

INCOME TAX ACT 1967 DOUBLE TAXATION RELIEF (THE GOVERNMENT OF THE REPUBLIC OF MALDIVES) ORDER 2025

PU (A) 183

13 June 2025

IN exercise of the powers conferred by subsection 132(1) of the Income Tax Act 1967 [Act 53] and subsection 65A(1) of the Petroleum (Income Tax) Act 1967 [Act 543], the Minister makes the following order:

CITATION

- 1 This order may be cited as the **Double Taxation Relief (The Government of the Republic of Maldives) Order 2025**.

DOUBLE TAXATION RELIEF

- 2 It is declared that the arrangements specified in the Schedule have been made by the Government of Malaysia with the Government of Republic of Maldives with a view to affording relief from double taxation in relation to Malaysian tax and Maldivian tax (as defined in each case in the arrangements) and that it is expedient that those arrangements shall have effect.

SCHEDULE [Paragraph 2]

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF MALDIVES AND THE GOVERNMENT OF MALAYSIA FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

THE GOVERNMENT OF MALAYSIA AND THE GOVERNMENT OF THE REPUBLIC OF MALDIVES

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States), have agreed as follows:

ARTICLE 1 - PERSONS COVERED

- 1(1) This Agreement shall apply to persons who are residents of one or both of the Contracting States.
- 1(2) For the purposes of this Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that State, as the income of a resident of that State.

ARTICLE 2 - TAXES COVERED

- 2(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(2)** There shall be regarded as taxes on income all taxes imposed on total income or on elements of income.
- 2(3)** The existing taxes which are the subject of this Agreement are:
- (a) in Malaysia:
 - (i) the income tax; and
 - (ii) the petroleum income tax; (hereinafter referred to as "Malaysian tax");
 - (b) in Maldives, the income tax:
(hereinafter referred to as "Maldives tax").
- 2(4)** This Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the 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

- 3(1)** For the purposes of this Agreement, unless the context otherwise requires:
- (a) the term "Malaysia" means the territories of the Federation of Malaysia, the territorial sea of Malaysia and the seabed and subsoil of the territorial sea, and the airspace above such areas, and includes any area extending beyond the limits of the territorial sea of Malaysia, and the seabed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia and in accordance with international law as an area over which Malaysia has sovereign rights or jurisdiction for the purposes of exploring and exploiting the natural resources, whether living or non-living;
 - (b) the term "Maldives" means the Republic of Maldives and, used in a geographical sense, means the territory of the Maldives, including its territorial sea, continental shelf, seabed, subsoil (and their natural resources) and airspace, as well as any maritime zone in which the Maldives has sovereign rights, other rights and jurisdiction, according to the law of the Maldives and in accordance with international law, including the United Nations Convention on the Law of the Sea;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Malaysia or Maldives, as the context requires;
 - (d) the term "person" includes an individual, a company and any other body of persons;
 - (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- (g) the term "national" means:
 - (i) any individual possessing the nationality or citizenship 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;
- (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (i) the term "competent authority" means:
 - (ii) in the case of Malaysia, the Minister of Finance or his authorized representative; and
 - (iii) in the case of Maldives, the Maldives Inland Revenue Authority or its authorized representative.

3(1) As regards the application of this 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 this 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

4(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 incorporation, place of management or any other criterion of a similar nature, and also includes that State, any political subdivision, local authority or a statutory body established under the Act of Parliament thereof.

4(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; and
- (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.

- 4(3)** Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then the competent authorities of the Contracting States shall endeavour to determine by mutual agreement the Contracting State of which such person shall be deemed to be a resident for the purposes of the Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States.

ARTICLE 5 - PERMANENT ESTABLISHMENT

- 5(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.

- 5(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.

- 5(3)** The term “permanent establishment” also encompasses:

- (a) a building site or construction, installation or assembly project or supervisory activities in connection therewith, but only if such site, project or activities last more than nine (9) months; and
- (b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purposes, but only if activities of that nature continue (for the same or a connected project) within a Contracting State for a period or periods aggregating more than 183 days within any twelve (12) month period commencing or ending in the fiscal year concerned.

- 5(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 purposes 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 purposes 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; and

- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e),

provided that such activity or, in the case of subparagraph (f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

5(5) Paragraph 4 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and—

- (a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article; or
- (b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

5(6) Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 7, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

- (a) in the name of the enterprise; or
- (b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or
- (c) for the provisions of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 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.

5(7) Paragraph 6 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, he will not be considered an agent of an independent status within the meaning of this paragraph.

5(8) For the purposes of this Article, a person or an enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or an enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than fifty (50) per cent of the beneficial interest in the other (or, in the case of a company, more than fifty (50) per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than fifty (50) per cent of the beneficial interest (or, in the case of a company, more than fifty (50) per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

5(9) 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

6(1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture, forestry or fishery) situated in the other Contracting State may be taxed in that other State.

6(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, forestry or fishery, 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.

6(3) The provisions of paragraph 1 shall also apply to income derived from the direct use, letting, or use in any other form of immovable property.

6(4) The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

ARTICLE 7 - BUSINESS PROFITS

7(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.

7(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.

- 7(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.
- 7(4)** If the information available to the competent authority is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination of the tax liability of a person by the making of an estimate by the competent authority, provided that the law shall be applied, so far as the information available to the competent authority permits, in accordance with the principles of this Article.
- 7(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.
- 7(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(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

- 8(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.
- 8(2)** Paragraph 1 shall also apply to the share of the profits from the operation of ships or aircraft derived by an enterprise of a Contracting State through participation in a pool, a joint business or an international operating agency.

ARTICLE 9 - ASSOCIATED ENTERPRISES

- 9(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 not 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.

- 9(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 where that other State considers the adjustment justified. 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

- 10(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.

- 10(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) five (5) per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least ten (10) per cent of the capital of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from corporate reorganisation of the company that holds the shares or that pays the dividend); and
- (b) ten (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.

- 10(3)** 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 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.

- 10(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 provisions of Article 7 shall apply.

- 10(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 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.

ARTICLE 11 - INTEREST

- 11(1)** Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
- 11(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 ten (10) per cent of the gross amount of the interest.
- 11(3)** Notwithstanding the provisions of paragraph 2:
- (a) interest arising in a Contracting State shall be exempt in that State if such interest is paid or credited in respect of any loan or credit made by a resident of the other Contracting State to the Government of the first-mentioned State or a political subdivision or local authority or statutory body thereof;
 - (b) interest arising in Malaysia shall be exempt from tax in Malaysia if it is paid or credited to:
 - (i) the Government of Republic of Maldives;
 - (ii) the Government of the States;
 - (iii) the local authorities;
 - (iv) the statutory bodies;
 - (v) the Maldives Monetary Authority; and
 - (vi) any other institution as may be agreed from time to time between the competent authorities of the Contracting States; and
 - (c) interest arising in Maldives shall be exempt from tax in Maldives if it is paid or credited to:
 - (i) the Government of Malaysia;
 - (ii) the Governments of the States;
 - (iii) the local authorities;
 - (iv) the statutory bodies;
 - (v) the Bank Negara Malaysia;
 - (vi) the Export-Import Bank of Malaysia Berhad (EXIM Bank); and
 - (vii) any other institution as may be agreed from time to time between the competent authorities of the Contracting States.
- 11(4)** 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 as well as all other income treated as income from money lent by the taxation laws of the Contracting State in which the income arises. However, penalty charges for late payment shall not be regarded as interest for the purposes of this Article.
- 11(5)** 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 such permanent establishment. In such case the provisions of Article 7 shall apply.

- 11(6)** Interest shall be deemed to arise in a Contracting State when the payer is 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.
- 11(7)** Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest exceeds, for whatever reason, 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

- 12(1)** Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
- 12(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 ten (10) per cent of the gross amount of the royalties.
- 12(3)** The term “royalties” as used in this Article means payments of any kind received as a consideration for or derived from—
- (a) the use of, or the right to use:
 - (i) any copyrights, software, patent, designs or models, plans, secret processes or formula, trademarks or other like property or rights;
 - (ii) tapes for radio or television broadcasting, motion pictures films, films, or video tapes or other means of reproduction;
 - (iii) know-how or information concerning technical, industrial, commercial or scientific knowledge, experience or skill;
 - (iv) industrial, commercial or scientific equipment (including ships, aircraft and containers);
 - (v) visual images or sounds, or both, in connection with television broadcasting, transmitted by—
 - (A) satellite; or
 - (B) cable, fibre optic or similar technology; or
 - (vi) some or all part of the radio frequency spectrum specified in a relevant licence;

- (b) the reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by—
 - (A) satellite; or
 - (B) cable, fibre optic or similar technology;

- (c) a total or partial forbearance in respect of—
 - (i) the use of, or the granting of the right to use any such property or right as is mentioned in subparagraph 3(a)(i) or (ii) or any such knowledge, experience or skill as is mentioned in subparagraph 3(a)(iii);
 - (ii) the reception of, or the granting of the right to receive, any such visual images or sounds as mentioned in subparagraph 3(b);
 - (iii) the use of, or the granting of the right to use, any such visual images or sound as are mentioned in subparagraph 3(a)(v); or
 - (iv) the use of, or the granting of the right to use, some or such part of the spectrum specified in a spectrum licence as is mentioned in subparagraph 3(a)(vi); or

- (d) the alienation of any property, know-how or information mentioned in subparagraphs 3(a)(i), (ii) and (iii).

12(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.

12(5) Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying such 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 obligation 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 State in which the permanent establishment is situated.

12(6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, exceeds for whatever reason, 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 13 - FEES FOR SERVICES

- 13(1)** Fees for services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
- 13(2)** However, such fees for services 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 fees for services is a resident of the other Contracting State the tax so charged shall not exceed ten (10) per cent of the gross amount of the fees for services.
- 13(3)** The term "fees for services" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services.
- 13(4)** The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the fees for services, being a resident of a Contracting State, carries on business in the other Contracting State in which the fees for services arise through a permanent establishment situated therein, and the fees for services are effectively connected with such permanent establishment. In such a case the provisions of Article 7 shall apply.
- 13(5)** Fees for services shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the fees for services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the fees for services was incurred, and such fees for services are borne by such permanent establishment, then such fees for services shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
- 13(6)** Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the fees for services paid exceeds, for whatever reason, 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 to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 14 - INCOME FROM EMPLOYMENT

- 14(1)** Subject to the provisions of Articles 15, 16, 17, 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 State.
- 14(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 (12) month period commencing or ending in the fiscal year concerned;
 - (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 the other State.

14(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 may be taxed in that State.

ARTICLE 15 - DIRECTORS' FEES

15(1) Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

15(2) Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 16 - ENTERTAINERS AND SPORTSPERSONS

16(1) Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer such as:

- (a) a compere, model, circus performer, lecturer, speaker, sportsperson, musician, an artiste or individual exercising any profession, vocation or employment of a similar nature; or
- (b) any individual who uses his intellectual, artistic, musical, personal or physical skill or character,

in carrying out any activity in connection with any purpose through live, print, electronic, satellite, cable, fibre optic or other medium, for film or tape, or television or radio broadcast, as the case may be, from that person's personal activities as such exercised in the other Contracting State, may be taxed in that other State.

16(2) Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson 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 sportsperson are exercised.

16(3) The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits derived from activities exercised in a Contracting State if the visit to that State is wholly or mainly supported by public funds of the other Contracting State, a political subdivision, a local authority or a statutory body thereof. In such case, the remuneration or profits is taxable only in the Contracting State in which the entertainer or the sportsperson is a resident.

ARTICLE 17 - PENSIONS

17(1) Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State.

17(2) However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that other State or a permanent establishment situated therein.

- 17(3)** Notwithstanding the provisions of paragraphs 1 and 2, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

ARTICLE 18 - GOVERNMENT SERVICE

- 18(1)** (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or political subdivision or local authority or statutory body 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 other State who:
- (i) is a national of that other State; or
 - (ii) did not become a resident of that other State solely for the purpose of rendering the services.
- 18(2)** (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or political subdivision or local authority or statutory body shall be taxable only in that State.
- (b) However, such pension and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.
- 18(3)** The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with any business carried on by a Contracting State or a political subdivision or a local authority or a statutory body thereof.

ARTICLE 19 - STUDENTS AND TRAINEES

- 19(1)** An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other State solely:
- (a) as a student at a recognised university, college, school or other similar recognised educational institution in that other State;
 - (b) as a business or technical apprentice; or
 - (c) as a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either State or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either State,
- shall be exempt from tax in that other State on:
- (i) all remittances from abroad for the purposes of his maintenance, education, study, research or training;
 - (ii) the amount of such grant, allowance or award; and

- (iii) any remuneration not exceeding USD5,000.00 per year in respect of services in that other State provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

ARTICLE 20 - OTHER INCOME

- 20(1)** Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
- 20(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.
- 20(3)** Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may also be taxed in that other State.

ARTICLE 21 - ELIMINATION OF DOUBLE TAXATION

- 21(1)** In Malaysia, double taxation shall be eliminated as follows:

Subject to the laws of Malaysia regarding the allowance as a credit against Malaysian tax of tax paid in any country other than Malaysia, the Maldives tax paid under the laws of Maldives and in accordance with this Agreement by a resident of Malaysia in respect of income derived from Maldives shall be allowed as a credit against Malaysian tax payable in respect of that income. The credit shall not, however, exceed that part of the Malaysian tax payable, as computed before the credit is given, which is appropriate to such item of income.

- 21(2)** In the Maldives, double taxation shall be eliminated as follows:

Subject to the laws of Maldives regarding the allowance as a credit against Maldivian tax of tax paid in any country other than Maldives, the Malaysian tax paid under the laws of Malaysia and in accordance with this Agreement by a resident of Maldives in respect of income derived from Malaysia shall be allowed as a credit against Maldivian tax payable in respect of that income. The credit shall not, however, exceed that part of the Maldives tax payable, as computed before the credit is given, which is appropriate to such item of income.

ARTICLE 22 - NON-DISCRIMINATION

- 22(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.
- 22(2)** 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 tax purposes on account of civil status or family responsibilities which it grants to its own residents.

22(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.

22(4) In this Article, the term “taxation” means taxes to which this Agreement applies.

ARTICLE 23 - MUTUAL AGREEMENT PROCEDURE

23(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 Agreement, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of either Contracting State. The case must be presented within three (3) years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

23(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

23(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

23(4) The competent authorities of the Contracting States may communicate with each other for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 24 - EXCHANGE OF INFORMATION

24(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably 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, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1.

24(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 States authorises such use.

24(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; and
- (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).

24(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.

24(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 25 - MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

25 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 26 - ENTITLEMENT TO BENEFITS

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

ARTICLE 27 - ENTRY INTO FORCE

27 The Contracting States shall notify each other, by exchange of notes through the diplomatic channel the completion of the procedures required by its domestic law or legislation for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of the notification and shall thereupon have effect:

- (a) in Malaysia, in respect of Malaysian tax, to tax chargeable for any year of assessment beginning on or after the first day of January in the calendar year following the year in which this Agreement enters into force; and
- (b) in the Maldives, for taxes with respect to every taxable period beginning on or after the first day of January next following the calendar year in which the Agreement enters into force.

ARTICLE 28 - TERMINATION

28 This Agreement shall remain in effect indefinitely, but either Contracting State may terminate this Agreement, through diplomatic channel, by giving to the other Contracting State written notice of termination on or before June 30th in any calendar year after the period of five (5) years from the date on which this Agreement enters into force. In such an event this Agreement shall cease to have effect:

- (a) in Malaysia, in respect of Malaysian tax, to tax chargeable for any year of assessment beginning on or after the first day of January in the calendar year following the year in which the notice is given; and
- (b) in Maldives, for taxes with respect to any taxable period beginning on or after the first day of January next following the calendar year in which the notice of termination is given.