

**CONVENTION  
BETWEEN THE GOVERNMENT OF THE STATE OF ISRAEL AND  
THE PORTUGUESE REPUBLIC FOR THE AVOIDANCE  
OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL  
EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of the State of Israel and the Portuguese Republic,

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 I  
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 or administrative 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
  - a) in Portugal:
    - i) the personal income tax (Imposto sobre o Rendimento das Pessoas Singulares – IRS);
    - ii) the corporate income tax (Imposto sobre o Rendimento das Pessoas Colectivas – IRC);
    - iii) the local surtax on corporate income tax (Derrama);

(hereinafter referred to as «Portuguese tax»);

- b) in Israel:

- i) the income tax and company tax (including tax on capital gains);
- ii) the tax imposed upon gains from the alienation of real property according to the real estate Taxation Law;

(hereinafter referred to as «Israeli tax»).

4. The Convention shall apply also to any identical or substantially similar taxes which 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 which have been made in their respective taxation laws.

## **CHAPTER II DEFINITIONS**

### **Article 3 GENERAL DEFINITIONS**

1. For the purposes of this Convention, unless the context otherwise requires:
- a) The term «Portugal» means the Portuguese Republic;
  - b) The term «Israel» means the State of Israel;
  - c) The terms «a Contracting State» and «the other Contracting State» means Israel or Portugal, 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 «international traffic» means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - h) The term «competent authority» means:
    - i) in Portugal: The Minister of Finance, the director general of Taxation (Director-Geral dos Impostos) or their authorized representatives;
    - ii) in Israel: The Minister of Finance or his authorized representative;
  - i) The term «national» means:
    - i) any individual possessing the nationality of a Contracting State;
    - ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.
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 which 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 or administrative 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 a an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
  - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

#### **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 (twelve) months;
4. Notwithstanding the preceding provisions of this Article, the term «permanent establishment» shall be deemed not to include:
- a) the use of facilities solely for the purpose of storage, 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.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 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 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.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. 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 III TAXATION ON 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, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to the income from immovable property used for the performance of independent personal services.
5. The foregoing provisions shall also apply to income from movable property or income derived from services, connected with the use or the right to use the immovable property.

## **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 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. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship is situated, or, if there is no such home harbor, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

#### **Article 9 ASSOCIATED ENTERPRISES**

1. Where
  - a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this 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 if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
  - a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
  - b) 10 per cent of the gross amount of the dividends, notwithstanding the provisions of sub-paragraph a), if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends where that latter company is a resident of Israel and the dividends are paid out of profits which are subject to tax in Israel at a rate which is lower than the normal rate of Israeli company tax;
  - c) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

3. The term «dividends» as used in this Article means income from shares, «jouissance» shares or «jouissance» rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively

connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except 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 or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## **Article 11 INTEREST**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting State shall be exempt from tax in that State if it is paid in relation to any loan granted or guaranteed by the Government of the other Contracting State, a political or administrative subdivision, a local authority or the Central Bank thereof, or if it is paid to an institution for the insurance of risk arising in international trade, to the extent that it acts on behalf of the other Contracting State.
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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
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 or perform in that other State independent personal services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.



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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or a fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or a fixed base is situated.
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, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **Article 12 ROYALTIES**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the Other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term «royalties» as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
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 the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base 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 or fixed base is situated.

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, 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 or of movable property pertaining to a fixed base available to a resident of a Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in the that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of the effective management of the enterprise is situated.
4. Gains derived by a resident of a Contracting State from the alienation of shares or of a comparable interest deriving more than 50 percent of their value, directly or indirectly, from immovable property situated in the other Contracting State may be taxed in that other State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

### **Article 14 INDEPENDENT PERSONAL SERVICES**

1. Income derived by a resident of a Contracting State in respect of professional service or other activities of independent character shall be taxable only in that State unless he has a fixed base regulatory available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as attributable to that fixed base.

2. The term «professional services» includes especially independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

**Article 15**  
**INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 16, 18, 19 and 20, 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 there from 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 calendar 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 or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

**Article 16**  
**DIRECTORS' FEES**

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or supervisory board or of another similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

**Article 17**  
**ARTISTES AND SPORTSMEN**

1. Notwithstanding the provisions of Articles 14 and 15, 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, 14 and 15, 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 exercised in a Contracting State by an entertainer or sportsman if the visit to that State is wholly or mainly supported by public funds of the other Contracting State. In such a case, the income shall be taxable in accordance with the provisions of Article 7, 14 or 15, as the case may be.

### **Article 18 PENSIONS**

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

### **Article 19 GOVERNMENT SERVICE**

1.
  - a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political or administrative 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.
  - a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative 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 pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to such salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

### **Article 20 PROFESSORS AND RESEARCHERS**

1. An individual who is or was a resident of a Contracting State immediately before visiting the other Contracting State, solely for the purpose of teaching or scientific research at an university, college, school, or other similar educational or scientific research institution which is recognized as non-profitable by the Government of that other State, or under an official programme of cultural, educational or scientific exchange, for a period not exceeding two years from the date of his first arrival in that other State, shall be exempt from tax in that other State on his remuneration for such teaching or research.

2. No exemption shall be granted under paragraph 1 with respect to any remuneration for research if such research is undertaken not in the public interest but for the private benefit of a specific person or persons.

### **Article 21 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 the first-mentioned State, provided that such payments arise from sources outside that State.

### **Article 22 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 or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

## **CHAPTER IV ELIMINATION OF DOUBLE TAXATION**

### **Article 23 ELIMINATION OF DOUBLE TAXATION**

1. In the case of Portugal double taxation shall be eliminated as follows:
  - a) Where a resident of Portugal derives income which, in accordance with the provisions of this Convention, may be taxed in Israel, Portugal shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Israel. Such deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in Portugal;
  - b) Notwithstanding the provision of sub-paragraph a), where a company (other than a partnership) which is resident of Portugal receives dividends from a company which is resident of Israel and which is not exempt from corporation tax in Israel, Portugal shall allow a deduction for 95 per cent of such dividends included in the tax base of the company receiving dividends, provided that the latter company holds directly at least 25 per cent of the capital of the company paying the dividends and that participation was held continuously for the preceding two years, or from

the date of the incorporation of the company paying the dividends if that occurred later, but in this case only if the participation is held continuously throughout the same period.

2. In the case of Israel double taxation shall be eliminated as follows:
  - a) Where a resident of Israel derives income which, in accordance with the provisions of this Convention, may be taxed in Portugal, Israel shall (subject to the laws of Israel regarding the allowance of a credit of foreign taxes, which shall not affect the general principle contained in this paragraph) allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Portugal.
  - b) Where such income is a dividend paid by a company which is a resident of Portugal to a company which is a resident of Israel and which owns not less than 25 percent of the share capital of the company paying the dividend, the credit shall take into account Portuguese tax payable by that company in respect of its income.

Such deductions 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 Portugal.

3. Where in accordance with any provisions of the Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

## **CHAPTER V SPECIAL PROVISIONS**

### **Article 24 NON-DISCRIMINATION**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article I, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, relieves and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 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.

4. 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.
5. The provisions of this Article shall apply only to taxes covered by this Convention.

#### **Article 25 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 24, 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.
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.
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 26 EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Article 1. Any

information received 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, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public courts proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
  - a) To carry out administrative measures at variance with the laws and 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).

**Article 27**  
**MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

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

**CHAPTER VI**  
**FINAL PROVISIONS**

**Article 28**  
**ENTRY INTO FORCE**

1. Each Contracting State shall notify the other, in writing, through diplomatic channels, the completion of the procedures required by its laws for the entering into force of this Convention. The Convention shall enter into force thirty days after the date of reception of the latter of these notifications.
2. The provisions of this Convention shall have effect:
  - a) in respect of taxes withheld at source, thirty days after the date in which this Convention enters into force;
  - b) in respect of other taxes, as to income arising in any fiscal year beginning on or after the first day of January of the year in which this Convention enters into force.

**Article 29**  
**TERMINATION**



1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after a period of five years from the date of its entry into force.
2. In such event, the Convention shall cease to have effect:
  - a) in respect of taxes withheld at source, the fact giving rise to them appearing on or after the first day of January of the year next following that specified in the said notice of termination;
  - b) in respect of other taxes, as to income arising in the fiscal year beginning on or after the first day of January of the year next following that specified in the said notice of termination.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

Done in duplicate at ..... this ..... day of ....., 200....., which corresponds to the ..... day ..... of the Hebrew Calendar, in the Portuguese, Hebrew and English languages, all texts being equally authentic. In case of any divergence of interpretation of the text of this Convention, the English text shall prevail.

_____ For the Portuguese Republic	_____ For the Government of the State of Israel
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## PROTOCOL

At signing the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income between the Portuguese Republic and the Government of the State of Israel, the undersigned have agreed upon the following provisions, which form an integral part of the Convention:

**1. Ad Article 2, paragraph 1, Article 4, paragraph 1, Article 11, paragraph 3, and Article 19, paragraphs 1 (a), 2 (a) and 3**

It is understood that the term «political or administrative subdivisions» presently refers to the Portuguese autonomous regions of Azores and Madeira.

**2. Ad Article 2**

Should Portugal or Israel introduce a tax on capital, the Contracting States shall consult each other to reach an agreement regarding the extension of the scope of the Convention to taxes on capital.

**3. Ad Article 3, paragraph 2**

With respect to Israel, the term «law» in paragraph 2 of Article 3 includes rules, regulations, administrative directives and court decisions of the State of Israel.

**4. Ad Article 8, paragraph 3**

Whenever companies from different countries have agreed to carry on an air transportation business together in a form of a consortium or a similar form of association, the provisions of paragraph 1 shall apply to such part of the profits of the consortium or association as corresponds to the participation held in that consortium or association by a company that is a resident of a Contracting State.

**5. Ad Article 9, paragraph 2**

It is understood that the adjustment shall be made if that other State referred to in this paragraph considers the adjustment justified.

**6. Ad Article 10, paragraph 3**

It is understood that the term «dividends» as used in this Article also includes profits attributed under an arrangement for participation in profits («associação em participação»).

**7. Ad Article 11, paragraph 4**

It is understood that interest paid to the seller, and in connection with the selling, of any industrial, commercial or scientific equipment, or any merchandise sold by

him on credit shall not be regarded as interest for the purpose of this Article, provided that the period of such credit does not exceed six months.

**8. Ad Article 13, paragraph 4**

The term «comparable interest» means any right in relation to a share in a real estate entity (including an option for such right), whether conferred by a real estate entity's memorandum of incorporation and bylaws, by an agreement between the entity's members or in any other manner.

**9. Ad Article 16, paragraph 2**

- a) The term «supervisory board» in Article 16 refers to the superior supervisory organ of a corporation (in Portugal, «conselho fiscal» or «fiscal único»).
- b) It is agreed that Article 16 shall not apply to any remuneration paid to a member of any board or organ referred to in this Article in connection with his performance of any function other than his function as a member of such body or organ.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Protocol.

Done in duplicate at ..... this ..... day of ....., 200....., which corresponds to the ..... day ..... of the Hebrew Calendar, in the Portuguese, Hebrew and English languages, all texts being equally authentic. In case of any divergence of interpretation of the text of this Protocol, the English text shall prevail.

_____ For the Portuguese Republic	_____ For the Government of the State of Israel
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