil or their natural resources situated in that other State shall, subject to paragraphs 3 and 4 of this Article, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment situated therein.

3. The provisions of paragraph 2 and sub-paragraph b) of paragraph 5 shall not apply where the activities are carried on for a period or periods not exceeding 30 days in the aggregate in any twelve month period commencing or ending in the fiscal year concerned. However, for the purposes of this paragraph:

a) activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise;

b) two enterprises shall be deemed to be associated if:

(i) 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

(ii) the same person or persons participate directly or indirectly in the management, control or capital of both enterprises.

4. Profits derived by an enterprise of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where activities in connection with the exploration or exploitation of the seabed or subsoil or their natural resources are being carried on in a Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the Contracting State of which the enterprise is a resident.

5. a) Subject to sub-paragraph b) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the seabed or subsoil or their natural resources situated in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on offshore for an employer who is not a resident of the other State and provided that the employment is carried on for

a period or periods not exceeding in the aggregate 30 days in any twelve month period commencing or ending in the fiscal year concerned.

b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location, or between locations, where activities connected with the exploration or exploitation of the seabed or subsoil or their natural resources are being carried on in the other Contracting State, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, may be taxed in the State of which the enterprise carrying on such activities is a resident.

6. Gains derived by a resident of a Contracting State from the alienation of:

a) exploration or exploitation rights; or

b) property situated in the other Contracting State and used in connection with the exploration or exploitation of the seabed or subsoil or their natural resources situated in that other State; or

c) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together,

may be taxed in that other State.

Article 21

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 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, 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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

B 1496

Chapter 4

Methods for Elimination of Double Taxation

Article 22

Elimination of Double Taxation

1. Subject to the provisions of the laws of Norway regarding the allowance as a credit against Norwegian tax of tax payable in a territory outside Norway (which shall not affect the general principle of this Article) -

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

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 Malta.

b) Where in accordance with any provision of the Convention income derived by a resident of Norway is exempt from tax in Norway, Norway may nevertheless include such income in the tax base, but shall allow as a deduction from the Norwegian tax on income that part of the income tax which is attributable to the income derived from Malta.

2. In the case of Malta, double taxation shall be eliminated as follows:

Subject to the provisions of the law of Malta regarding the allowance of a credit against Malta tax in respect of foreign tax, where, in accordance with the provisions of this Convention, there is included in a Malta assessment income from sources within Norway, the Norwegian tax on such income shall be allowed as a credit against the relative Malta tax payable thereon.

Chapter 5

Special Provisions

Article 23

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. This provision shall, notwithstanding the

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

2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

Article 24

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

B 1498

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly, 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.

Article 25

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 subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1 and 2.

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. 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 authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 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, 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 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 26

Assistance in the Collection of Taxes

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State that met the conditions allowing that other State to make a request under this paragraph.

B 1500

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be

a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, or

b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions 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 carry out measures which would be contrary to public policy (*ordre public*);

c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 27

Members of Diplomatic Missions and Consular Posts

1. 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.

2. Insofar as, due to fiscal privileges granted to members of diplomatic missions and consular posts under the general rules of international law or under the provisions of special international agreements, income is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

Article 28

Limitation of relief

1. This Convention shall not be interpreted to mean that a Contracting State is prevented from applying its domestic legal provisions on the prevention of tax evasion or tax avoidance.

2. Where under any provision of this Convention any income is relieved from tax in a Contracting State and, under the law in force in the other Contracting State, a person, in respect of that income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income as is taxed in the other Contracting State.

3. The provisions of this Convention shall not apply to persons entitled to any special tax benefits under:

a) a law of either one of the Contracting States which has been identified in the Protocol to this Convention between the Contracting States; or

b) any substantially similar law subsequently enacted.

B 1502

Chapter 7

Final Provisions

Article 29

Entry into Force

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the legal requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect in both Contracting States in respect of taxes on income relating to the calendar year (including accounting periods beginning in any such year) next following that in which the Convention enters into force and subsequent years.

3. The Convention between the Republic of Malta and the Kingdom of Norway for the avoidance of double taxation signed at Oslo on 2 June 1975, shall cease to have effect from the date on which this Convention becomes effective in accordance with paragraph 2 of this Article.

Article 30

Termination

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30 June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination. In such event, the Convention shall cease to have effect in both Contracting States in respect of taxes on income relating to the calendar year (including accounting periods beginning in such year) next following that in which the notice is given.

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

DONE in duplicate at Valletta this 30 day of March 2012, in the English language.

John Paul Grech

Bjorn T. Grydeland

For Malta

For the Kingdom of Norway

PROTOCOL

At the time of signing of the Convention between Malta and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed that the following shall form an integral part of the Convention:

With reference to Article 28(3), the provisions of this Convention shall not apply to persons who are entitled to:

(i) an exemption or any other special tax benefit under the provisions of the Merchant Shipping Act, 1973, as amended. However, this does not apply to income that is subject to the normal Malta income tax; or

(ii) any special tax benefit in respect of distributions by a trust subject to the provisions of the Trusts and Trustees Act given that a trust as laid down in that Act is not vested with legal personality and therefore cannot benefit under the Convention in its own right, or

(iii) any special tax benefit under any substantially similar law subsequently enacted and which is agreed by the competent authorities of the Contracting States as included within the terms of Article 28(3).

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Valletta this 30 day of March 2012, in the English language.

John Paul Grech

For Malta

Bjorn T. Grydeland

For the Kingdom of Norway

