



International agreements

Agreement between the Government of the Principality of Andorra and the Government of the United Arab Emirates to avoid double taxation and prevent fiscal evasion in matters of income

Given that the General Council in its session on April 20, 2017 approved the following: Agreement

between the Government of the Principality of Andorra and the Government of the United Arab Emirates to avoid double taxation and prevent tax evasion in income tax matter The Government of Andorra has carried

out the reform of the Andorran economic and fiscal model to enable the Principality to face the challenges of the future and to be in a competitive situation. Since May 2011, the Government has focused on reforming the laws on income tax on economic activities, tax on the income of tax non-residents and tax on companies to allow these rules came into force in the fiscal year corresponding to 2012.

These three laws form the basis of the new Andorran direct tax framework. In addition, during 2012 the Indirect General Tax Law was drafted, which merges all existing indirect taxes into a single VAT-type tax, and which entered into force on January 1, 2013. This fiscal framework it was completed with the personal income tax, which entered into force on May 22, 2014, and has been effectively applied since January 1, 2015.

This new fiscal framework has allowed Andorra to negotiate bilateral agreements to avoid double taxation, which are essential to guarantee a framework of legal security for all economic sectors, to facilitate the development of the services sector and to strengthen the economic opening process of the country.

The conclusion of these agreements is a key element in the strategy of "putting Andorra in a competitive position", given that they will allow Andorran companies to provide services abroad without being subject to withholding tax on the invoicing, and they will give legal security to foreign investments in Andorra so that they can obtain a guarantee according to which they will not receive taxation for the same incomes in their place of tax residence.

For the conclusion of these agreements, both OECD member countries and non-member countries use the OECD model tax agreement in the negotiation, application and interpretation of their bilateral tax agreements. The tax agreement model and the network of more than 3,000 bilateral agreements based on this model make it possible to uniformly resolve the differences that generally arise in the field of international double taxation, and to establish clear and agreed rules on the taxation of income and the heritage Taking the model into account also makes it possible to prevent these problems from creating obstacles to the free movement of goods, services, capital and labor between countries.

The OECD model tax treaty distributes tax powers between the country of residence and the country of origin of the income, and states that the country of residence eliminates double taxation, where applicable.

On July 28, 2015, the Minister of Foreign Affairs, Gilbert Saboya Sunyé, signed together with the Minister of Foreign Affairs of the United Arab Emirates, Abdullah bin Zayed Al Nahyan, the Agreement between the Government of the Principality of Andorra and the Government of the United Arab Emirates to avoid double taxation and prevent fiscal evasion in matters of income tax.



The signed Catalan text contained some translation inaccuracies with respect to the English text which is the prevailing text and therefore the respective governments had to formally agree on its correction and it is this text that is subject to parliamentary approval.

To date, 6 other agreements have been signed to avoid double taxation, 4 of which - France, Spain, Luxembourg and Liechtenstein - have already entered into force and 1 - Portugal - will do so shortly.

This agreement takes over, to a large extent, the provisions contained in the OECD model, generally accepted by all states, and at the same time includes the particularities of the Principality of Andorra and the United Arab Emirates. It consists of 30 articles and is accompanied by a Protocol that completes and interprets certain articles of the agreement.

The agreement establishes which taxes it applies to and foresees its application to future taxes.

Article 3 of the agreement includes hydrocarbon revenues. In this sense, the application of the domestic legislation of each of the contracting states is determined on the taxation of income and profits derived from hydrocarbons and associated activities, located in the territory of the respective contracting state, regardless of the powers of liens established in the agreement.

Regarding the general definitions for the interpretation of the terms used in the agreement, the OECD model is followed. However, the term "qualified governmental entity" is introduced, which refers to central banks of contracting states and institutions controlled directly or indirectly by a contracting state or any of its political subdivisions.

In article 5 of the agreement, the concept of fiscal residence is defined for both countries and it is specified that the governments, political subdivisions, local authorities and qualified governmental entities of the contracting states are considered residents for the purposes of the agreement. In addition, the Protocol specifies access to the agreement with respect to investment funds and pension funds or plans.

The agreement follows the OECD model with regard to profits from the operation of ships and aircraft and also includes some sections provided for in the comments to the model, under which its application is specified. On the other hand, it also includes a section of application to income derived from bank deposits, bonds, shares, stocks and other debt obligations, as long as their investments are incidental to the operations of a shipping or airline company.

With regard to the taxable income provided for in articles 11, 12 and 13, specifically those relating to dividends, interest and royalties, it should be noted that article 11 determines the exclusive taxation of dividends in the state of residence of the perceiver. With reference to interest, article 12 determines the exclusive taxation in the state of residence of the person who collects the interest. Finally, in relation to royalties, article 13 grants exclusive tax authority over royalty payments to the recipient's state of residence.

Article 23 of the Convention refers to the methods of elimination of double taxation in both countries.

With regard to the exchange of information, it includes the current wording of Article 26 on information exchange of the OECD model, which deals with the information exchange standard "predictably relevant".

The Protocol comprehensively regulates the procedure for the effective exchange of information and the content of requests for information. Likewise, it also regulates the temporal scope of the exchange of information on demand and the possibility of exchanging information automatically.

In this regard, it is established that requests for information may be made in relation to tax periods that begin or are subsequent to January 1 of the following calendar year in which the agreement enters into force or, if there is no tax period, on all taxes that are applicable on or after January 1 of the calendar year following the year in which the agreement enters into force.

Finally, in article 27 of the agreement, an exemption is established for income and capital gains obtained by federal and local governments and financial institutions that are wholly owned by a contracting state when they have been generated in the other been hiring However, this exemption does not apply to hydrocarbon income, real estate income and capital gains from real estate. Section 3 of the Protocol specifies the institutions of the United Arab Emirates to which this provision applies.



Once ratified, the agreement will enter into force on the date of the last written notification sent through diplomatic channels regarding compliance with the procedures required by the internal legislation of each of the states.

Given the above considerations,

is approved:

The ratification of the Agreement between the Government of the Principality of Andorra and the Government of the United Arab Emirates to avoid double taxation and prevent fiscal evasion in matters of income taxes.

The Ministry of Foreign Affairs will announce the date of entry into force of this agreement.

Casa de la Vall, April 20, 2017

Vincent Mateu Zamora
General Trustee

We, the co-princes, express the consent of the State to oblige through it, we order its publication in the Official Gazette of the Principality of Andorra, and we authorize that from that moment the instrument of ratification can be delivered corresponding

Joan Enric Lluís Sicily
Bishop of Urgell
Coprincipe of Andorra

François Hollande
President of the French Republic
Coprincipe of Andorra

Agreement between the Government of the Principality of Andorra and the Government of the United Arab Emirates to avoid double taxation and prevent fiscal evasion in matters of income taxes

The Government of the Principality of Andorra and the Government of the United Arab Emirates, hereinafter the "contracting states",

Desiring to promote their mutual economic relations and improve cooperation in fiscal matters by concluding between them an agreement to avoid double taxation and prevent fiscal evasion in matters of income taxes, have agreed on the following provisions:

Article 1. *Persons concerned*

This agreement applies to persons resident in one or both contracting states.

Article 2. *Taxes covered 1.*

This agreement applies to income taxes payable by each of the contracting states or by their political subdivisions or local entities, regardless of their collection system.

2. Income taxes are those that tax all or any part of the income, including taxes on gains from the disposal of movable or immovable property, taxes on the overall amount of salaries or wages paid by companies, as well as capital gains taxes.

3. The current taxes to which the agreement applies are, in particular:

a) with regard to Andorra:

- i) corporate tax; ii) personal income tax; iii) the tax on the income of non-tax residents; and iv) the tax on capital gains in real estate asset transfers. (henceforth referred to as "Andorran tax").



b) in relation to the United Arab Emirates:

i) income tax; ii) corporate tax;

(hereinafter referred to as "United Arab Emirates tax").

4. The agreement also applies to any tax of an identical or similar nature that is established according to the legislation of a contracting state after the signature of this Agreement and that is added to those already existing or replaces them. The competent authorities of the contracting states are notified of any substantial changes that have been introduced in their respective tax laws.

Article 3. *Hydrocarbon income*

Notwithstanding any other provision of this agreement, nothing affects the right of one of the contracting states or one of its governments or local authorities to apply national laws and regulations relating to the taxation of income and profits derived from hydrocarbons and associated activities located in the territory of the respective contracting state, if applicable.

Article 4. *General definitions 1.*

Within the framework of this agreement, unless a different interpretation is inferred from the context:

a. The terms "a contracting state" and "the other contracting state" designate, depending on the context, Andorra or the United Arab Emirates; b. the term "United Arab Emirates", used in a geographical sense, means the territory under the sovereignty of the United Arab Emirates, as well as the areas outside the territorial sea, airspace and underwater areas over which the United Arab Emirates exercises rights of sovereignty and jurisdiction over any activity over its waters, seabed, subsoil, in relation to the exploration or exploitation of natural resources under its legislation and international law; c. the term "Andorra" means the Principality of Andorra and, used in a geographical sense, designates the territory of the Principality of Andorra; d. the term "person" includes natural persons, companies and any other grouping of persons; e. the term "company" means any legal person or any entity that is considered a legal entity for tax purposes; f. the term "company" applies to the exercise of any economic activity; g. the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise operated by a resident of a Contracting State and an enterprise operated by a resident of the other Contracting State;

h. the term "international traffic" means any transport carried out by a ship or aircraft operated by an enterprise the place of effective management of which is situated in a Contracting State, except in cases where the ship or aircraft is solely 'exploit between points located in the other contracting state; i. the term "competent authority" means:

i) in the case of Andorra, the Minister in charge of Finance or his authorized representative. ii) in the case of the United Arab Emirates, the Minister of Finance or a representative authorized by the Minister of Finance.

J. the term "national" in relation to a Contracting State means:

i) any natural person who has the nationality of the contracting state; and ii) any legal person, partnership or association established in accordance with the legislation in force in the contracting state or in a political subdivision or local government thereof;



k. the term "economic activity" includes the provision of professional services and the performance of other activities of an independent nature; l. the term "tax" means United Arab Emirates tax or Andorran tax as the context requires; m. the term "qualified governmental entity" means the central bank of a Contracting State and any person, agency, institution, authority, fund, company, organization or other entity that is owned or controlled directly or indirectly by a Contracting State or a political subdivision or local government headquarters.

2. For the application of the agreement at all times by a contracting state, any term not defined therein has, unless a different interpretation is inferred from the context, the meaning attributed to it by legislation at that time of this state with regard to the taxes that are the subject of the agreement, the meaning given by the tax legislation prevails over the meaning given to the term by the other branches of the law of this state.

Article 5. *Resident*

1. Within the framework of this agreement, the expression "resident of a contracting state" means:

- a. In the case of the United Arab Emirates, an individual domiciled in the United Arab Emirates and a national of the United Arab Emirates and a company domiciled in the United Arab Emirates and having its place of effective management there.
- b. In the case of Andorra, any person who, in accordance with the legislation of this state, is subject to taxation in this state, by virtue of his domicile, residence, seat of management or by any other criterion of a similar nature, and applies both to this state and to all political subdivisions or local authorities thereof. However, this term does not include persons who are subject to tax in that state solely on income from sources in that state.

2. For the purposes of paragraph 1 above, a resident of a contracting state includes:

- a. The Government of that Contracting State and any political subdivision or local government or authority thereof;
- b. A qualified government entity.

3. When, in accordance with the provisions of paragraph 1, a natural person is a resident of the two contracting states, his situation must be resolved as follows:

- a. this person is considered a resident only of the state where he has a permanent home at his disposal; if he has a permanent home in both states, he is considered a resident only of the state where he maintains the closest personal and economic ties (centre of vital interests); b. if it is not possible to determine the state where that person has the center of vital interests, or if he does not have a permanent residence at his disposal in any of the states, he is considered a resident only of the state where he habitually resides; c. if that person habitually resides in both states or if he does not habitually reside in any of them, he is considered a resident only of the state of which he is a national; d. if that person possesses the nationality of both States or if he possesses the nationality of neither of them, the competent authorities of the Contracting States shall resolve the question by mutual agreement.

4. When a person who is not a natural person is, in accordance with the provisions of paragraph 1, a resident of the two contracting states, he is considered to be a resident only of the state where his seat of effective management is located.

Article 6. *Permanent establishment*

1. Within the framework of this agreement, the expression "permanent establishment" designates a fixed business facility through which a company carries out all or part of its economic activity.



2. The expression "permanent establishment" includes in particular:

- a. Headquarters;
- b. the branches;
- c. the offices;
- d. the factories;
- e. the workshops;
- f. mines, oil or gas wells, quarries or any other place of extraction of natural resources; and g. agricultural, livestock or forestry operations.

3. A work or a construction or installation project only constitutes a permanent establishment if its duration is greater than twelve months.

4. Notwithstanding the preceding provisions of this article, it is considered that the expression "permanent establishment" does not include:

- a. the use of facilities with the sole purpose of storing, displaying or delivering goods or merchandise that belong to the company; b. the maintenance of a deposit of goods or merchandise belonging to the company with the sole purpose of storing, displaying or delivering them; c. the maintenance of a deposit of goods or merchandise that belong to the company with the sole purpose of being transformed by another company; d. the maintenance of a fixed business facility, with the sole purpose of purchasing goods or merchandise or gathering information for the company; e. the maintenance of a fixed business facility with the sole purpose of carrying out, for the company, any other activity of an auxiliary or preparatory nature;

- f. the maintenance of a fixed business facility with the sole purpose of carrying out any combination of the activities mentioned in letters a) to e), as long as the joint activity of the facility fixed business connection that results from this combination maintains an auxiliary or preparatory character.

5. Notwithstanding the provisions of paragraphs 1 and 2, when a person - who is not an independent agent, to whom paragraph 6 applies - acts on behalf of a company and has, in a contracting state, powers that habitually exercises and which empowers it to conclude contracts on behalf of the company, that company is considered to have a permanent establishment in this state for all activities that such person carries out for the company; unless the activities of this person are limited to those mentioned in section 4 and that, if they were carried out through a fixed business facility, would not allow this facility to be considered as a permanent establishment in accordance with the provisions of this section.

6. A company is not considered to have a permanent establishment in a contracting state by the mere fact that it carries on its activities there through a broker, general commission agent or any other independent agent, as long as these persons act within the ordinary framework of their activity.

7. The fact that a resident company of a Contracting State controls or is controlled by a resident company of the other Contracting State or carries on economic activities in that other State (whether through a permanent establishment or otherwise) does not it is sufficient, in itself, to consider any of these societies as a permanent establishment of the other.

Article 7. *Real estate* income 1.

Income that a resident of a contracting state obtains from real estate (including income from agricultural or forestry holdings) situated in the other contracting state may be taxable in that other state.



2. The expression "immovable property" has the meaning attributed to it by the law of the contracting state where the property in question is located. The expression includes in any case accessory goods to immovable property, livestock and equipment used in agricultural and forestry operations, the rights to which the provisions of private law relating to immovable property apply, the usufruct of real estate and the rights to receive fixed or variable payments for the exploitation or the concession of the exploitation of mineral deposits, sources and other natural resources; ships and aircraft are not considered immovable property.

3. The provisions of paragraph 1 apply to income from direct use, rental or partnership, as well as any other form of exploitation of real estate.

4. The provisions of paragraphs 1 and 3 also apply to the income from the immovable property of a company.

Article 8. *Profits of companies* 1.

The profits of a company of a contracting state are subject to taxation exclusively in that state, unless the company carries on business in the other contracting state through a permanent establishment located there. If the company carries on its business in such a way, the profits of the company may be taxable in the other state but only to the extent that they are attributable to that permanent establishment.

2. Without prejudice to the provisions of paragraph 3, when an enterprise of a contracting state exercises its activity in the other contracting state through a permanent establishment located there, they are attributed in each of the contracting states to that permanent establishment the profits it could have made if it had set up a separate and independent company that carried out identical or similar activities under identical or similar conditions and that dealt with total independence from the company of which it constitutes a permanent establishment.

3. To determine the profits of a permanent establishment, a deduction is allowed for expenses incurred for the purposes of this permanent establishment, including management expenses and general administration costs for the same purposes, whether in the state where this permanent establishment is located, whether everywhere.

4. No profit can be imputed to the permanent establishment for the sole fact of the purchase of goods or merchandise for the company by this permanent establishment.

5. For the purposes of the previous sections, the profits attributable to the permanent establishment are determined each year according to the same method, unless there are valid and sufficient reasons to proceed otherwise.

6. When the benefits include elements of income that have been dealt with separately in other articles of this agreement, the provisions of those articles are not affected by the provisions of this article.

Article 9. *Maritime and air transport*

1. The profits of a company of a contracting state from the operation of ships or aircraft, in international traffic, are taxable exclusively in the contracting state where the head office is located or effective management of the company.

2. If the seat of effective management of a maritime transport company is located on board a ship, this seat is considered to be located in the contracting state where the base port of that ship is located, or in the absence of a base port, in the contracting state of which the person operating the ship is a resident.

3. For the purposes of this article, the benefits of operating ships or aircraft in international traffic include:

a. The benefits of renting ships or aircraft without a crew; b. Profits

from the use, maintenance or rental of containers, including trailers and associated equipment for the transport of containers, used for the transport of goods or merchandise.

4. The provisions of section 1 also apply to profits from: a. Participation in a "pool", in a joint exploitation or in an international exploitation agency.



b. From the sale of tickets through another company; c. The

income derived from the bank deposit of bonds, stocks and stocks and other debt obligations as long as these investments are incidental to the operations of the shipping or airline company.

Article 10. *Associated companies*

1. When:

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 when, in either case, the two enterprises are linked, in their commercial or financial relations, by conditions accepted or imposed that differ from those that would have been agreed between independent companies, the benefits that, without these conditions, could have been obtained by one of the companies but that in fact did not have been able to obtain due to these conditions, they can be included in the profits of this company and therefore be taxed.

2. When a contracting state includes in the profits of a company of that state - and therefore imposes - profits on which a company of the other contracting state has already been taxed in that other state, and this other state recognizes that the profits included in this way are profits that the company of the first state would have obtained if the conditions agreed between the two companies had been those that would have been agreed upon by independent companies, the other state proceeds with the corresponding adjustment of the amount of tax that has been collected for these benefits. To determine this adjustment, the other provisions of this agreement will be taken into account and the competent authorities of the contracting states will be consulted if they consider it necessary.

Article 11. *Dividends*

1. Dividends obtained in a Contracting State paid to a resident of the other Contracting State shall be taxable only in that other State.

This section does not apply to the taxation of the company with respect to the profits on which the dividends are paid.

2. The term "dividends" used in this article designates the income from shares, shares or rights of enjoyment, mining shares, founder's shares or other rights that allow participation in the profits, except credits, as well as income of other social participations subject, by the tax legislation of the contracting state where the distributing company is resident, to the same tax regime as the shares.

3. The provisions of paragraph 1 do not apply when the beneficial owner of the dividends, a resident of a contracting state, exercises in the other contracting state where the company that pays the dividends resides, an economic activity through a permanent establishment that is located there, and that is effectively linked to the share generating the dividends. In this case, the provisions of article 8 apply.

4. 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 levy any tax on the dividends paid by the company, unless such dividends are paid to a resident of that other state who is the beneficial owner of the dividends or that the interest generating dividends is effectively linked to a permanent establishment located in that other state, nor subject the undistributed profits of the company to a tax on company profits undistributed, even if the dividends paid or undistributed profits are in whole or in part profits or income from that other state.

Article 12. *Interest* 1.

Interest arising in a contracting state and paid to a resident of the other contracting state is taxable only in that other contracting state.



2. The term "interest" used in this article designates the income from credits of any kind, accompanied or not by a mortgage guarantee or a clause to participate in the debtor's profits, and in particular, the income from public securities and bond or bond yields, including premiums and lots linked to these securities. Late payment penalties are not considered interest for the purposes of this article.

3. The provisions of paragraph 1 do not apply when the beneficial owner of the interest, a resident of a contracting state, exercises in the other contracting state where the interest comes from, an economic activity through a permanent establishment located in this other state, and when the credit generating the interest is effectively linked to this permanent establishment. In this case, the provisions of article 8 apply.

4. Interest is considered to come from a contracting state when the debtor resides in that state. However, where the debtor of the interest, whether a resident of a Contracting State or not, has in a Contracting State a permanent establishment in respect of which he has contracted a debt which gives rise to the payment of interest and which bears the burden of such interest, such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. When, due to the special relationships that exist between the debtor and the beneficial owner or those that both maintain with third parties, the amount of interest, taking into account the credit for which it is paid, exceeds what would have agreed between the debtor and the creditor in the absence of such a relationship, the provisions of this article shall apply only to the latter amount. In this case, the surplus part of the payments is taxable in accordance with the legislation of each contracting state and taking into account the other provisions of this agreement.

Article 13. *Royalties*

1. Royalties from a contracting state whose beneficial owner is a resident of the other contracting state are taxable only in that other contracting state.

2. The term "royalties" used in this article designates the amounts of any nature paid for the use or the concession of the use of copyright of literary, artistic or scientific works including cinematographic films and telefilms, and recordings or other means of reproduction intended for broadcasting by radio or television, of patents, trademarks, drawings or models, plans, formulas or procedures, or for information (*know-how*) relating to industrial experiences, commercial or scientific.

3. The provisions of paragraph 1 do not apply when the beneficial owner of the royalties, a resident of a contracting state, exercises in the other contracting state where the royalties come from, an economic activity through a permanent establishment located in this other state, and the right or good generating the fees is effectively linked to this permanent establishment. In such cases, the provisions apply of article 8.

4. Fees are deemed to arise in a Contracting State when the debtor is a resident of that State. However, where the debtor of royalties, whether resident or not of a Contracting State, has in one of the Contracting States a permanent establishment through which the obligation giving rise to the payment of royalties has been contracted and which supports the burden of these fees, these fees are considered to come from the state where the permanent establishment is located.

5. When, due to the special relationships that exist between the debtor and the beneficial owner of the royalties or those that both maintain with third parties, the amount of the royalties, taking into account the use, the right or the information for which they are paid, exceeds what the debtor and beneficial owner would have agreed upon in the absence of such a relationship, the provisions of this article apply only to the latter amount. In this case, the surplus part of the payments is taxable in accordance with the legislation of each contracting state and taking into account the other provisions of this agreement.

**Article 14. *Capital gains 1.***

Gains that a resident of a contracting state obtains from the alienation of immovable property as defined in article 7 and located in the other contracting state, may be taxable in that other state

2. Gains from the alienation of movable property that form part of the assets of a permanent establishment that an enterprise of a contracting state has in the other contracting state, including gains from the alienation of this permanent establishment (alone or with the company as a whole), may be taxable in this other state.

3. The profits obtained by a company of a contracting state from the disposal of ships or aircraft operated in international traffic, or of movable property intended for the operation of these ships or aircraft are taxable exclusively in the contracting state where the effective headquarters of the company is located.

4. The gains obtained by a resident of a contracting state from the disposal of shares, the value of which comes in more than 50 per cent, directly or indirectly, from immovable property located in the other contracting state may be taxable in that other state. However, this section does not apply to gains from the disposal of shares of a company listed on a recognized stock market of one or both of the Contracting States or to gains from the alignment of shares in the course of a corporate reorganization.

5. Gains derived from the alienation of any other property other than those mentioned in paragraphs 1, 2, 3 and 4 are taxable exclusively in the contracting state in which the aligner resides.

Article 15. *Income from work*

1. Without prejudice to the provisions of articles 16, 18 and 19, salaries, wages and other similar remuneration obtained by a resident of a contracting state in the context of work are taxable exclusively in that state unless the employment is exercised in the other contracting state. If the employment is so exercised, the remuneration derived therefrom may be taxable in that other state.

2. Notwithstanding the provisions of paragraph 1, remuneration obtained by a resident of a contracting state both in terms of work carried out in the other contracting state is taxable exclusively in the first-mentioned state when:

a. the receiver remains in the other state for a period or periods the duration of which does not exceed 183 days in the aggregate in any twelve-month period beginning or ending in the fiscal year in question, and

b. the payer of the remuneration is a non-resident employer of the other state, or they are paid on his behalf, and

c. the remuneration is not supported by a permanent establishment that the employer has in the other state.

3. Notwithstanding the preceding provisions of this article, the remuneration obtained from dependent work carried out on board a ship or aircraft operated in international traffic are taxable exclusively in the contracting state in which the head office is located effective of the company.

Article 16. *Remuneration of directors*

Remuneration as a director and other similar remuneration that a resident of a contracting state obtains as a member of a board of directors of a company resident in the other contracting state may be taxable in this other state.

Article 17. *Artists and sportsmen*

1. Notwithstanding the provisions of articles 8 and 15, the income that a resident of a contracting state obtains from the exercise of his personal activity in the other contracting state as an artist, already whether he is a theater, film, radio or television actor, or as a musician, or as a sportsman, they may be taxable in that other state.



2. Despite the provisions of articles 8 and 15, when the income derived from the activities carried out by an artist or sportsman personally and in this capacity, is attributed not to the artist or sportsman but to another person, these incomes can be taxable in the contracting state in which the activities of the artist or sportsperson are carried out.

3. The provisions of paragraphs 1 and 2 do not apply to the income derived from the activities carried out, individually and in that capacity, by an artist or a sportsman resident of a contracting state in the other contracting state, when these activities carried out in the other state are financed mainly with public funds of the first contracting state, of its political subdivisions, local authorities or of its legal persons under public law, nor with the income obtained through a non-profit organization on condition that no part of the income goes to the benefit of its owners, founders or partners. In this case, the income is taxable exclusively in the contracting state of which the artist or sportsman is a resident.

Article 18. *Pensions*

1. Without prejudice to the provisions of paragraph 2 of article 18, pensions and other similar remuneration and annuities paid to an individual who is a resident of a contracting state as a previous job are taxable exclusively in that state.

2. For the purposes of this article:

i) The terms "pensions and other similar remunerations" mean the periodic payments received at retirement in terms of a previous job or through compensation for disability received in relation to a previous job;

ii) The term "annuity" means a specific amount that is paid to an individual periodically in specific terms, for life, during a specific or determined period of time, with the obligation to make payments in full for the same amount or for the same value of money.

3. Notwithstanding the provisions of paragraph 1, pensions and other payments received under the social security legislation of a Contracting State are taxable exclusively in that State.

Article 19. *Public function*

1.

a. Salaries, wages and other similar remuneration, other than pensions, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be exclusively taxable in this state. b. However, such salaries, wages and similar remuneration are taxable exclusively in the other Contracting State when the services are rendered in that State and the individual is a resident of that State who:

i) possesses the nationality of this state; or

ii) did not become a resident of that state exclusively for the purpose of rendering such services.

2.

a. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration, paid by a Contracting State or by one of its political subdivisions or local authorities, either directly or from funds constituted, to an individual in respect of services rendered to that state or that subdivision or authority, are taxable exclusively in that state. b. However, such pensions and similar remunerations are taxable exclusively in the other Contracting State when the natural person is a resident and possesses the nationality of that State.



3. The provisions of articles 15, 16, 17 and 18 apply to salaries, wages, pensions and other similar remuneration, paid in terms of services provided in the framework of an economic activity carried out by a contracting state or by a subdivision policy or local authority.

Article 20. *Teachers and researchers*

In accordance with the provisions of article 19, a person who is or was, just before visiting a contracting state, a resident of the other contracting state and who at the invitation of the Government of the first contracting state or of a university, school, museum or other cultural institution of the first contracting state or who remains in that contracting state under an official cultural exchange program for a period not exceeding two consecutive years and for the sole purpose of teaching, lecturing or conducting research in an institution, remuneration for such activity shall be exempt from tax in that Contracting State.

Article 21. *Students 1.*

The amounts received, to cover their living expenses, studies or practical training, a student or a trainee who is, or has been just before arriving in a contracting state, resident of the other Contracting State and who resides in the first-mentioned State for the sole purpose of continuing his studies or practical training, shall not be taxable in that State, provided that such payments arise from sources situated outside of this state.

2. With regard to grants, scholarships and remuneration for a job not covered by section 1, a student or a student in practice as described in section 1, will be entitled to more, during in the course of studies or training, to the same exemptions, benefits or reductions in respect of taxes that residents of the visiting Contracting State enjoy.

Article 22. *Other income*

1. The income of a resident of a contracting state, regardless of where it comes from, not provided for in the previous articles of this agreement is taxable exclusively in that state.

2. The provisions of paragraph 1 do not apply to income other than income from immovable property as defined in paragraph 2 of article 6, when the beneficiary of this income, resident of A contracting state carries out an economic activity in the other contracting state through a permanent establishment located in that other state, and when the right or property generating the income is effectively linked to that permanent establishment. In this case, the provisions of article 7 apply.

Article 23. *Elimination of double taxation*

1. When a resident of a contracting state obtains income or owns capital which, in accordance with the provisions of this agreement, may be taxable in the other contracting state, the first state agrees to a deduction in the tax on the income of that resident in an amount equal to the tax paid in the other state.

However, this deduction cannot exceed the part of the income tax, calculated before the deduction, corresponding to the income that may be taxable in that other state.

2. Where, in accordance with any provision of this Convention, income earned or capital earned by a resident of a Contracting State is exempt from tax in that State, that State may, nevertheless, take into account the income or the capital exempted to calculate the tax on the rest of the income or the capital of this resident.

Article 24. *Non-discrimination*

1. The nationals of a contracting state shall not be subjected in the other contracting state to any taxation or obligation relating thereto, which is not required or is more costly than that which they have or which they the nationals of this other state who were in the same situation could be subjected, in particular with regard to residence. Notwithstanding the provisions of Article 1, this provision shall also apply to persons who are not residents of one or of any of the Contracting States.



2. Permanent establishments which an enterprise of a Contracting State has in the other Contracting State cannot be taxed in that State less favorably than enterprises of that other State carrying on the same activity. This provision cannot be interpreted as requiring a contracting state to grant to residents of the other contracting state the personal deductions, reliefs and tax reductions that it grants to its own residents based on marital status or family burdens

3.

a. Unless the provisions of paragraph 1 of article 10, paragraph 4 of article 12 or paragraph 4 of article 13 apply, interest, fees and other expenses paid by an enterprise of a Contracting State to a resident of the other Contracting State are deductible in determining the taxable profits of that enterprise, under the same conditions as if they had been paid to a resident of the State mentioned in first place. Similarly, any debt owed by an enterprise of a Contracting State to a resident of the other Contracting State shall be deducted, in determining the taxable capital of that enterprise, under the same conditions as if it had been contracted by a resident of the first-mentioned state. b. When a permanent establishment situated in one State receives dividends, interest or royalties accrued in the other State corresponding to assets or rights effectively

connected with that permanent establishment, such income shall be subject to tax in the other State in accordance with the provisions of sections 1 and 2 of article 12 and sections 1 and 2 of article 13. The first state will eliminate double taxation in accordance with the terms established in sections 1 and 2 of article 23. This provision will be of application regardless of the place where the registered office of the company on which the permanent establishment depends is located.

4. Companies of a contracting state, which have one or more residents of the other contracting state who own or control their capital, directly or indirectly, in whole or in part, are not subject, in the state mentioned in the first place, to any taxation or obligation relating thereto, which is not required or which is more costly than that which they have or to which other similar companies of the state mentioned in the first place may be subjected.

5. Notwithstanding the provisions of Article 2, the provisions of this Article shall apply to all taxes of any nature or denomination.

Article 25. *Friendly procedure*

1. When a person considers that the measures taken by a contracting state or by the two contracting states entail or may entail for him an imposition not in accordance with the provisions of this convention, he may, regardless of the remedies provided for in the internal law of these states, submit his case to the competent authority of the contracting state where he is a resident or, if his case conforms to paragraph 1 of article 23, to that of the contracting state where is the nationality from. The case must be submitted during the three years that follow the first notification of the measure that entails an imposition not in accordance with the provisions of the agreement

2. The competent authority, if it considers that the claim is well-founded and is not itself in a position to provide a satisfactory solution, must do its best to resolve the case through an amicable settlement with the competent authority of the other contracting state, in order to avoid taxation not in accordance with the agreement. The arrangement must be applied regardless of the time limits provided by the internal law of the contracting states.

3. The competent authorities of the contracting states, by means of a friendly arrangement, must do their best to resolve difficulties or clarify doubts that may arise from the interpretation or application of the agreement. They can also be consulted in order to avoid double taxation in cases not provided for by the agreement.

4. The competent authorities of the contracting states may communicate directly with each other, including through a joint commission formed by them or their representatives, with the aim of reaching an arrangement as indicated in the preceding paragraphs.

*Article 26. Exchange of information*

1. The competent authorities of the contracting states exchange reasonably relevant information to apply the provisions of this agreement or for the execution or application of internal law relating to taxes of any nature or denomination required by the contracting states, by their subdivisions politicians or local authorities to the extent that the imposition thus demanded is not contrary to the agreement. The exchange of information is not restricted by Articles 1 and 2.
2. The information received under paragraph 1 by a contracting state is treated confidentially, in the same way as the information obtained in application of the internal law of that state, and can only be disclosed to persons or authorities (including courts and administrative bodies) related to the management or collection of the taxes mentioned in section 1, their effective application or the prosecution of non-compliance in relation to these taxes, the resolution of appeals related to these taxes, or the supervision of these activities. These persons or authorities can only use this information for the purposes mentioned. They can reveal it in the framework of public court hearings or court rulings.
3. The provisions of paragraphs 1 and 2 cannot, in any case, be interpreted in the sense of obliging a contracting state to:
 - a) take administrative measures contrary to its legislation or administrative practice or those of the other contracting state;
 - b) provide information that cannot be obtained in accordance with its legislation or within the framework of its usual administrative practice or that of the other contracting state; c) provide information that reveals a business, industrial, commercial or professional secret or an industrial process or information whose disclosure is contrary to public order.
4. If a contracting state requests information in accordance with this article, the other contracting state uses the measures it has to obtain the information, with the purpose of obtaining the requested information, regardless of whether the other state does not need this information for its own tax purposes. The foregoing obligation is restricted by the provisions of paragraph 3, but in no case can contracting states interpret these restrictions as a basis for denying the exchange of information solely because of the absence of a national interest in the information requested
5. In no case shall the provisions of paragraph 3 be interpreted to permit a Contracting State to refuse the exchange of information solely because such information is in the possession of banks, other financial institutions, or any person acting in an agent or fiduciary capacity, including appointed agents or because such information relates to a person's property rights.

Article 27. Income of the Government and

institutions Federal and local governments and financial institutions that are wholly owned by one of the contracting states are exempt from taxation in the other contracting state in respect of any income and capital gains arising from them federal or local governments of the other contracting state; except for hydrocarbon income as defined in article 3, real estate income as defined in article 7 and capital gains from real estate as defined in sections 1 and 4 of article 14.

Article 28. Members of diplomatic missions and consular offices

The provisions of this agreement do not affect the fiscal privileges enjoyed by members of diplomatic missions or consular offices and members of permanent delegations to international organizations in accordance with general principles of international law or under the provisions of special agreements.



Article 29. *Entry into force* 1.

The contracting states notify each other in writing, through diplomatic channels, of the completion of the internal legal procedures necessary for the entry into force of this agreement. The agreement will enter into force on the date of the last notification.

2. The agreement will take effect:

- a) with respect to taxes withheld at source, on income generated on or after January 1 of the calendar year following the year in which the agreement enters into force; b) with respect to other income taxes, to the taxes charged for the tax year that begins on January 1 of the year or from that date of the calendar year that follows the year in which the agreement enters into force.

Article 30. *Denunciation*

1. This agreement remains in force until its denunciation by one of the contracting states. Any of the contracting states may denounce the agreement, through diplomatic channels, by means of notification of denunciation with a minimum notice of six months before the end of each calendar year.

2. In this case, the agreement ceases to have effect:

- a) with respect to taxes withheld at source, on income from or beginning on January 1 of the year following the year of notification; b) with respect to other taxes on income and taxes on capital, to taxable taxes in the positive year that begins or after January 1 of the year that follows the year of notification.

For this purpose, the signatories, duly authorized, sign this agreement.

Andorra la Vella, 28 July 2015, made in duplicate, in Catalan, Arabic and English, all texts being equally authentic. In case of divergence in interpretation, the English text prevails.

For the Government of the Principality of Andorra
Gilbert Saboya Sunyé

By the Government of the United Arab Emirates
Abdullah bin Zayed Al Nahyan

protocol

At the time of signing the Agreement between the Government of the Principality of Andorra and the Government of the United Arab Emirates to avoid double taxation and prevent tax evasion in matters of income taxes, the signatories have agreed the following provisions that will form an integral part of this agreement.

1. In relation to paragraph 1 of article 5 (residence):

- (i) Mutual funds and pension funds or plans established in a Contracting State are deemed to be residents of that State.
- (ii) The term "investment fund" means an investment fund, instrument or entity established in a Contracting State which the competent authority of the Contracting State considers to be a collective investment vehicle in effects of this paragraph.
- (iii) The term "pension fund or plan" means any plan, fund, *trust* or any other instrument that is generally tax-exempt and operated primarily to administer or provide pensions or retirement benefits or to earn income of the benefits of one or more of these instruments.

In particular:

- (a) In the case of the United Arab Emirates, *the Abu Dhabi Retirement Pensions and Benefits Fund and the General Pension and Social Security Authority*.



(b) In the case of Andorra, a fund or pension plan established in accordance with the *Law regulating the performance of insurance companies*, of 11-5-89 and any law or regulation that may develop or modify this law in the future. (c) any other pension fund or scheme of a Contracting State which the competent authority of the Contracting State considers to be a pension fund or scheme for the purposes of this paragraph.

2. In relation to article 26 (Exchange of information)

(i) Requests for information made under the agreement will be carried out as established in the agreement, in accordance with the guidelines contained in the following provisions:

(a) the rule of "foreseeably relevant" is understood to be intended for the exchange of information on tax matters as widely as possible and, at the same time, to clarify that contracting states do not have the freedom to carry out "random searches" or request information that is probably not relevant to the tax affairs of a taxpayer.

Requests for information should be as detailed as possible and include the following information:

(1) the identity of the person under surveillance or investigation. This information must include the name or sufficient information to identify the taxpayer; (2) the period to which the request for information relates; (3) a specification of the information sought including its nature and the manner in which the requesting state wishes to receive the information; (4) the tax object for which the information is sought; (5) the reasons why the requested information is expected to be relevant for the application of the provisions of the agreement or for the administration or application of the tax legislation of the requesting state in respect of the person identified in point (i) of this section; (6) reasons to believe that the requested information is in the requested state or in the possession or control of a person within the jurisdiction of the requested state or that it may be obtained by such person person;

(7) to the extent possible, the name and address of any person likely to be in possession or control of the requested information; (8) a statement that the request complies with the laws and administrative practices of the requesting state, and that the requesting state is authorized to obtain the information in accordance with the laws of that requesting state or in the normal course of administrative practice in similar circumstances, in response to a valid request from a Contracting State under the Convention; (9) a statement to the effect that the requesting state has tried to obtain the information by all means available in its territory, except for those that would represent disproportionate difficulties.

The requirements listed above contain procedural requirements that must be interpreted so as not to frustrate the effective exchange of information.

(b) The rights and guarantees guaranteed to persons in a Contracting State remain applicable in that Contracting State during the process of information exchange. (c) Information given to a requesting state in accordance with the agreement may not be disclosed to any authority of a third state or jurisdiction. (d) Information requests can be made in relation to tax periods that begin or are later than January 1 of the calendar year following the year in which the Agreement enters into force, and if it is not a tax period, on all taxes that apply on or after January 1 of the calendar year following the year in which the agreement enters into force.



(iii) Andorra will be in a position to carry out the automatic exchange of information as soon as it has effectively adopted the common OECD standard on the automatic exchange of financial information under the bilateral or multilateral agreement for the full implementation of article 25 of the agreement.

3. In relation to article 27 (Revenues of the Government and institutions)

(i) For the purposes of article 27, the following institutions are included:

- (a) *Central Bank of the United Arab Emirates;*
- (b) *Abu Dhabi Investment Authority;*
- (c) *Abu Dhabi Investment Council;*
- (d) *Emirates Investment Authority;*
- (e) *Mubadala Development Company;*
- (f) *International Petroleum Investment Company (IPIC);*
- (g) *Dubai World;* (h) *Investment Corporation of Dubai;* (i) *Abu Dhabi National Energy Company (TAQA);* (j) *MASDAR;* (k) *Abu Dhabi Financial Group.*

And also such institutions as may at any time be created by the federal or local governments of the United Arab Emirates that meet the requirements of this article, and subject to prior notification by the competent authority of the United Arab Emirates to the authority competent of Andorra.

For this purpose, the signatories, duly authorized, sign this protocol.

Andorra la Vella, 28 July 2015, made in duplicate, in Catalan, Arabic and English, all texts being equally authentic. In case of divergence in interpretation, the English text prevails.

For the Government of the Principality of Andorra For the Government of the United Arab Emirates

Gilbert Saboya Sunyé

Abdullah bin Zayed Al Nahyan