
A.L. 432 tal-2010**ATT DWAR IT-TAXXA FUQ L-INCOME
(KAP. 123)****Ordni tal-2010 dwar Helsen minn Taxxa Doppja
(Taxxi fuq l-Income) (Jersey)**

BIS-SAHHA tas-setgħat mogħtija bl-artikolu 76 tal-Att dwar it-Taxxa fuq l-Income, il-Ministru tal-Finanzi, l-Ekonomija u Investiment għamel dan l-ordni li ġej:-

1. It-titolu ta' dan l-ordni hu Ordni tal-2010 dwar Helsen minn Taxxa Doppja (Taxxi fuq l-Income) (Jersey). Titolu.

2. B'dan qieghed jiġi dikjarat:-

Arrangamenti
jkollhom effett.

(a) illi l-arrangamenti speċifikati fil-Ftehim muri fl-Iskeda saru mal-Gvern ta' Jersey sabiex jagħtu helsen minn taxxa doppja dwar it-taxxa li ġejja imposta bil-ligijiet ta' Jersey:

- it-taxxa fuq l-income;

(b) illi huwa spedjenti li daww l-arrangamenti għandu jkollhom effett;

(c) illi l-Ftehim beda jseħħ fid-19 ta' Lulju, 2010.

SKEDA
Artikolu 2

FTEHIM BEJN
MALTA

U
JERSEY

GHALL-EVITAR TA' TAXXA DOPPJA
U L-PREVENZJONI TA' EVAŻJONI FISKALI
DWAR TAXXI FUQ L-*INCOME*

Il-Gvern ta' Malta u l-Gvern ta' Jersey, billi jixtiequ jagħmlu Ftehim għall-evitar ta' taxxa doppja u l-prevenzjoni ta' evażjoni fiskali dwar taxxi fuq l-*income*, ftehm u kif ġej:

Artiklu 1
PERSUNI KOPERTI

Dan il-Ftehim għandu japplika għal persuni li jkunu residenti ta' Parti waħda jew taż-żewġ Partijiet.

Artiklu 2
TAXXI KOPERTI

1. Dan il-ftehim għandu japplika għat-taxxi fuq l-*income* imposti f'isem Parti jew is-sottodivizjonijiet politiċi jew awtoritajiet lokali tiegħu, irrispettivament mill-mod kif dawn jingabru.

2. Għandhom jitqiesu bħala taxxi fuq l-*income* it-taxxi kollha imposti fuq l-*income* totali, jew fuq elementi ta' *income*, inklużi taxxi fuq il-qligħ mit-trasferiment ta' proprjetà mobbli jew immobbli u taxxi fuq l-ammonti totali ta' pagi jew salarji mħallsa minn impriżi.

3. It-taxxi eżistenti li dwarhom japplika dan il-Ftehim huma:

(a) fil-każ ta' Malta:

- it-taxxa fuq l-*income* (hawn iżjed 'il quddiem imsejha "it-taxxa ta' Malta"); u

(b) fil-każ ta' Jersey:

- it-taxxa fuq l-*income* (hawn iżjed 'il quddiem imsejha "it-taxxa ta' Jersey").

4. Dan il-Ftehim għandu japplika wkoll għal kull taxxa identika jew sostanzjalment simili li tiġi imposta wara d-data meta jiġi ffirmat dan il-Ftehim b'żjieda mat-taxxi eżistenti jew minflokhom. L-awtoritajiet kompetenti tal-Partijiet għandhom jgħarrfu lil xulxin b'kull tibdil sinifikanti li jkun sar fil-liġijiet dwar it-taxxa rispettivi tagħhom.

Artiklu 3 **TIFSIRIET ĠENERALI**

1. Għall-għanijiet ta' dan il-Ftehim, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra:

(a) il-frazi "Malta" tfisser ir-Repubblika ta' Malta u, meta tiġi użata f'sens ġeografiku, tfisser il-gżira ta' Malta, il-gżira ta' Ghawdex u l-gzejjer l-oħra tal-arċipelagu Malti inklużi l-ibħra territorjali tagħhom, kif ukoll kull area ta' qiegħ il-baħar, is-sottoswol tiegħu u l-kolonna ta' baħar sovraġċenti li tinsab adjaċenti mal-ibħra territorjali, li fihom Malta teżerċita drittijiet sovrani, ġurisdizzjoni, jew kontroll skont id-dritt internazzjonali u d-dritt nazzjonali tagħha, inkluża l-leġislazzjoni tagħha għar-rigward tal-esplorazzjoni tal-blata kontinentali u l-esplorazzjoni tar-riżorsi naturali tagħha;

(b) il-frazi "Jersey" tfisser il-Bailiwick ta' Jersey u, meta tiġi użata f'sens ġeografiku, tfisser il-gżira ta' Jersey, inkluż il-baħar territorjali tagħha, skont id-dritt internazzjonali;

(ċ) il-frażijiet "Parti" u "il-Parti l-oħra" ifissru Malta jew Jersey, skont ir-rabta tal-kliem;

(d) il-frazi "persuna" tinkludi individwu, kumpannija u kull korp ieħor ta' persuni;

(e) il-frazi "kumpannija" tfisser kull korp magħqud jew kull entità li tkun ittrattata bħala korp magħqud għall-finijiet ta' taxxa;

(f) il-frażijiet "impriza ta' Parti" u "impriza tal-Parti l-oħra" ifissru rispettivament impriza ġestita minn residenti ta' Parti u impriza ġestita minn residenti tal-Parti l-oħra;

(g) il-frazi "traffiku internazzjonali" tfisser kull trasport permezz ta' bastiment jew b'ingeni tal-ajru mhaddem minn impriza ta' Parti, hliet meta l-bastiment jew l-ingeni tal-ajru jkun unikament imhaddem bejn postijiet fil-Parti l-oħra;

(h) il-frazi "awtorità kompetenti" tfisser:

(i) fil-każ ta' Malta, il-Ministru responsabbli għall-finanzi jew ir-rappreżentant awtorizzat tiegħu;

(ii) fil-każ ta' Jersey, il-Ministru tat-Teżor u r-Rizorsi jew ir-rappreżentant awtorizzat tiegħu;

(i) il-frazi "nazzjonali" jew "ċittadin", dwar Parti, tfisser, fejn ikun japplika:

(i) kull individwu li jkollu n-nazzjonalità jew iċ-ċittadinanza ta' Parti;

(ii) kull persuna ġuridika, soċjetà jew assoċjazzjoni li jiksbu l-istatus tagħhom bħala tali mil-liġijiet li jkunu fis-seħh f'Parti.

2. Dwar l-applikazzjoni tal-Ftehim f'kull żmien minn Parti, kull frazi li ma tkunx imfissra fih għandu jkollha, kemm-il darba r-rabta tal-kliem ma tkunx teħtieġ xort'oħra, it-tifsira mogħtija lilha li jkollha f'dak il-waqt taħt il-liġi ta' dik il-Parti għall-finijiet tat-taxxi li dwarhom ikun japplika l-Ftehim, hekk li kull tifsira taħt il-liġijiet tat-taxxa li jkunu japplikaw ta' dik il-Parti tkun tipprevali fuq tifsira mogħtija lil dik il-frazi taħt liġijiet oħra ta' dik il-Parti.

Artiklu 4 RESIDENTI

1. Għall-finijiet ta' dan il-Ftehim, il-frazi "residenti ta' Parti" tfisser kull persuna li, taħt il-liġijiet ta' dik il-Parti, tkun soġġetta għat-taxxa fih minhabba fid-domicilju tagħha, ir-residenza, il-post tal-manigġ jew kull kriterju ieħor ta' xorta bħal dawk, u tinkludi wkoll lil dik il-Parti u lil kull sottodivizjoni politika jew awtorità lokali tagħha u lil kull fond ta' pensjoni jew skema ta' pensjoni rikonoxxuta minn dik il-Parti. Din il-frazi, madankollu, ma tinkludix lil xi persuna li tkun soġġetta għat-taxxa f'dik il-Parti f'dak li għandu x'jaqsam biss ma' *income* minn ghejjun f'dik il-Parti.

2. Meta minhabba fid-dispożizzjonijiet tal-paragrafu 1 individwu jkun residenti taż-żewġ Partijiet, allura l-istatus tiegħu għandu jiġi stabbilit kif ġej:

(a) huwa għandu jitqies li jkun residenti biss tal-Parti li fiha jkollu dar permanenti għad-dispożizzjoni tiegħu; jekk huwa jkollu dar permanenti għad-dispożizzjoni tiegħu fiż-żewġ Partijiet, huwa għandu jitqies li jkun residenti biss tal-Parti li miegħu jkunu l-aktar marbuta r-relazzjonijiet personali u ekonomiċi tiegħu (ċentru ta' interessi vitali);

(b) jekk il-Parti li fiha huwa jkollu ċ-ċentru ta' interessi vitali ma tkunx tista' tiġi stabbilita, jew jekk huwa ma jkollux għad-dispożizzjoni tiegħu dar permanenti f'xi Parti waħda jew l-oħra, huwa għandu jitqies li jkun residenti biss tal-Parti li fiha jkun soltu jirrisjedi;

(ċ) jekk huwa soltu jirrisjedi fiż-żewġ Partijiet jew f'ebda waħda minnhom, huwa għandu jitqies li jkun residenti biss tal-Parti li jkun nazzjonali jew ċittadin tagħha;

(d) jekk huwa jkun nazzjonali jew ċittadin taż-żewġ Partijiet jew ta' ebda waħda minnhom, l-awtoritajiet kompetenti tal-Partijiet għandhom jiddeċiedu l-każ bi ftehim reċiproku bejnithom.

3. Meta minhabba fil-provvedimenti tal-paragrafu 1 persuna li ma tkunx individwu tkun residenti taż-żewġ Partijiet, allura dik il-persuna għandha titqies bħala residenti biss fil-Parti fejn ikun jinsab il-post ta' maniġġ effettiv tagħha.

Artiklu 5

STABILIMENT PERMANENTI

1. Għall-finijiet ta' dan il-Ftehim, il-frazi "stabiliment permanenti" tfisser post tan-negozju fiss li minnu jitmexxa l-kummerċ ta' impriża għalkollox jew f'parti minnu.

2. Il-frazi "stabiliment permanenti" b'mod speċjali tinkludi:

(a) post ta' maniġġ;

(b) fergħa;

(ċ) uffiċċju;

(d) fabbrika;

(e) ħanut tax-xogħol; u

(f) minjiera, bir taż-żejt jew tal-gass, barriera jew kull post ieħor ta' estrazzjoni ta' riżorsi naturali.

3. Sit fejn ikun qed jittella' bini jew proġett ta' installazzjoni jikkostitwixxi stabiliment permanenti biss jekk dan idum għal iżjed minn sitt xhur.

4. Minkejja l-provvedimenti ta' qabel ta' dan l-Artiklu, il-frazi "stabiliment permanenti" għandha titqies li ma tinkludix:

(a) l-użu ta' faċilitajiet bl-iskop uniku ta' hażna, wiri jew tqassim ta' oġġetti jew merkanzija li jkunu jappartjenu lill-impriża;

(b) iż-żamma ta' hażna ta' oġġetti jew merkanzija li tkun tappartjeni lill-impriża bl-iskop uniku ta' hżin, wiri jew tqassim;

(ċ) iż-żamma ta' hażna ta' oġġetti jew ta' merkanzija li tkun tappartjeni lill-impriza bl-iskop uniku ta' ipproċessar minn impriza oħra;

(d) iż-żamma ta' post fiss ta' negozju bl-iskop uniku ta' xiri ta' oġġetti jew ta' merkanzija, jew ta' ġbir ta' tagħrif, għall-impriza;

(e) iż-żamma ta' post fiss ta' negozju bl-iskop uniku li tiġi ġestita, għall-impriza, kull attività oħra ta' xorta preparatorja jew awżiljarja;

(f) iż-żamma ta' post ta' negozju fiss bl-iskop uniku li tkun tista' ssir xi kombinazzjoni ta' attivitajiet imsemmija fis-subparagrafi (a) sa (e), sakemm l-attività kollha tal-post tan-negozju fiss li tirriżulta minn din il-kombinazzjoni tkun waħda ta' xorta preparatorja jew awżiljarja.

5. Minkejja l-provvedimenti tal-paragrafi 1 u 2, meta persuna - li ma tkunx aġent bi status indipendenti li għalih japplika l-paragrafu 6 - tkun qiegħda taġixxi f'isem xi impriza u jkollha, u tkun abitwalment teżerċita, f'Parti l-awtorità li tagħmel kuntratti f'isem l-impriza, dik l-impriza għandha titqies li jkollha stabbiliment permanenti f'dik il-Parti għar-rigward ta' kull attività li dik il-persuna tagħmel għall-impriza, sakemm l-attivitajiet ta' dik il-persuna ma jkunux limitati għal dawk imsemmija fil-paragrafu 4 illi, jekk dawn jiġu eżerċitati minn go post tan-negozju fiss, ma jkunux jirrendu lil dak il-post tan-negozju fiss bħala stabbiliment permanenti taht il-provvedimenti ta' dak il-paragrafu.

6. Impriza m'għandhiex titqies li jkollha stabbiliment permanenti f'Parti biss minhabba li tkun tiġġestixxi negozju f'dik il-Parti permezz ta' sensal, aġent b'kummissjoni ġenerali jew kull aġent ieħor bi status indipendenti, sakemm dawk il-persuni jkunu qiegħdin jaġixxu fil-kors ordinarju tan-negozju tagħhom.

7. Il-fatt li kumpannija li tkun residenti ta' Parti tkun tikkontrolla jew tkun kontrollata minn kumpannija li tkun residenti tal-Parti l-oħra, jew li tkun tiġġestixxi negozju f'dik il-Parti l-oħra (sew permezz ta' stabbiliment permanenti sew xort'oħra), m'għandux fih innifsu jikkostitwixxi lil kumpannija waħda jew l-oħra stabbiliment permanenti tal-kumpannija l-oħra.

Artiklu 6

INCOME MINN PROPRJETÀ IMMOBBLI

1. *Income* li jinkiseb minn residenti ta' Parti minn proprjetà immobbli (inkluż *income* mill-agrikoltura jew mill-ħidma fil-boskijiet) li tkun tinsab fil-Parti l-oħra jista' jiġi intaxxat f'dik il-Parti l-oħra.

2. Il-frazi "proprjetà immobbli" għandu jkollha t-tifsira li għandha taht il-liġi tal-Parti fejn tkun tinsab il-proprjetà involuta. Il-frazi għandha f'kull każ tinkludi proprjetà aċċessorja għal proprjetà immobbli, bhejjem f'razzett u tagħmir li jintuza fl-agrikoltura u fil-ħidma fil-boskijiet, drittijiet li għalihom japplikaw il-

provvedimenti tal-liġi ġenerali dwar il-proprjetà tal-art, l-użufrutt tal-proprjetà immobbli u drittijiet dwar hlasijiet varjabbli jew fissi bħala korrispettiv għal hidma fi, jew id-dritt li jinħadmu, depożiti minerali, ghejjun u riżorsi naturali oħra; bastimenti u inġenji tal-ajru m'għandhomx jitqiesu bħala proprjetà immobbli.

3. Il-provvedimenti tal-paragrafu 1 għandhom ikunu japplikaw għal *income* li jinkiseb mill-użu dirett, il-kiri, jew l-użu b'kull mod ieħor ta' proprjetà immobbli.

4. Il-provvedimenti tal-paragrafi 1 u 3 għandhom japplikaw ukoll għal *income* minn proprjetà immobbli ta' impriza u għal *income* minn proprjetà immobbli użata għall-għemil ta' servizzi personali indipendenti.

Artiklu 7

PROFITTI MINN NEGOZJU

1. Il-profitti ta' impriza ta' Parti għandhom jiġu intaxxati biss f'dik il-Parti kemm-il darba l-impriza ma tkunx tmexxi negozju fil-Parti l-oħra permezz ta' stabbiliment permanenti li jkun jinsab hemmhekk. Jekk l-impriza tkun qiegħda tmexxi negozju kif hawn aktar qabel imsemmi, il-profitti tal-impriza jistgħu jiġu intaxxati fil-Parti l-oħra iżda biss għal dik il-parti minnhom daqs kemm tkun attribwibbli lil dak l-istabbiliment permanenti.

2. Bla ħsara għall-provvedimenti tal-paragrafu 3, meta impriza ta' Parti tkun tmexxi negozju fil-Parti l-oħra permezz ta' stabbiliment permanenti li jkun jinsab hemmhekk, għandhom f'kull Parti jiġu attribwiti lil dak l-istabbiliment permanenti l-profitti li dan kien ikun mistenni jagħmel kieku kien impriza distinta u separata li taħdem fl-istess attivitajiet jew oħrajn bħalhom taħt l-istess kundizzjonijiet jew oħrajn bħalhom u li tkun tittratta għalkollox b'mod indipendenti mal-impriza li tkun stabbiliment permanenti tagħha.

3. Sabiex jiġu stabbiliti l-profitti ta' stabbiliment permanenti, għandhom ikunu permessi bħala tnaqqis dawk l-ispejjeż li jsiru għall-għanijiet tal-istabbiliment permanenti, inklużi l-ispejjeż eżekuttivi u amministrattivi ġenerali li jkunu saru, sew fil-Parti li fih ikun jinsab l-istabbiliment permanenti sew band'oħra.

4. Sakemm tkun il-konswetudni f'Parti li jiġu stabbiliti l-profitti li għandhom jiġu attribwiti lil stabbiliment permanenti abbażi ta' tqassim tal-profitti totali tal-impriza lill-partijiet diversi tagħha, ebda haġa fil-paragrafu 2 m'għandha tipprekludi lil dik il-Parti milli tistabbilixxi l-profitti li għandhom jiġu intaxxati b'dak it-tqassim skont ma tista' tkun il-konswetudni; il-metodu ta' tqassim li jiġi adottat għandu, madankollu, isir b'tali mod li r-riżultat ikun skont il-prinċipji li jinsabu f'dan l-Artiklu.

5. Ebda profitti m'għandhom jiġu attribwiti lil stabbiliment permanenti

minhabba biss f'li jsir ix-xiri minn dak l-istabbiliment permanenti ta' oġġetti jew merkanzija għall-impriza.

6. Għall-għanijiet tal-paragrafi preċedenti, il-profitti li għandhom jiġu attribwiti lill-istabbiliment permanenti għandhom jiġu stabbiliti bl-istess metodu sena wara l-oħra kemm-il darba ma jkunx hemm raġuni tajba u suffiċjenti għaliex dan m'għandux isir.

7. Meta l-profitti jkunu jinkludu oġġetti ta' *income* li jkunu qiegħdin jiġu trattati separatament f'Artikli oħra ta' dan il-Ftehim, għaldaqshekk il-provvedimenti ta' dawk l-Artikli m'għandhomx jintlaqtu bil-provvedimenti ta' dan l-Artiklu.

Artiklu 8

TBAHHIR U TRASPORT BL-AJRU

1. Il-profitti li jinkisbu minn impriza ta' Parti mit-tħaddim ta' bastimenti jew inġenji tal-ajru fi traffiku internazzjonali għandhom jiġu intaxxati biss f'dik il-Parti.

2. Għall-finijiet ta' dan l-Artiklu, il-profitti li jinkisbu mit-tħaddim fi traffiku internazzjonali ta' bastimenti jew inġenji tal-ajru jinkludu profitti:

(a) li jinkisbu mill-kiri ta' bastimenti u inġenji tal-ajru fuq bażi *bareboat* jekk dawn jithaddmu fi traffiku internazzjonali; u

(b) li jinkisbu mill-użu, manutenzjoni jew kiri ta' *containers* (inklużi *trailers* u tagħmir li għandu x'jaqsam magħhom għat-trasport ta' *containers*) użati għat-trasport ta' oġġetti jew merkanzija,

meta dawk il-profitti li jsiru mill-kiri jew profitti li jsiru minn dak l-użu, manutenzjoni jew kiri, skont il-każ, ikunu incidentali għall-profitti deskritti fil-paragrafu 1.

3. Il-provvedimenti tal-paragrafu 1 għandhom ikunu japplikaw ukoll għal profitti miksubin mill-partecipazzjoni f'*pool*, negozju bi shab jew agenzija b'operat internazzjonali.

Artiklu 9

IMPRIŻI ASSOĊJATI

1. Meta

(a) impriza ta' Parti tipparteċipa sew direttament sew indirettament fit-tmexxija, il-kontroll jew il-kapital ta' impriza tal-Parti l-oħra; jew

(b) L-istess persuni jipparteċipaw sew direttament sew indirettament fit-tmexxija, il-kontroll jew il-kapital ta' impriża ta' Parti u ta' impriża tal-Parti l-oħra,

u f'kull każ isiru jew jiġu imposti kondizzjonijiet bejn iż-żewġ impriżi fir-relazzjonijiet kummerċjali jew finanzjarji tagħhom li ma jkunux jaqblu ma' dawk li kieku kienu jiġu magħmulin bejn impriżi indipendenti, f'dak il-każ il-profitti li, kieku ma kienx għal dawk il-kondizzjonijiet, kienu jakkumulaw favur xi waħda mill-impriżi, iżda, minhabba f'dawk il-kondizzjonijiet, ma jkunux ġew hekk akkumulati, jistgħu jiġu inklużi fil-profitti ta' dik l-impriża u jiġu intaxxati skont hekk.

2. Meta Parti tkun tinkludi fil-profitti ta' impriża ta' dik il-Parti - u skont hekk tintaxxa - profitti li fuqhom impriża tal-Parti l-oħra tkun ġiet intaxxata f'dik il-Parti l-oħra u l-profitti li jiġu hekk inklużi jkunu profitti li kienu jinqalgħu mill-impriża tal-ewwel Parti msemmija li kieku l-kondizzjonijiet magħmulin bejn iż-żewġ impriżi kienu dawk li kieku kienu jsiru bejn impriżi indipendenti, allura dik il-Parti l-oħra għandha tagħmel tibdil adatt fl-ammont tat-taxxa hemm mitluba fuq dawk il-profitti. Biex jiġi stabbilit dak it-tibdil, għandhom jitqiesu kif imiss il-provvedimenti l-oħra ta' dan il-Ftehim u l-awtoritajiet kompetenti tal-Partijiet għandhom, jekk ikun hekk meħtieġ, jikkonsultaw lil xulxin.

Artiklu 10

DIVIDENDI

1. Id-dividendi mħallsa minn kumpannija li tkun residenti ta' Parti lil residenti tal-Parti l-oħra li jkun is-sid benefiċjarju tagħhom, għandhom jiġu intaxxati biss f'dik il-Parti l-oħra.

2. Madankollu, sakemm Malta tkun topera sistema ta' imputazzjoni tat-taxxa fuq il-profitti tal-kumpanniji, meta d-dividendi jiġihallsu minn kumpannija li tkun residenti ta' Malta lil residenti ta' Jersey li jkun is-sid benefiċjarju tagħhom, Malta tista' wkoll titlob it-taxxa fuq l-ammont totali ta' dividendi, u dik it-taxxa m'għandhiex tkun taqbez dik li għandha tithallas fuq il-profitti li minnhom jiġihallsu d-dividendi.

3. Il-paragrafi 1 u 2 m'għandhomx jaffettwaw it-taxxa li tingabar mill-kumpannija dwar dawk il-profitti li d-dividendi jiġihallsu minnhom.

4. Il-frazi "dividendi" skont ma tintuża f'dan l-Artiklu tfisser *income* minn ishma, ishma tal-minjieri, ishma tal-fundaturi jew jeddijiet oħra, li ma jkunux pretensjonijiet ta' debitu, il-parteeċipazzjoni fi profitti, kif ukoll *income* minn drittijiet korporattivi oħra li jingħata l-istess trattament dwar it-taxxa bħallikieku kien *income* minn ishma bil-liġijiet tal-Parti fejn tkun residenti l-kumpannija li tkun qiegħda tagħmel it-tqassim.

5. Il-provvedimenti tal-paragrafi 1 u 2 m'għandhomx ikunu japplikaw jekk is-sid benefiċjarju tad-dividendi, li jkun residenti ta' Parti, ikun imexxi negozju fil-Parti l-oħra li l-kumpannija li tħallas id-dividendi tkun residenti tiegħu, permezz ta' stabbiliment permanenti li jkun sitwat hemmhekk, jew li jkun jagħmel f'dik il-Parti l-oħra servizzi personali indipendenti minn bażi stabbilita sitwata fih, u l-*holding* li dwarhom jithallsu d-dividendi jkollu effettivament x'jaqsam ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ għandhom japplikaw il-provvedimenti tal-Artiklu 7 jew tal-Artiklu 14 ta' dan il-Ftehim, skont il-każ.

6. Meta kumpannija li tkun residenti ta' Parti tikseb profitti jew *income* mill-Parti l-oħra, dik il-Parti l-oħra ma tista' timponi ebda taxxa fuq id-dividendi mhallsa mill-kumpannija, ħlief sakemm dawk id-dividendi jithallsu lil residenti ta' dik il-Parti l-oħra jew sakemm il-*holding* li dwaru jithallsu d-dividendi jkun effettivament konness ma' stabbiliment permanenti jew ma' bażi stabbilita li jkunu jinsabu f'dik il-Parti l-oħra, lanqas ma jista' jassoġġetta l-profitti mhux imqassma tal-kumpannija għal taxxa fuq il-profitti mhux imqassma tal-kumpannija, ukoll jekk id-dividendi mhallsa jew il-profitti mhux imqassma jkunu kollha kemm huma jew f'parti minnhom jikkonsistu fi profitti jew *income* li jinqalgħu f'dik il-Parti l-oħra.

Artiklu 11

MGHAX

1. Mghax li jinqala' f'Parti u jithallas lil residenti tal-Parti l-oħra għandu jiġi intaxxat biss f'dik il-Parti l-oħra.

2. Il-frazi "mghax" kif tintuża f'dan l-Artiklu tfisser *income* minn pretensjonijiet ta' debitu ta' kull xorta, sew jekk assikurati b'ipoteka sew jekk le u kemm jekk ikollhomx dritt li jipparteċipaw fil-profitti tad-debitur kemm jekk le, u b'mod partikolari, *income* minn titoli tal-Gvern u *income* minn bonds jew obligazzjonijiet, inklużi *premiums* u premjijiet relatati ma dawk it-titoli, bonds jew obligazzjonijiet. Il-ħlasijiet ta' penali għal ħlas tardiv ma jitqiesux bħala mghax għall-fini ta' dan l-Artiklu.

3. Il-provvedimenti tal-paragrafu 1 m'għandhomx ikunu japplikaw jekk is-sid benefiċjarju tal-mghax, li jkun residenti ta' Parti, ikun qed imexxi negozju fil-Parti l-oħra li fiha jinqala' l-imghax, permezz ta' stabbiliment permanenti li jkun jinsab hemmhekk, jew jagħmel f'dik il-Parti l-oħra servizzi personali indipendenti minn bażi stabbilita li tkun tinsab fiha, u l-pretensjoni ta' debitu li dwarha jithallas l-imghax tkun effettivament konnessa ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ, għandhom japplikaw il-provvedimenti tal-Artiklu 7 jew tal-Artiklu 14, skont il-każ.

4. Meta, minħabba f'relazzjoni speċjali bejn min iħallas u s-sid benefiċjarju jew bejn it-tnejn li huma u xi persuna oħra, l-ammont tal-imghax, wara li titqies xi tkun il-pretensjoni ta' debitu li dwarha jithallas, ikun iżjed mill-

ammont li kien ikun miftiehem bejn min iħallas u s-sid benefiċjarju li kieku ma kienx hemm dik ir-relazzjoni, il-provvedimenti ta' dan l-Artiklu għandhom ikunu japplikaw biss għall-ammont l-aħħar imsemmi. F'dak il-każ, il-parti żejda tal-ħlasijiet għandha tibqa' taxxabbli skont il-liġijiet ta' kull Parti, fil-qies tal-provvedimenti l-oħra ta' dan il-Ftehim.

Artiklu 12 **ROYALTIES**

1. *Royalties* li jinqalghu f'Parti u li jkunu proprjetà benefiċjarja ta' residenti tal-Parti l-oħra għandhom jigu intaxxati biss f'dik il-Parti l-oħra.

2. Il-frazi "*royalties*" skont ma tintuża f'dan l-Artiklu tfisser ħlasijiet ta' kull xorta li jsiru b'korrispettiv għall-użu ta', jew għall-jedd tal-użu, ta' kull dritt tal-awtur ta' xogħol letterarju, artistiku jew xjentifiku (inklużi films ċinematografiċi, kull privattiva, *trade mark*, disinn jew mudell, pjan, formula jew proċess sigrieti, jew għal informazzjoni dwar konoxxenza industrijali, kummerċjali jew xjentifika.

3. Il-provvedimenti tal-paragrafu 1 m'għandhomx japplikaw jekk is-sid benefiċjarju tar-*royalties*, li jkun residenti ta' Parti, ikun qed imexxi negozju fil-Parti l-oħra fejn jinqalghu r-*royalties*, permezz ta' stabbiliment permanenti li jkun jinsab hemmhekk, jew ikun qiegħed jagħmel f'dik il-Parti l-oħra servizzi personali indipendenti minn bażi stabbilita li tkun tinsab fih, u d-dritt jew il-proprjetà li dwarhom jithallsu r-*royalties* ikunu effettivament konnessi ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ għandhom japplikaw il-provvedimenti tal-Artiklu 7, jew tal-Artiklu 14, skont il-każ.

4. Meta, minħabba fir-relazzjoni speċjali bejn min iħallas u s-sid benefiċjarju jew bejniethom it-tnejn u xi persuna oħra, l-ammont tar-*royalties*, meta jiġi kkunsidrat x'ikun l-użu, id-dritt jew l-informazzjoni li jithallsu għalihom, ikun iżjed mill-ammont li kien ikun miftiehem bejn min iħallas u s-sid benefiċjarju li kieku ma kienx hemm dik ir-relazzjoni, il-provvedimenti ta' dan l-Artiklu għandhom ikunu japplikaw biss għall-aħħar imsemmi ammont. F'dak il-każ, il-parti żejda tal-ħlasijiet għandha tibqa' taxxabbli skont il-liġijiet ta' kull Parti, wara li jitqiesu l-provvedimenti l-oħra ta' dan il-Ftehim.

Artiklu 13 **QLIĠH MINN KAPITAL**

1. Qliġh li jinkiseb minn residenti ta' Parti mit-trasferiment ta' proprjetà immobbli imsemmija fl-Artiklu 6 u li tkun tinsab fil-Parti l-oħra jista' jiġi intaxxat f'dik il-Parti l-oħra.

2. Qliġh mit-trasferiment ta' proprjetà mobbli li tagħmel parti mill-

proprjetà tan-negozju ta' stabbiliment permanenti li impriza ta' Parti jkollha fil-Parti l-oħra jew ta' proprjetà mobbli li tkun tappartjeni għal bażi stabbilita li tkun disponibbli għal residenti ta' Parti fil-Parti l-oħra bil-għan li jitwettqu servizzi personali indipendenti, inkluż dak il-qligh mit-trasferiment ta' dak l-istabbiliment permanenti (waħdu jew flimkien mal-impriza kollha) jew ta' dik il-baži stabbilita, jista' jiġi intaxxat f'dik il-Parti l-oħra.

3. Kull qligh li jinkiseb minn impriza ta' Parti mit-trasferiment ta' bastimenti jew inġenji tal-ajru li jkunu qieghdin jiġu operati fi traffiku internazzjonali, jew minn proprjetà mobbli li tkun tappartjeni għall-operazzjoni ta' dawk il-bastimenti jew inġenji tal-ajru, għandu jiġi intaxxat biss f'dik il-Parti.

4. Kull qligh li jinkiseb minn residenti ta' Parti mit-trasferiment ta' ishma li iżjed minn 50 fil-mija tal-valur tagħhom joriġina direttament jew indirettament minn proprjetà immobbli li tkun tinsab fil-Parti l-oħra jista' jiġi intaxxat f'dik il-Parti l-oħra.

5. Qligh mit-trasferiment ta' proprjetà li ma tkunx dik imsemmija fil-paragrafi 1, 2, 3 u 4 għandu jiġi intaxxat biss fil-Parti li min jittrasferixxi jkun residenti fiha.

Artiklu 14

SERVIZZI PERSONALI INDIPENDENTI

1. *Income* li jinkiseb minn residenti ta' Parti għal servizzi professjonali jew attivitajiet oħra ta' xorta indipendenti għandu jiġi intaxxat biss f'dik il-Parti kemm-il darba huwa ma jkollux baži stabbilita li tkun regolarment disponibbli għalih fil-Parti l-oħra bil-għan li jwettaq l-attivitajiet tiegħu. Jekk ikollu baži stabbilita bħal dik, l-*income* ikun jista' jiġi intaxxat fil-Parti l-oħra f'ammont daqs dak li jiġi attribwit lil dik il-baži stabbilita

2. Il-frazi "servizzi professjonali" tinkludi l-aktar attivitajiet indipendenti ta' xorta xjentifika, letterarja, artistika, edukattiva jew ta' taġlim kif ukoll l-attivitajiet indipendenti ta' tobba, avukati, inġiniera, arkitetti, dentisti u *accountants*.

Artiklu 15

INCOME MINN IMPJIEG

1. Bla ħsara għall-provvedimenti tal-Artikli 16, 18 u 19, is-salarji, il-pagi u kull kumpens ieħor li jinkisbu minn residenti ta' Parti dwar xi impjieg għandhom jiġu intaxxati biss f'dik il-Parti kemm-il darba l-impjieg ma jiġix eżerċitat fil-Parti l-oħra. Jekk l-impjieg jiġi hekk eżerċitat, dak il-kumpens li jinkiseb mill-impjieg jista' jiġi intaxxat f'dik il-Parti l-oħra.

2. Minkejja l-provvedimenti tal-paragrafu 1, il-kumpens li jinkiseb minn residenti ta' Parti dwar xi impjieg li jkun eżerċitat fil-Parti l-oħra għandu jiġi intaxxat biss fil-Parti l-ewwel imsemmija jekk:

(a) min jirċevih ikun joqgħod fil-Parti l-oħra għal perjodu jew perjodi li b'kollox ma jkunux ta' iżjed minn 183 ġurnata f'perjodu ta' tnaħ-il xahar li jibda għaddej jew itemm fis-sena ta' taxxa involuta, u

(b) il-kumpens jithallas minn, jew f'isem, prinċipal li ma jkunx residenti fil-Parti l-oħra; u

(ċ) il-kumpens ma jkunx ta' piż fuq l-istabbiliment permanenti jew fuq bażi stabbilita li l-prinċipal ikollu fil-Parti l-oħra.

3. Minkejja l-provvedimenti ta' qabel ta' dan l-Artiklu, kumpens li jinkiseb minn impjieg eżerċitat abbord xi bastiment jew inġenji tal-ajru operati fi traffiku internazzjonali minn impriża ta' Parti tista' tiġi intaxxata f'dik il-Parti.

Artiklu 16

DRITTIJET TAD-DIRETTURI

Id-drittijiet tad-diretturi u hlasijiet simili oħra li jinkisbu minn residenti ta' Parti fil-kapaċità tiegħu ta' membru tal-bord tad-diretturi ta' kumpannija li tkun residenti fil-Parti l-oħra jistgħu jiġu intaxxati f'dik il-Parti l-oħra.

Artiklu 17

ARTISTI U SPORTIVI

1. Minkejja l-provvedimenti tal-Artikli 14 u 15 ta' dan il-Ftehim, *income* li jinkiseb minn residenti ta' Parti bħala persuna li tagħti spetaklu, bħal artist tat-teatru, tal-films ċinematografiċi, tar-radju jew tat-televiżjoni, jew bħala mużiċist, jew bħala sportiv, mill-attivitajiet personali tiegħu bħala tali li jiġu eżerċitati fil-Parti l-oħra, jistgħu jiġu intaxxati f'dik il-Parti l-oħra.

2. Meta *income* dwar attivitajiet personali eżerċitati minn persuna li tagħti spetaklu jew minn sportiv fil-kapaċità tiegħu bħala tali ma jingabarx favur il-persuna li tagħti spetaklu jew l-isportiv innifsu iżda favur xi persuna oħra, dak l-*income* jista', minkejja l-provvedimenti tal-Artikli 14 u 15, jiġi intaxxat fil-Parti fejn jiġu eżerċitati l-attivitajiet tal-persuna li tagħti spetaklu jew tal-sportiv.

3. Il-provvedimenti tal-paragrafi 1 u 2 m'għandhomx ikunu japplikaw għal *income* li jinkiseb minn attivitajiet eżerċitati f'Parti minn persuna li tagħti spetaklu jew minn sportiv jekk iż-żjara f'dik il-Parti tkun għalkollox jew prinċipalment sostnuta b'fondi ta' xi Parti waħda jew tat-tnejn li huma jew mill-awtoritajiet lokali tagħhom. F'dak il-każ, l-*income* għandu jkun jista' jiġi intaxxat

biss fil-Parti fejn il-persuna li tagħti spettaklu jew l-isportiv ikun residenti.

Artiklu 18

PENSJONIJIET U HLASIJET TAS-SIGURTA SOĊJALI

1. Bla ħsara għall-provvedimenti tal-paragrafu 2 tal-Artiklu 19, il-pensjonijiet u kull kumpens ieħor bħal dawk li jithallsu lil residenti ta' Parti minhabba f'xi impjeg li jkun sar qabel għandhom jiġu intaxxati biss f'dik il-Parti.

2. Minkejja l-provvedimenti tal-paragrafu 1, ħlasijiet li jsiru u l-pensjonijiet li jithallsu taht il-liġijiet tas-sigurtà soċjali ta' Parti għandhom jiġu intaxxati biss f'dik il-Parti.

Artiklu 19

SERVIZZI TAL-GVERN

1. (a) Salarji, pagi u kull kumpens ieħor bħal dawk, mħallsin minn Parti jew minn sottodivizjoni politika jew minn awtorità lokali tagħha lil xi individwu għar-rigward ta' servizzi mogħtijin lil dik il-Parti jew sottodivizjoni jew awtorità għandhom jiġu intaxxati biss f'dik il-Parti.

(b) Madankollu, kull salarju, paga u kumpens ieħor bħal dawk għandhom jiġu intaxxati biss f'dik il-Parti l-oħra jekk is-servizzi jingħataw f'dik il-Parti u l-individwu jkun residenti f'dik il-Parti u:

(i) ikun nazzjonali jew ċittadin ta' dik il-Parti; jew

(ii) ma jkunx sar residenti ta' dik il-Parti unikament bil-ghan li jagħti dawk is-servizzi.

2. (a) Minkejja l-provvedimenti tal-paragrafu 1, kull pensjoni u kumpens ieħor bħalha mħallsa minn, jew li toħroġ minn fondi maħluqa minn, Parti jew sottodivizjoni politika jew awtorità lokali tagħha lil xi individwu għar-rigward ta' servizzi mogħtija lil dik il-Parti jew sottodivizjoni jew awtorità għandhom jiġu intaxxati biss f'dik il-Parti.

(b) Madankollu, dik il-pensjoni u kumpens ieħor bħalha għandhom jiġu intaxxati biss fil-Parti l-oħra jekk l-individwu jkun residenti ta' dik il-Parti u nazzjonali jew ċittadin tagħha.

3. Il-provvedimenti tal-Artikli 15, 16, 17 u 18 għandhom japplikaw għal kull salarju, paga, pensjoni u kumpens ieħor bħalhom għar-rigward ta' servizzi mogħtijin f'dak li għandu x'jaqsam ma' kummerċ ġestit minn Parti jew minn sottodivizjoni politika jew awtorità lokali tagħha.

Artiklu 20
STUDENTI U APPRENDISTI FIL-KUMMERĊ

Kull hłas li student jew apprendist fil-kummerċ li jkun jew kien minnufih qabel ma jżur Parti residenti tal-Parti l-oħra u li jkun preżenti fl-ewwel imsemmi Parti unikament bil-għan tal-edukazzjoni jew it-taħriġ tiegħu jirċievi għall-fini tal-manteniment, l-edukazzjoni jew it-taħriġ tiegħu m'għandux jiġi intaxxat f'dik il-Parti, sakemm dawk il-ħlasijiet jinqalghu minn għejjun li ma jkunux f'dik il-Parti.

Artiklu 21
INCOME IEHOR

1. Elementi ta' *income* ta' residenti ta' Parti, jinqalghu minn fejn jinqalghu, li ma jkunux ittrattati fl-Artiklu ta' hawn aktar qabel ta' dan il-Ftehim għandhom jiġu intaxxati biss f'dik il-Parti.

2. Il-provvedimenti tal-paragrafu 1 m'għandhomx japplikaw għal *income*, li ma jkunx *income* minn proprjetà immobbli kif imfisser fil-paragrafu 2 tal-Artiklu 6, jekk min jirċievi dak l-*income*, billi jkun residenti ta' Parti, ikun imexxi negozju fil-Parti l-oħra permezz ta' stabbiliment permanenti li jkun jinsab fih, jew iwettaq f'dik il-Parti l-oħra servizzi personali indipendenti minn bażi stabbilita li tkun tinsab fiha, u d-dritt jew il-proprjetà li dwarhom jithallas l-*income* ikunu effettivament konnessi ma' dak l-istabbiliment permanenti jew bażi stabbilita. F'dak il-każ, għandhom japplikaw il-provvedimenti tal-Artiklu 7 jew tal-Artiklu 14, skont il-każ.

Artiklu 22
ELIMINAZZJONI TA' TAXXA DOPPJA

1. Fil-każ ta' Malta, it-taxxa doppja għandha tiġi eliminata kif ġej:

Bla ħsara għall-provvedimenti tal-liġi ta' Malta dwar li jithalla li jingħata kreditu għat-taxxa ta' Malta dwar it-taxxa barranija, meta, skont il-provvedimenti ta' dan il-Ftehim, jiġi inkluz f' stima li ssir Malta, *income* minn għejjun ġewwa Jersey, it-taxxa ta' Jersey fuq dak l-*income* għandha tithalla li tingħata bħala kreditu għat-taxxa relattiva ta' Malta li tithallas fuqha.

2. Fil-każ ta' Jersey, it-taxxa doppja għandha tiġi eliminata kif ġej:

Bla ħsara għall-provvedimenti tal-liġi ta' Jersey dwar li jithalla li jingħata kreditu għat-taxxa ta' Jersey dwar it-taxxa barranija, meta, skont il-provvedimenti ta' dan il-Ftehim:

(a) Meta tkun qiegħda timponi taxxa fuq ir-residenti tagħha Jersey tista' tinkludi fil-baži li fuqha jiġu imposti dawk it-taxxi l-elementi ta'

income, li, skont id-dispożizzjonijiet ta' dan il-Ftehim, jistgħu jiġu intaxxati f'Malta.

(b) Meta residenti ta' Jersey jikseb *income* li, skont il-provvedimenti ta' dan il-Ftehim, jistgħu jiġu intaxxati f'Malta, Jersey għandha tħalli li ssir bħala tnaqqis mit-taxxa fuq l-*income* ta' dak ir-residenti, ammont li jkun daqs it-taxxa fuq l-*income* mħallsa f'Malta. Dak it-tnaqqis f'ebda każ m'għandu, madankollu, ikun jeċċedi dik il-parti mit-taxxa fuq l-*income*, kif din tkun giet kalkolata qabel ma jinghata t-tnaqqis, li jkun attribwibbli għall-*income* li jista' jiġi intaxxat f'Malta.

Artiklu 23

EBDA DISKRIMINAZZJONI

1. Iċ-ċittadini ta' Parti m'għandhom jiġu assoġġettati fil-Parti l-oħra għal ebda taxa jew ebda hteġa li jkunu konnessi ma' dan jekk din tkun diversa jew ta' iktar piż mit-taxxa u l-htigiet konnessi li għalihom nazzjonali jew ċittadini ta' dik il-Parti l-oħra fl-istess ċirkostanzi, b'mod partikolari għar-rigward ta' residenza, ikunu jew jistgħu jkunu assoġġettati. Dan il-provvediment għandu, minkejja l-provvedimenti tal-Artiklu 1, ikun japplika ukoll għal persuni li ma jkunux residenti ta' xi wiehed jew taż-żewġ Partijiet.

2. It-taxxa fuq stabbiliment permanenti li impriza ta' Parti jkollha fil-Parti l-oħra m'għandhiex tingabar b'mod inqas favorevoli f'dik il-Parti l-oħra mit-taxxa miġbura fuq imprizi ta' dik il-Parti l-oħra li tkun qieghda twettaq l-istess attivitajiet. Dan il-provvediment m'għandux jiftiehem bħala wiehed li jobbliga lil Parti li tikkonċedi lil residenti tal-Parti l-oħra xi *allowances* personali, helsien u tnaqqis għall-għanijiet ta' taxa minhabba fl-istatus ċivili jew fir-responsabbiltajiet familjari li dan jikkonċedi lir-residenti tiegħu.

3. Hlief meta japplikaw il-provvedimenti tal-paragrafu 1 tal-Artiklu 9, tal-paragrafu 4 tal-Artiklu 11, jew tal-paragrafu 4 tal-Artiklu 12, mgħax, *royalties* u hlasijiet oħra li jithallsu minn impriza ta' Parti lil residenti tal-Parti l-oħra għandhom, għall-fini li jiġu stabbilit x'inhuma l-profitti taxxabli ta' dik l-impriza, jiġu mnaqqsa taht l-istess kondizzjonijiet bħallikieku dawn kienu tħallsu lil residenti tal-Parti l-ewwel imsemmija.

4. Imprizi ta' Parti, li l-kapital tagħhom ikun għalkollox jew f'parti minnu proprjetà jew taht il-kontroll, sew dirett sew mhux dirett, ta' xi residenti wiehed jew aktar tal-Parti l-oħra, m'għandhom ikunu assoġġettati fl-ewwel imsemmija Parti għal ebda taxa jew għal ebda hteġa konnessa ma' dan li tkun xort'oħra jew ta' iktar piż mit-taxxa u mill-htigiet konnessi li għalihom ikunu jew jistgħu jkunu assoġġettati imprizi oħra simili tal-Parti l-ewwel imsemmija.

5. Il-provvedimenti ta' dan l-Artiklu għandhom, minkejja l-provvedimenti tal-Artiklu 2, ikunu japplikaw għal taxxi ta' kull tip u għamla.

Artiklu 24

PROĊEDURA TA' FTEHIM REĊIPROKU

1. Meta persuna jidhrilha li l-azzjonijiet ta' xi wiehed jew taż-żewġ Partijiet jirriżultawliha jew jistgħu jirriżultawliha f'taxxa li ma tkunx skont il-provvedimenti ta' dan il-Ftehim, hija tista', irrispettivament mir-rimedji provduti mil-liġi domestika ta' dawk il-Partijiet, tippreżenta l-każ tagħha quddiem l-awtorità kompetenti tal-Parti fejn hija tkun residenti jew, jekk il-każ tagħha jkun jaqa' taħt il-paragrafu 1 tal-Artiklu 23, quddiem dik tal-Parti li hija tkun nazzjonali jew ċittadin tagħha. Il-każ għandu jiġi ppreżentat fi żmien tliet snin mill-ewwel avviz tal-azzjoni li tirriżulta f'taxxa li ma tkunx skont il-provvedimenti tal-Ftehim.

2. L-awtorità kompetenti għandha tipprova, jekk l-oġġezzjoni tkun tidhrilha bħala waħda ġustifikata u jekk hi nnifisha ma tkunx tista' tasal għal soluzzjoni sodisfaċenti, tirrisolvi l-każ bi ftehim reċiproku mal-awtorità kompetenti tal-Parti l-oħra, bil-għan li tiġi evitata taxxa li ma tkunx skont il-Ftehim. Kull ftehim li jintlaħaq għandu jiġi implimentat minkejja kull skadenza ta' terminu fil-liġi domestika tal-Partijiet.

3. L-awtoritajiet kompetenti tal-Partijiet għandhom jippruvaw jirrisolvu permezz ta' ftehim reċiproku kull diffikultà jew dubbju li jistgħu joriginaw dwar l-interpretazzjoni jew l-applikazzjoni tal-Ftehim. Dawn jistgħu wkoll jikkonsultaw flimkien dwar l-eliminazzjoni ta' taxxa doppja f'dawk il-każijiet li ma jkun hemm provdut xejn dwarhom fil-Ftehim.

4. L-awtoritajiet kompetenti tal-Partijiet jistgħu jikkomunikaw direttament ma' xulxin, ukoll permezz ta' kummissjoni kongunta li tkun magħmula minnhom infushom jew mir-rappreżentanti tagħhom, bl-iskop li jilhqgħu ftehim fis-sens tal-paragrafi ta' qabel dan.

Artiklu 25

SKAMBJU TA' INFORMAZZJONI

1. L-awtoritajiet kompetenti tal-Partijiet għandhom jiskambjaw dik l-informazzjoni li tista' tkun prevista bħala rilevanti għat-twettiq tal-provvedimenti ta' dan il-Ftehim jew għall-amministrazzjoni jew l-infurzar tal-liġijiet domestiċi dwar it-taxxi li jaqgħu taħt dan il-Ftehim sakemm it-taxxa li taqa' taħthom ma tkunx tmur kontra l-Ftehim. L-iskambju ta' informazzjoni mhux ristrett bl-Artikli 1 u 2.

2. Kull informazzjoni li tiġi riċevuta taħt il-paragrafu 1 minn Parti għandha tiġi ittrattata bħala waħda sigrieta bl-istess mod bħal informazzjoni li tinkiseb taħt il-liġijiet domestiċi ta' dik il-Parti u għandha tiġi żvelata biss lil persuni jew awtoritajiet (inklużi qrati u korpi amministrattivi) li jkollhom

x'jaqsmu mal-istima jew mal-ġbir ta', l-infurzar jew prosekuzzjoni dwar, jew id-deċizzjoni ta' appelli dwar it-taxxi msemmija fil-paragrafu 1, jew in-nuqqas ta' tharis ta' dak hawn qabel imsemmi. Dawk il-persuni jew awtoritajiet għandhom jużaw dik l-informazzjoni biss għal dawk l-għanijiet. Huma jistgħu jiżvelaw l-informazzjoni fi proċeduri tal-qorti bil-miftuh jew f'deċiżjonijiet ġudizzjarji.

3. F'ebda każ m'għandhom il-provvedimenti tal-paragrafi 1 u 2 jiftiehm bħala li jimponu fuq Parti l-obbligu:

(a) li twettaq miżuri amministrattivi li ma jkunux jaqblu mal-liġijiet u mal-prattika amministrattiva ta' dik il-Parti jew tal-Parti l-oħra;

(b) li tagħti informazzjoni li ma tkunx tista' tinkiseb taħt il-liġijiet jew fil-kors normali tal-amministrazzjoni ta' dik il-Parti jew tal-Parti l-oħra;

(c) li tagħti informazzjoni li tkun tikxef xi sigriet ta' sengħa, negozju, industrija, kummerċ jew professjoni jew proċess kummerċjali, jew informazzjoni li meta din tiġi żvelata tkun tmur kontra l-ordni pubbliku (*ordre public*).

4. Jekk tintalab xi informazzjoni minn Parti skont dan l-Artikolu, il-Parti l-oħra għandha tuża l-mezzi li jkollha għall-ġbir tal-informazzjoni biex tikseb l-informazzjoni mitluba, ukoll jekk dik il-Parti l-oħra tista' ma tkunx teħtieġ dik l-informazzjoni għall-finijiet tagħha ta' ġbir ta' taxxa. L-obbligazzjoni li tinsab fis-sentenza ta' qabel hija sogġetta għal-limitazzjonijiet tal-paragrafu 3 iżda f'ebda każ ma għandhom dawk il-limitazzjonijiet jiftiehm bħala li jhallu lil xi Parti li tonqos milli tagħti xi informazzjoni biss għaliex ma jkollha ebda interess domestiku f'dik l-informazzjoni.

5. F'ebda każ m'għandhom id-disposizzjonijiet tal-paragrafu 3 jiftiehm bħala li jhallu lil Parti tirrifjuta milli tippovdi informazzjoni biss għaliex dik l-informazzjoni tkun qiegħda tinzamm minn xi bank, minn xi istituzzjoni finanzjarja oħra, minn xi *nominee* jew minn xi persuna li tkun qiegħda taġixxi f'xi aġenzija jew għax tkun fiduċjarja jew għaliex ikollha x'taqsam ma' xi interessi dwar il-proprjetá ta' xi persuna.

Artiklu 26

MEMBRI TA' MISSJONIJIET DIPLOMATIČI U KARIGI KONSULARI

Ebda haġa f'dan il-Ftehim m'għandha tolqot il-privileġġi fiskali tal-membri ta' missjonijiet diplomatiċi jew ta' karigi konsulari taħt ir-regoli ġenerali tad-dritt internazzjonali jew taħt il-provvedimenti ta' kull ftehim speċjali.

Artiklu 27
BIDU FIS-SEHH

1. Il-Partijiet għandhom javżaw lil xulxin li l-htigiet tal-liġi biex dan il-Ftehim jingiebu fis-seħħ ikunu ġew imħarsa.

2. Dan il-Ftehim għandu jidhol fis-seħħ tletin ġurnata wara d-data meta jingħata l-aħħar wieħed mill-avvizi msemmija fil-paragrafu 1 u l-provvedimenti tiegħu għandu jkollhom seħħ dwar taxxi fuq l-*income* li jinkisbu matul xi perjodu ta' taxxa jew perjodu ta' kontijiet, skont il-każ, li jibda għaddej fi jew wara l-ewwel jum ta' Jannar li jiġi minnufih wara d-data meta l-Ftehim jidhol fis-seħħ.

Artiklu 28
TERMINAZZJONI

Il-Ftehim għandu jibqa' jseħħ sakemm jiġi terminat minn xi Parti. Kull waħda mill-Partijiet tista' ttemm il-Ftehim billi tagħti avviż tat-terminazzjoni mill-inqas sitt xhur qabel it-tmiem ta' xi sena kalendarja. F'dak il-każ, il-Ftehim m'għandux jibqa' fis-seħħ għar-rigward ta' taxxi fuq l-*income* li jinkisbu matul xi perjodu ta' taxxa jew perjodu ta' kontijiet, skont il-każ, li jibda għaddej fi jew wara l-ewwel jum ta' Jannar li jiġi minnufih wara d-data meta jingħata l-avviż tat-terminazzjoni.

B'XHIEDA TA' DAN is-sottoskritti, li huma awtorizzati kif imiss biex jagħmlu dan mill-Gvernijiet rispettivi tagħhom, iffirmaw dan il-Ftehim.

MAGHMUL f'Londra llum il-25 ta' Jannar, 2010 f'żewġ originali bl-ilsien Inġliż.

Joseph Żammit Tabona
Għall-Gvern ta' Malta

Terry Le Sueur
Għall-Gvern ta' Jersey

PROTOKOLL

Filwaqt tal-iffirmar tal-Ftehim bejn Malta u Jersey għall-evitar ta' taxxa doppja u l-prevenzjoni ta' evażjoni fiskali dwar taxxi fuq *l-income*, is-sottoskritti ftehm fuq dawn id-disposizzjonijiet li għandhom jiffurmaw parti integrali mill-Ftehim.

Huwa mifhum li d-disposizzjonijiet tal-Ftehim ma jipprevenjux l-applikazzjoni tal-Ftehim fl-għamla ta' skambju ta' ittri ffirmati minn Malta fil-5 ta' Mejju, 2004 u minn Jersey fid-19 ta' Novembru, 2004 li jipprovdu dwar miżuri ekwivalenti għal dawk stipulati fid-Direttiva tal-Kunsill 2003/48/KE fuq it-taxxa fuq *income* mit-tfaddil fl-għamla ta' hlasijiet ta' mghax.

B'XHIEDA TA' DAN is-sottoskritti, li huma awtorizzati kif imiss biex jagħmlu dan mill-Gvernijiet rispettivi tagħhom, iffirmaw dan il-Protokoll.

MAGHMUL f'Londra llum il-25 ta' Jannar, 2010 f'żewġ originali bl-ilsien Inġliż.

Joseph Zammit Tabona
Għall-Gvern ta' Malta

Terry Le Sueur
Għall-Gvern ta' Jersey

L.N. 432 of 2010

**INCOME TAX ACT
(CAP. 123)**

Double Taxation Relief (Taxes on Income) (Jersey) Order, 2010

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

1. This title of this order is the Double Taxation Relief (Taxes on Income) (Jersey) Order, 2010. Citation.

2. It is hereby declared:-

Arrangements to
have effect.

(a) that the arrangements specified in the Agreement set out in the Schedule have been made with the Government of Jersey with a view to affording relief from double taxation in relation to the following tax imposed by the laws of Jersey:

- income tax;

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

(c) that the Convention has entered into force on the 19th July, 2010.

SCHEDULE

Article 2

AGREEMENT BETWEEN

MALTA

AND

JERSEY

**FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The Government of Malta and the Government of Jersey, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Party or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

3. The existing taxes to which this Agreement shall apply are:

(a) in the case of Malta:

the income tax (hereinafter referred to as "Malta tax"); and

(b) in the case of Jersey:

income tax (hereinafter referred to as "Jersey tax").

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

Article 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

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

(b) the term "Jersey" means the Bailiwick of Jersey and, when used in a geographical sense, means the island of Jersey, including its territorial sea, in accordance with international law;

(c) the terms "a Party" and "the other Party" mean Malta or Jersey, 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 that is treated as a body corporate for tax purposes;

(f) the terms "enterprise of a Party" and "enterprise of the other Party" mean respectively an enterprise carried on by a resident of a Party and an enterprise carried on by a resident of the other Party;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party;

(h) the term "competent authority" means:

(i) in the case of Malta: the Minister responsible for finance or his authorised representative;

(ii) in the case of Jersey, the Minister for Treasury and Resources or his authorised representative.

(i) the term "national" or "citizen", in relation to a Party, means, where applicable:

(i) any individual possessing the nationality or citizenship of a Party;

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

2. As regards the application of the Agreement at any time by a Party, 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 Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4 RESIDENT

1. For the purposes of this Agreement, the term "resident of a Party" means any person who, under the laws of that Party, 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 Party and any political subdivision or local authority thereof and any pension fund or pension scheme recognised by that Party. This term, however, does not include any person who is liable to tax in that Party in respect only of income from sources in that Party.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Parties, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);

(b) if the Party 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

Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

(c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party of which he is a national or citizen;

(d) if he is a national or citizen of both Parties or of neither of them, the competent authorities of the Parties 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 Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; 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 six 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 Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party 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 Party merely because it carries on business in that Party 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 Party controls or is controlled by a company which is a resident of the other Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

2. The term "immovable property" shall have the meaning which it has under the law of the Party 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 income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Party shall be taxable only in that Party unless the enterprise carries on business in the other Party 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 Party 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 Party carries on business in the other Party through a permanent establishment situated therein, there shall in each Party 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 Party in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Party 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 Party from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8

SHIPPING AND AIR TRANSPORT

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

2. For the purposes of this Article, profits derived from the operation in international traffic of ships and aircraft include profits:

(a) derived from the rental on a bareboat basis of ships and aircraft if operated in international traffic; and

(b) derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

where such rental profits or profits from such use, maintenance or rental, as the case may be, are incidental to the profits described in paragraph 1.

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 Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

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 Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Parties shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Party to a resident of the other Party who is the beneficial owner thereof, shall be taxable only in that other Party.

2. However, so long as Malta operates a full imputation system of taxation of company profits, where the dividends are paid by a company which is a resident of Malta to a resident of Jersey who is the beneficial owner thereof, Malta may also charge tax on the gross amount of the dividends, which tax shall not exceed that chargeable on the profits out of which the dividends are paid.

3. Paragraphs 1 and 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. The term "dividends" as used in this Article means income from shares, 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 Party of which the company making the distribution is a resident.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Party, carries on business in the other Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Party 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.

6. Where a company which is a resident of a Party derives profits or income from the other Party, that other Party 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 Party 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 Party, 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 Party.

Article 11 **INTEREST**

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

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Party, carries on business in the other Party in which the interest arises, through a permanent establishment situated therein, or performs in that other Party 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 or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

Article 12
ROYALTIES

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

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Party, carries on business in the other Party in which the royalties arise, through a permanent establishment situated therein, or performs in that other Party 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.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

Article 13
CAPITAL GAINS

1. Gains derived by a resident of a Party from the alienation of immovable property referred to in Article 6 and situated in the other Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Party has in the other Party or of movable property pertaining to a fixed base available to a resident of a Party in the other Party 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 that other Party.

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

4. Gains derived by a resident of a Party from the alienation of shares deriving more than 50 percent of their value directly or indirectly from immovable property situated in the other Party may be taxed in that other Party.

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 Party of which the alienator is a resident.

Article 14

INDEPENDENT PERSONAL SERVICES

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

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

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

(a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Party.

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 Party may be taxed in that Party.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Party 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 Party, may be taxed in that other Party.

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 Party 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 Party by an entertainer or a sportsman if the visit to that Party is wholly or mainly supported by public funds of one or both of the Parties or local authorities thereof. In such case, the income shall be taxable only in the Party of which the entertainer or a sportsman is a resident.

Article 18

PENSIONS AND SOCIAL SECURITY PAYMENTS

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

2. Notwithstanding the provisions of paragraph 1, payments made and pensions paid under the social security legislation of a Party shall be taxable only

in that Party.

Article 19
GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration paid by a Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or authority shall be taxable only in that Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) is a national or citizen of that Party; or

(ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or authority shall be taxable only in that Party.

(b) However, such pensions and similar remuneration shall be taxable only in the other Party if the individual is a resident of, and a national or citizen of, that Party.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a political subdivision or a local authority thereof.

Article 20
STUDENTS AND BUSINESS APPRENTICES

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

Article 21
OTHER INCOME

1. Items of income of a resident of a Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.

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 Party, carries on business in the other Party through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base 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.

Article 22
ELIMINATION OF DOUBLE TAXATION

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

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

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

Subject to the provisions of the laws of Jersey regarding the allowance of a credit against Jersey tax in respect of foreign tax, where, in accordance with the provisions of this Agreement;

(a) When imposing tax on its residents Jersey may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Agreement, may be taxed in Malta.

(b) Where a resident of Jersey derives income which, in accordance with the provisions of this Agreement, may be taxed in Malta Jersey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Malta. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Malta.

Article 23
NON-DISCRIMINATION

1. Nationals or citizens of a Party shall not be subjected in the other Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals or citizens of that other Party in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Parties.

2. The taxation on a permanent establishment which an enterprise of a Party has in the other Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Party to grant to residents of the other Party any personal allowances, reliefs 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 4 of Article 11, or paragraph 4 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Party to a resident of the other Party 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 Party.

4. Enterprises of a Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Party, shall not be subjected in the first-mentioned Party 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 Party are or may be subjected.

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

Article 24
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the

Party of which he is a national or citizen. 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 Agreement.

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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

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

4. The competent authorities of the Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Parties 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 of every kind and description imposed on behalf of the Parties insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Party shall be treated as confidential in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Party the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Party;

(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 Party;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Party in accordance with this Article, the other Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party to decline to supply information solely because it has no domestic interest in such information.

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

Article 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 27

ENTRY INTO FORCE

1. The Parties shall notify each other in writing that the legal requirements for the entry into force of this Agreement have been complied with.

2. This Agreement shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect in respect of taxes on income derived during any taxable period or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the Agreement enters into force.

Article 28
TERMINATION

This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement by giving notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect in respect of taxes on income derived during any taxable period or accounting period, as the case may be, beginning on or after the first day of January immediately following the date on which the notice of termination is given.

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

DONE at London this 25th day of January, 2010 in duplicate in the English language.

Joseph Zammit Tabona
For the Government of Malta

Terry Le Sueur
For the Government of Jersey

PROTOCOL

At the moment of signing the Agreement between Malta and Jersey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement.

It is understood that the provisions of the Agreement shall not prevent the application of the Agreement in the form of an exchange of letters signed by Malta on 5th May, 2004 and by Jersey on 19th November, 2004 providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest paid.

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

DONE at London this 25th day of January, 2010 in duplicate in the English language.

Joseph Zammit Tabona
For the Government of Malta

Terry Le Sueur
For the Government of Jersey

