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CONVENTIONS of Double Tax Avoidance between the Kingdom and France



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CONVENTIONS of Double Tax Avoidance between the Kingdom and France

Convention Between The Government of The Kingdom of Saudi Arabia And The Government of French Republic for Avoiding Double Taxation As Regards Taxes on Income, Inheritance, Legacies and Capital

THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA AND THE GOVERNMENT OF FRENCH REPUBLIC agree as follows:

Article. (1) Persons Covered

The Convention shall apply to persons who are residents of one or both of the Contracting States.

Article. (2) Taxes Covered

1. Current taxes, subject to Convention

in the case of the Kingdom of Saudi Arabia:

- Income Tax and Corporate Tax.
- Zakat Dues.
- Wealth Tax and Inheritance Tax, identical or similar taxes that seem like those taxes subject to the Convention in France, whenever imposed.

(Hereinafter referred to as "Saudi Tax".)

in the case of the France:

- Income Tax.
- Corporate Tax.
- Inheritance Tax.
- Wealth Tax (L'impôt de Solidarite Sur La Fortune), including any withholding tax (Precompte) or any tax that is paid in advance.

(Hereinafter referred to as "French Tax".)



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

Article. (3) General Definitions

- In this Convention, unless the context otherwise requires:**

The terms «a Contracting State» and « the other Contracting State» mean France or the Kingdom of Saudi Arabia, as the context requires.

The term «person» includes any individual, any company and any other body of persons.

The term «company» means any body corporate, or any entity which is treated as body corporate for tax purposes.

The terms (Enterprise of a Contracting State) and (Enterprise of the other Contracting State) mean an enterprise being carried on by a resident of a Contracting State, and an enterprise being carried on by a resident of the other Contracting State.

the term «competent authority» means:

- In the case of France: Minister of Budget or his legally authorized person.
- In the case of the Kingdom of Saudi Arabia, Minister of Finance or his legally authorized representative.

- As regards the application of the Convention by a Contracting State any term not defined therein shall,** unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which this Convention applies.



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Article. (4) Resident

1. **For purposes of this Convention, the term “Resident of contracting state”** means any person, who, under the laws of that State, is liable to tax therein by reason of his domicile, place of residence, place of management or any other similar criterion.

2. **Where by reason of the provisions of paragraph (1) of this Article**, an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:
 - a. he shall be deemed to be a resident only of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (center of vital interests);

 - b. if the Contracting State in which he has his center of ‘vital’ interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode.

 - c. if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national.

 - d. if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. **Where by reason of the provisions of paragraph (1) of this Article**, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective central management is situated



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Article. (5) Income from Immovable Property

- 1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry)** situated in the other Contracting State may be taxed in that other Contracting State.
- 2. The term «immovable property»** shall have the meaning provided for in the laws of the Contracting State in which the property in question is situated. This 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, rights to usufruct immovable property and rights to variable or fixed payments as consideration for the use of, or the right to use, warehouses, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.
- 3. The provisions of paragraph (1) of this Article** shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
- 4. Persons who are residents of the Kingdom of Saudi Arabia**, who have at their disposal one or more dwellings for their private use in France without having a tax domicile in France as defined under the French Law – shall be exempted from income tax which is based on the rental value of that or those dwellings



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Article. (6) Dividends

- 1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State** shall be taxable only in that other Contracting State.
- 2. However, such dividends may also be taxed in the first-mentioned State**, if the shareholding in respect of which the dividends are paid – is effectively connected with industrial or commercial activities being carried on in that state by the recipient of the dividends. In that case, the provisions of Article (14) of Convention shall apply.
- 3. The term «dividends»** as used in this Article means income from shares, «jouissance» shares or «jouissance» rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a Resident.
- 4. The person resident in the Kingdom of Saudi Arabia who receives dividends paid by a company in France** – may obtain a refund of the prepayment (précompte) pertaining to such dividends, where applicable, paid by such a company. The gross amount of the prepayment (précompte) refunded is deemed a dividend in applying the provisions of this Convention.



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Article (7) Interest

- 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State** shall be taxable only in that other Contracting State.
- 2. However, such Interest may be taxed in the first-mentioned State**, if the debt-claim by virtue of which the Interest is paid is effectively connected with industrial or commercial activities carried on in that state by the recipient of the Interest – In that case, Article (14) of the Convention shall apply.
- 3. The term “Interest”** means income from debt-claims of every kind, 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 any other debentures.

Article. (8) Royalties

- 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State** shall be taxable in that other Contracting State.
- 2. However, such royalties may be also taxed in the first-mentioned State**, if the right or property by virtue of which, royalties are paid – is effectively connected with industrial or commercial activities carried on in that State by the recipient of the royalties. In that case, Article (14) of the Convention shall apply.
- 3. The term “royalties”** as used in this Article means payment 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



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cinematograph films and works which have been recorded for radio or television, any trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

Article. (9) Capital Gains

- 1. Capital Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 5 of this Convention and situated in the other Contracting State** may be taxed in that other Contracting State.
- 2. Capital Gains arising from the alienation of any properties other than that mentioned in Paragraph (1)** shall be taxable in the Contracting State in which, the seller of property is resident, unless the property, that the gains are arising from the alienation of it – is effectively connected with a professional activity, craft or works carried on by the beneficiary in that Contracting State.
- 3. Notwithstanding Paragraph (2),** the Capital Gains arising from the alienation of interests representing a substantial shareholding of the capital of a company are taxable in the Contracting State of that company. A substantial shareholding is deemed to exist when the seller holds, directly or indirectly, interests, which, in their entirety, give right to 25% or more of the company's profits.



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Article. (10) Independent Personal Services

- 1. Income derived by a resident of a Contracting State in respect of professional services** or any other activities of an independent character shall be taxable only in that Contracting State unless he is present in the other Contracting State for a period or periods equal to or exceeding 90 days during the fiscal year concerned. In such a case, such income may be taxed in that other Contracting State.
- 2. The term «professional services»** includes especially, the independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article. (10/A) Dependent Personal Services

- 1. Subject to the provisions of Articles 11, 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. in such a case, the income derived of the employment exercised in the other Contracting State may be taxed in that other Contracting State if:
 - a. the recipient is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned; or
 - b. the remuneration is paid by, or on behalf of, an employer who is a resident of the other Contracting State
- 2. Notwithstanding the provisions of this Article,** remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.



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Article. (11) Governmental Service

Remuneration and pensions paid by a Contracting State, a local authority or a public body thereof to an individual in respect of services rendered to that State, authority or public body shall be taxable only in that state, unless the services are rendered in connection with industrial or commercial activities carried on by the Contracting State, a local authority or legal person thereof.

Article. (12) Students

- 1. Payments which a student or business apprentice who was a resident of a Contracting State and present in the other Contracting State for the purpose of education, professional or craft training receives for the purpose of his maintenance, education or training** shall not be taxed in that other Contracting State, provided that such payments arise from sources outside that other Contracting State.
- 2. Remuneration which a student or business trainee who is a resident of a Contracting State and present in the other Contracting State for the purpose of education or training of professional or commercial activities,** derives from services rendered in other Contracting State shall not be taxed in that other Contracting State if the services were connected with his study or training or was necessary for his maintenance.



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Article. (13) Teachers and Researchers

1. **Remuneration which a teacher or researcher who is or was a resident of a Contracting State before being invited to visit the other Contracting State to teach or carry out research receives in respect of such activities** shall not be taxed in that State for a period not exceeding two years.
2. **The provisions of Paragraph (1)** shall not apply to remuneration received from research work if such research is not undertaken in the public interest but for the private benefit of a specific person or persons.

Article. (14) Business profits

1. **The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on commercial and industrial activities in the other Contracting State.** If the enterprise carries on commercial and industrial in the other Contracting State, the profits of the enterprise may be taxed in the other Contracting State but only in case that these profits are related to the activities carried on by this enterprise in that other State.
2. **Profits derived from such industrial or commercial activities carried on in the other Contracting State** through a building or construction site or an installation project, or supervisory activities connected therewith, or from the performance of service, training, technical assistance or from studies connected with exportation, shall not be taxed in that other Contracting State unless such building or construction site or installation project or such other activities last for a period exceeds three months.
3. **Profits derived from industrial or commercial activities carried on in the other Contracting State,** consisting of the rendering of an intellectual work or technical services, such as engineering or research



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(including studies or researches of a technical or scientific nature), or consulting or supervisory services, or services rendered in the field of accounting, law or architecture, or in connection with other activities mentioned in Article 10, may be taxed in that other Contracting State if these activities last for a period exceeds three months.

4. **Notwithstanding any other provisions, profits derived by an enterprise of a Contracting State from the exportation of goods or services to the other Contracting State** shall not be taxed in that other State. In the case of contracts involving both exportation and other activities, every category of activity shall remain separately subject to the relevant provisions of this Article.
5. **No profits shall be attributed in a Contracting State to the activities carried on in that State by an enterprise of the other Contracting State** if these activities are carried on solely for the purpose of storage, display, formation, training or purchase of goods or merchandise or solely for the purpose of collecting information or of carrying on any other activity of a preparatory or auxiliary character.
6. **In determining the profits of an enterprise of a Contracting State in the other Contracting State,** there shall be allowed as deductions expenses which are incurred for the purposes of the industrial or commercial activities carried on in that State, including executive and general administrative expenses so incurred, whether in that State or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) to the head office of the enterprise or any of its other establishments, for the use of patents or other rights, or by way of commission for specific services performed or for management or, except in the case of a banking enterprise, by way of interest on moneys lent to the enterprise.
7. **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.



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Article. (14/A) Capital

1. **Capital represented by immovable properties owned by a resident of a contracting state**, situated in the other contracting state – may be taxable in that other contracting state, if the value of immovable exceeds total value of the following capital components owned by that resident:
 - a. Shares (other than those referred to in Paragraph 3) issued by a company which is a resident of the Contracting State in which, the immovable properties are situated, provided that the shares are listed in the official financial markets of that State, or that company is an investment company approved by the public authorities in that State.
 - b. Debts-claims payable by the Contracting State in which, the immovable properties is situated, or payable by its local authorities, public institutions, publicly owned companies or a company which is resident in that State, and its shares are listed in the official financial markets in that State.
 - c. For purposes of Paragraph (1), shares or other rights in a company , of which the assets consist for more than 50% of immovable properties situated in a Contracting State, or of rights associated with such immovable properties – shall be considered immovable properties situated in that State. However, immovable property used for industrial, commercial or agricultural operation of such company, or for the performance of independent personal services – shall not be considered, when determining the above-mentioned percentage. Furthermore, the companies' shares exchanged in the financial markets, as well as the bonds of real estate companies for commercial and industrial purposes shall not be considered immovable properties for purposes of this Paragraph, irrespective of the nature of the assets of the companies.
 - d. Capital represented by shares or rights forming part of a substantial shareholding in the company capital other than those referred to in Paragraph (2) above, which is a resident of a Contracting



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State – may be taxed in that State. The person shall be deemed to hold substantial shareholding when he owns, alone or with related persons, – directly or indirectly, – shares or rights, which in their entirety entitle him to more than 25% of the profits of this company.

e. Subject to Paragraphs (1) and (3), the capital owned by a resident in a contracting state shall be taxable only in that state.

2. If following the signing of this Protocol, pursuant to any Convention or agreement or Protocol of convention or Agreement between France and a third state that is a member in the League of Arab States that France grants – in association with this Article – a more favorable regime than that granted to the Kingdom of Saudi Arabia under this Convention, such same favorable regime shall automatically apply for the purpose of this Convention, from the date of entry into force of the relevant French Convention, Agreement or protocol.

Article. (15) ELIMINATION OF DOUBLE TAXATION RULES

1. In the Kingdom of Saudi Arabia, the double taxation shall be avoided, in pursuance of the applicable laws and regulations in the Kingdom.

2. In France, the double taxation shall be avoided by the following method:

a. Income from immovable properties referred to in Article (5), capital gains referred to in Paragraph 1 of Article (9) and business profit referred to in Article (14), which are derived from the Kingdom of Saudi Arabia by a resident of France – shall not be subject to the French Taxes.

b. Other income mentioned in this Convention which is derived by a resident of France may be taxed in France, but the Saudi tax levied on such income gives the right to get credit from the French tax



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- c. Nonetheless, the French tax shall be calculated on the income taxable in France by virtue of this Convention at the rate, according to French law, pertaining to the total taxable income.
- d. Notwithstanding any other provision of this Convention, where a resident of Saudi Arabia is a company of which more than 50% of the shares, stocks or other rights are held, directly or indirectly, by a company having its place of management in France, the share of income of this person corresponding to the direct or indirect rights held by the French company may be taxed in France. In this case, the Saudi tax imposed on this income entitles to a credit against the French tax. These provisions shall not apply to income temporarily exempt from tax in Saudi Arabia by virtue of regulations aimed at developing industrial and commercial investments in that State.(in Kingdom of Saudi Arabia)
- e. With respect to the wealth tax on capital, double taxation is avoided according to the French law and regulations.

Article (16) Diplomatic and Consular Personnel

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their personnel servants, consular posts, or bodies of international organizations, under the general rules of international law or under the provisions of special agreements.



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Article. (17) Inheritances

- 1. Immovable property shall be subject to Inheritance tax only in the Contracting State,** where the immovable properties are situated.
- 2. Tangible and intangible movable property effectively connected with the carrying of professional,** craft, industrial or commercial activities out in a Contracting State are subject to the inheritance tax only in that Contracting State.
- 3. Tangible and intangible movable property (including securities, deposits, etc.)** to which paragraph 2 of this Article is not applicable are subject to the inheritance tax only in the Contracting State of which the deceased was resident at the time of death.
- 4. Notwithstanding the provisions of paragraphs (1–3),** each Contracting State retains the right to calculate the tax on inherited property which are its exclusive right to tax, by using the average rate which would be applicable in accordance with its domestic law.

Article. (18) Mutual Agreement Procedure

- 1. Where a person considers that the actions of one or both of 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. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.



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2. **The competent authority shall endeavor**, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the 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 endeavor 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 for the purpose of reaching an agreement in the sense of the preceding two paragraphs.** When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.
5. **The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the Convention and**, especially, the formalities with which the residents of a Contracting State must comply in order to obtain in the other Contracting State the tax reliefs or exemptions provided for by the Convention.



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Article. (18/A) Specific Provisions

1. **Governmental Investments** of a (including the Central Bank and public institutions wholly owned by the Contracting State) and income arising from such investments (including gains arising from their alienation) shall be exempt from tax in that other Contracting State. However, the provisions of this paragraph shall not apply to immovable properties nor to income arising from such immovable Property.
2. **Notwithstanding the provisions of any other Article of this Convention**, in order to avoid double exemptions each Contracting State shall, in accordance with its domestic laws, tax the income, other than dividend, that is allocated to be taxed to the other Contracting State under the Convention, but that is not effectively included in the tax base in that other State. The provisions of this paragraph shall not apply to:
 - a. Saudi nationals
 - b. Companies which, more than 50% of their shares or rights are owned directly or indirectly by Saudi nationals.
 - c. Income exempt from tax in the Kingdom of Saudi Arabia by virtue of an official temporary exemption regime aimed at developing industrial and commercial investments in that State.
 - d. If the Kingdom of Saudi Arabia agrees, by virtue of convention or Agreement with a third state, which is a member of the Organization for Economic Co-operation and Development, regarding the independent personal services being provided, industrial or commercial activities being undertaken inside the Kingdom, for granting longer tax exemption or for more restrictive tax domain in terms of period or scope stated in paragraph 1 of Article (10), or in paragraphs 2 and 3 of Article (14) of this convention – in such case and beginning from the date of enforceability of the corresponding Saudi convention or Agreement, the same period or scope shall automatically apply to this Convention, as stated in the referred convention or Agreement.



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Article. (19) Territorial Scope of The Convention

1. This Convention shall apply:

- a. In the case of the Kingdom of Saudi Arabia: to the mainland and islands of the Kingdom, including the territorial waters and areas outside the same, where the Kingdom of Saudi Arabia exercises its sovereign and jurisdictional rights in their waters, sea bed, sub-soil and natural resources.
- b. In the case of France: to European governorates and overseas provinces of the French Republic, including the territorial waters and areas outside the same, where France exercises its sovereign and jurisdictional rights in their waters, sea bed, sub-soil and natural resources, without violating to the International Law.
- c. The Convention scope may be expanded as whole or by making appropriate amendments to the French overseas areas applying substantially similar taxes to those taxes being applied pursuant to the Convention. The enforceability and expiry dates of such amendments and provisions thereof shall be agreed upon between both Contracting States, by virtue of mutual memoranda by diplomatic means or by any other method to be agreed upon, as per the constitutional procedures.
- d. Unless otherwise agreed between both Contracting States, this Convention shall expire according to the conditions stated in Article (20). That shall apply also to any territory, in which this Convention shall apply under this Article.

Article. (20) Enforceability and Termination of Convention

1. **Each of the Contracting States shall notify the other, through diplomatic channels, the completion of the procedures required by its law for the bringing into force of this Convention.** This Convention shall enter into force on the first day of the second month following the month in which the later of these notifications took place.



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2. The Convention shall be applied for the first time:

- a. with regard to taxes withheld at source, to the amounts paid on or after 01/1981/01/.
- b. with regard to other income taxes, to incomes achieved as of the first of January of the calendar year 1981 or as of the date on which, the accounting period shall be closed within that year.
- c. with regard to inheritance tax, to money and legacy of persons died on or after 01/1981/01/.
- d. The Convention shall remain enforceable till the end of the fifth year following the year in which, the Convention enters into force. Further, the Convention may be extended for a similar term of five (5) years, upon the agreement through exchanging memoranda by diplomatic means.

3. As regards the application of Convention for the last time:

- a. with regard to taxes withheld at source, to the amounts paid on or before 31 December. of the calendar year in which, it is notified to terminate the Convention.
- b. with regard to other income taxes, to incomes achieved within the calendar year in which, it is notified to terminate the Convention; or regarding accounts, to the accounting period ended within that year.
- c. with regard to inheritance tax, to money and legacy of persons died prior to 31 December. of the calendar year of Convention expiry.
- d. with regard to wealth tax, to capitals owned in the first of January of the calendar year which in its end the Convention shall cease to have effect.

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