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**Law No. (4) of 2011, ratifying the Convention between the Government of the Kingdom of Bahrain and the Government of the Kingdom of the Netherlands for Mutual Exemption from Taxes on Income and Profits resulting from International Air Transport Operations, and its Attached Protocol**

We Hamad bin Isa Al Khalifa King of the Kingdom of Bahrain.

Having reviewed the Constitution, in particular Articles ( 23/ج،35/أ،81) thereof, and the attached draft law,

The Shura Council and the Council of Representatives have approved the following law which we have ratified and enacted.

**Article One**

The Convention between the Government of the Kingdom of Bahrain and the Government of the Kingdom of the Netherlands for Mutual Exemption from Taxes on Income and Profits resulting from International Air Transport Operations, and its attached Protocol, signed in the city of Manama on 5 February 2007, attached to this Law, has been ratified.

**Article Two**

The Prime Minister and Ministers - each within his jurisdiction - shall implement this Law, and it shall come into force from the day following the date of its publication in the Official Gazette.

**King of Kingdom of Bahrain**

**Hamad bin Isa Al Khalifa**

Issued at Riffa Palace:

On: 12 Jumada Al-Akhir 1432 A.H.

Corresponding to: 15 May 2011

**Convention between the Government of the Kingdom of Bahrain and the Government of the Kingdom of the Netherlands for Mutual Exemption from Taxes on Income and Profits resulting from International Air Transport Operations**

Desiring to conclude a convention for the mutual exemption from the imposition of any taxes on income and profits resulting from international air transport operations,

The Governments of the Kingdom of Bahrain and the Kingdom of the Netherlands have agreed as follows:

**Article (1)**

**Taxes concerned with this Convention**

1- The provisions of this Convention shall apply to any income taxes and current profit taxes imposed by either of the contracting states or any of their political administrations or local authorities, regardless of the method of collection of such taxes.

2- This Convention shall also apply to any similar or identical taxes imposed after the date of signing this Convention, which shall be added to or in place of the currently imposed taxes. The competent authorities of both countries shall notify each other of any substantial amendments made to the taxes referred to in this Convention.

**Article (2)**

**Definitions**

1- For the purposes of this Convention and unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them, which are:

a. The terms "contracting state" and "the other contracting state" shall refer to either the Kingdom of Bahrain or the Kingdom of the Netherlands, depending on the context of the text. The term "contracting states" shall refer to the Kingdom of Bahrain and the Kingdom of the Netherlands.

b. Regarding the Kingdom of the Netherlands, this Convention shall only apply to that part of the Kingdom situated within the continent of Europe.

c. The term "person" shall include an individual, a company or any other legal entity composed of several individuals.

d. The term "resident of a contracting state" shall refer, in each respective country, to the following:

1- For the Kingdom of Bahrain: Any person who, under the laws of Bahrain, is deemed to be a resident of the Kingdom of Bahrain or has his principal place of business in the Kingdom of Bahrain.

2- For the Kingdom of the Netherlands: Any person who, according to Dutch laws, is liable to tax therein by reason of his nationality, residence, principal place of business management or any other similar criterion.

e. The term "Air transport project of a contracting state" shall refer to a project engaged in the field of international air transport traffic that is operated or managed by a person resident in a contracting state or an airline designated in accordance with the Air Transport Convention between the two contracting states.

f. The term "international traffic" shall refer to any transport traffic carried out by aircraft owned, leased or chartered for operation by an air transport project of a contracting state, excluding the operation of aircraft solely between points within the territory of the other contracting state only.

g. The words "tax" or "taxes" shall refer to all taxes imposed on the total income or elements of income, profits arising from the disposal of movable or immovable property or capital employed in air transport projects, as well as all taxes imposed on the total wages and salaries of employees engaged in such projects.

h. The term "competent authority" shall refer to:

1- For the Kingdom of Bahrain: The Minister of Finance or his authorized representative.

2- For the Kingdom of the Netherlands: The Minister of Finance or his authorized representative.

2- When either of the contracting states applies the provisions of this Convention at any time, any phrase, word or expression for which no definition is intended and unless the context otherwise requires, shall have the meaning ascribed to that phrase, word or expression by the laws in force in that contracting state relating to the taxes subject to this Convention.

**Article (3)**

**Mutual Exemption**

1- Any income or profits resulting from the operation of an air transport project involving aircraft engaged in international traffic by one of the contracting states shall be exempted from taxes imposed by the other contracting state, regardless of the method of collection of such taxes.

2- Any income or profits resulting from the disposal of any aircraft employed in international air traffic, operated by an air transport project of a contracting state and any movable property resulting from the operation of that aircraft by the other contracting state, shall be exempted from taxes, regardless of the method of collection of such taxes.

3- For the purposes of this Article, income and profits resulting from an air transport project of a contracting state shall refer to the operation of the aircraft in international air traffic, including income or profits derived from the transport of passengers, baggage, livestock, goods, and mail by the said project, including ticket sales or similar documents related to air transport operations. This shall include the income and profits resulting from that air transport project from its direct and ancillary activities related to the operation of its aircraft in this field. Specifically, this shall include:

a. Profits from the leasing or chartering of aircraft, whether by original charter or by sub-charter.

b. Profits resulting from the balances in banks directly related to the operation of their aircraft in the field of international air traffic.

c. Income and profits resulting from training projects, administrative services and other services provided by the air transport project operating in the field of air transport, for any project operating in the field of air transport of the other contracting state.

4- The provisions of paragraphs (1) and (2) above shall also apply to taxes on income and profits resulting from operations of participation in group projects, collective works or the operation of international agencies in the field of air transport.

5- Salaries paid to employees of a project belonging to either of the contracting states, in return for their work on board aircraft operating in the field of international air traffic, are subject to tax only in the contracting state to which that project belongs.

6- Any individual who, in any contracting state, acquired technical, professional or business management experience in connection with aircraft operation as an employee of an air transport project of the other contracting state who provides international air transport services in the first-mentioned countries in which he acquired that experience, shall be exempted from taxes in any contracting state for a period of three years regarding the salary received from that project for that purpose.

**Article (4)**

**Customs Duties**

1- Any aircraft belonging to an international air transport project of either of the contracting states shall be exempted from all taxes, customs duties, inspection fees and similar fees, whether national or local. Furthermore, usual equipment, spare parts, fuel and lubricants supplies and its materials (including food, beverages and tobacco products) on board such aircraft, as well as materials used for the purposes of advertisement and sales on board, shall be exempted from taxes upon landing in the territory of the other contracting state provided that such supplies remain on board the aircraft until they are re-exported.

2- Regarding the usual equipment, spare parts, supplies, fuel, lubricants and aircraft materials that are brought into a contracting state by or on behalf of an air transport project of the other contracting state or are on board any aircraft operated by that project, and the sole purpose of which is for use on board the aircraft during its operation in the field of international air traffic, no fees or customs duties shall be imposed on any of the mentioned items, including customs duties and inspection fees applied in the first contracting state even if such supplies are intended for use during a transit flight over the airspace of the other contracting state from which the supplies were taken.

The materials referred to above shall be placed in the customs warehouse under its administration and control. The provisions of this paragraph shall not be interpreted in a way that implies any obligation for the contracting state to reimburse any customs duties after they have already been imposed on the aforementioned materials.

3- Airborne usual equipment, spare parts, fuel supplies, lubricants and aircraft materials placed on board aircraft belonging to any air transport project of either contracting states, may be unloaded on the territory of the other contracting state only with the approval of the customs authorities of that State. The said authorities shall request that such materials be placed under their control until they are re-exported or disposed of in accordance with the provisions of customs regulations.

**Article (5)**

**Solidarity in the Provision of Air Transport Services**

In the event that any air transport project of either contracting states, reaches an agreement with a third party to jointly provide air transport services in the form of a union, the provisions of Article (3) shall apply to the portion of profits earned by that union from operating aircraft in the field of international air transport and to the portion of capital equivalent to the contribution of the project of air transport and resident in that contracting state.

**Article (6)**

**Refund**

In the event that any tax is collected by either of the contracting states in a manner contrary to the provisions of this Convention, a request for the refund of that tax shall be submitted to the competent authorities of that contracting state within a period of three years after the end of the Gregorian year in which the tax was collected. The said tax shall be refunded within six months from the date of submission of the request.

**Article (7)**

**Joint Agreement Procedures**

The competent authorities of both contracting states shall make every effort to overcome any difficulties and remove any doubts regarding the interpretation or application of this Convention through mutual agreement between them. The consultations requested by any competent authority in either of the contracting states shall commence within (90) days from the date of the request for such consultations.

**Article (8)**

**Extension of the Application of this Convention in other Areas Within the Contracting States**

1- With respect to the Kingdom of the Netherlands, it shall be permissible to extend the application of this Convention, in whole or in part, after making the necessary amendments to include one or both of the territories of Aruba and the Netherlands Antilles if the concerned territory imposes substantially similar taxes as those provided for in this Convention. Any such extension of the application of this Convention shall come into effect as of the date and in accordance with the necessary conditions and amendments, including specific provisions regarding the termination of this Convention, as determined and agreed upon in the memorandums exchanged through diplomatic channels.

2- Unless otherwise agreed, the termination of the application of this Convention does not affect its implementation in any territory or state to which the extension of its application has been granted under this provision.

**Article (9)**

**Entry Into Force of This Convention**

1- Both contracting states shall notify each other through diplomatic channels of the completion of the procedures required by their respective laws for the entry into force of this Convention provided that this Convention shall enter into force on the thirtieth day from the date of the last of the said notifications.

2- The tax mentioned in Article (1) of this Convention shall not be imposed on the income and profits referred to in Article (3) resulting from the operations of the air transportation project of a contracting state in the other contracting state for periods prior to the date of entry into force of this Convention.

**Article (10)**

**Termination of the Convention**

This Convention shall remain in force for an indefinite period, and may be terminated by either contracting state by notifying the other state through diplomatic channels at least six months prior to the end of any Gregorian year after the fifth year from the date of its entry into force. This Convention shall terminate on the first day of January of the second Gregorian year following the year in which such notification is received.

**Protocol**

Upon the signing of the Convention of Mutual Exemption from Taxes on Income and Profits resulting from International Air Transport Operations between the Government of the Kingdom of Bahrain and the Government of the Kingdom of the Netherlands, the signatory parties have agreed that the provisions of this Protocol shall be an integral part of the Convention.

The parties shall understand that, in accordance with the Netherlands Value Added Tax law, international transport of goods and passengers from the Netherlands to outside the Netherlands shall not be subject to VAT in the Netherlands, and basis VAT (input-vat) may be refunded.

Furthermore, VAT is not imposed in the Netherlands on the goods and services listed below, while basis VAT may be refunded.

The (input VAT) for these goods and services.

1- Aircraft primarily used in international public transport.

2- Goods intended for use as aircraft reserve referred to in clause (1) above.

3- Services provided in respect of cargo exported outside the European Union or stored in restricted deposit warehouses.

4- Services provided in respect of goods referred to in clauses (1) and (2) of this protocol.

It shall also be understood by both parties that if the Kingdom of Bahrain imposes VAT or similar sales taxes, any Dutch air transport company shall be entitled to receive a treatment similar to that provided for in the preceding paragraphs of this protocol.

In witness whereof the signatories authorized by their respective Governments have signed this Protocol.

Done at the city of Manama on this day in February of the year 2007 in three original copies in Arabic, Dutch and English and all three texts shall be equally authentic and in the event of any disagreement on the interpretation, the English text shall prevail.

**On behalf of the Government of the Kingdom of Bahrain**

**On behalf of the Government of the Kingdom of the Netherlands**