

Agreement

between

the Federal Republic of Germany

and

the Republic of Yemen

for

the avoidance of double taxation of air transport

enterprises with respect to taxes on income and capital

The Federal Republic of Germany
and
the Republic of Yemen,

desiring to avoid double taxation of income and capital of air transport enterprises,
have agreed as follows:

Article 1

(1) The taxes to which this Agreement shall apply are:

- (a) in the Federal Republic of Germany
 - (i) the income tax (Einkommensteuer),
 - (ii) the corporation tax (Körperschaftsteuer),
 - (iii) the trade tax (Gewerbsteuer),
 - (iv) the capital tax (Vermögensteuer),

(hereinafter referred to as “German tax”);

- (b) in the Republic of Yemen:
 - (i) the income tax
 - (ii) the capital tax

(hereinafter referred to as “Yemeni tax”).

(2) This Agreement shall also apply to any other taxes imposed by one of the Contracting States after the date of signature of this Agreement which as regards their object and the basis of taxation are identical or similar to the above-mentioned taxes.

Article 2

(1) The term “air transport“ means the transportation by air of people, goods, baggage, mail and livestock by owners or charterers of aircraft including the sale of flight tickets and similar documents as well as any other activity directly connected with such transportation.

(2) The term “enterprise of a Contracting State“ means the Airlines of the Contracting States as designated by both these States.

(3) The term “international traffic“ means any air transport carried on by an enterprise of a Contracting State, except when the aircraft is operated solely between places within the other Contracting States.

(4) The term “competent authorities“ means in the case of the Federal Republic of Germany the Federal Ministry of Finance or the agency to which it has delegated its powers, and in the case of the Republic of Yemen the Ministry of Finance.

(5) In the application of the provisions of this Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

Article 3

(1) Income derived by an enterprise of a Contracting State from international traffic shall be exempt from taxes in the other Contracting State. Correspondingly, aircraft and moveable property serving their operation shall be exempt from the capital tax under the same conditions.

(2) For the purpose of paragraph 1, interest on funds connected with the operation of aircraft in international traffic shall be regarded as profits derived from the operation of such aircraft.

(3) The tax exemption provided in paragraphs 1 and 2 of this Article shall also apply in respect of the participation of an enterprise of a Contracting State in a pool, in a joint business or in an international operating agency of any kind in the field of air transport.

Article 4

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

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

(3) 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 5

(1) For the Republic of Yemen the national requirements for entry into force of this Agreement shall have been fulfilled by its signature thereof.

(2) In the Federal Republic of Germany this Agreement shall be subject to ratification.

(3) This Agreement shall enter into force one month from date of deposit of the instrument of ratification with the Government of the Republic of Yemen and its provisions shall have effect in respect of taxes which are or could be levied for the tax year 1982 and the following tax years.

Article 6

This Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting State, through diplomatic channels, written notice of termination: in such event, the Agreement shall cease to have effect from the first day of January of the year following that in which notice of termination is given.

Done at Sana'a on March 2nd, 2005 in two originals, each in the German, Arabic and English languages, all three texts being authentic. In the case of divergent interpretations of the German and Arabic texts, the English text shall prevail.

For the
Federal Republic of Germany

For the
Republic of Yemen

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