
JAMAICA-DENMARK (INCOME) TAX TREATY

Date of Conclusion: 16 August 1990.

Entry into Force: 10 October 1991.

Effective Date: 1 January 1992 (see Article 30).

**CONVENTION BETWEEN
THE GOVERNMENT OF JAMAICA AND
THE GOVERNMENT OF DENMARK
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

**Article 1
Personal scope**

This Convention shall apply to persons who are residents of one or both of the Contracting States.

**Article 2
Taxes covered**

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, and in the case of Denmark, taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - (a) in the case of Denmark:
 - (i) the income tax to the state;
 - (ii) the municipal income tax;
 - (iii) the income tax to the county municipalities;
 - (iv) the seamen's tax;
 - (v) the special income tax;
 - (vi) the church tax;

- (vii) the tax on dividends;
- (viii) the tax on interest;
- (ix) the tax on royalties;
- (x) taxes imposed under the Hydrocarbon Tax Act (hereinafter referred to as "Danish tax");
- (b) in the case of Jamaica:
 - (i) the income tax; and
 - (ii) the transfer tax (hereinafter referred to as "Jamaican tax").

4. The Convention shall apply to any identical or substantially similar taxes which are imposed by a Contracting State after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws and shall notify each other of any significant official published material concerning the application of the Convention, including explanations, regulations, rulings or judicial decisions.

Article 3 General definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) the term "Denmark" means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights for the purpose of exploring and exploiting the natural resources of the sea-bed or its subsoil and the superjacent waters and with regard to other activities for the economic exploration and exploitation of the area; the term does not comprise the Faroe Islands and Greenland;
 - (b) the term "Jamaica" means the island of Jamaica, the Morant Cays, the Pedro Cays and their dependencies and includes the territorial waters of Jamaica and any area outside such territorial waters which in accordance with international law has been or may hereafter be designated under Jamaican Law as an area within which Jamaica may exercise sovereign rights for the purpose of exploring and exploiting the natural resources of the sea-bed or its subsoil and the superjacent waters and with regard to other activities for the economic exploration and exploitation of the area;
 - (c) the term "person" includes an individual, a company and any other body of persons;
 - (d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (g) the term "tax" means Danish tax or Jamaican tax, as the context requires;

- (h) the term “national” means:
 - (i) in relation to Denmark:
 - (a) any individual possessing the nationality of Denmark;
 - (b) any legal person, partnership or association deriving its status as such from the laws in force in Denmark;
 - (ii) in relation to Jamaica:
 - (a) any individual who is a citizen of Jamaica;
 - (b) any legal person, association or other entity deriving its status as such from the laws of Jamaica;
- (i) the term “competent authority” means:
 - (i) in Denmark: the Minister for Taxation or his authorised representative;
 - (ii) in Jamaica: the Minister responsible for finance or his authorised representative.

2. As regards the application of the Convention 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 State concerning the taxes to which the Convention applies.

Article 4 **Resident**

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5 **Permanent establishment**

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

2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a store or premises used as a sales outlet;
 - (g) a warehouse, in relation to a person providing storage facilities for others;
 - (h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - (i) a building site or construction, assembly, installation or dredging project, or a drilling rig or ship used for the exploration or development of natural resources within a Contracting State, or supervisory activity in connection therewith, but only if such site, project or activity continues within that State for a period or periods aggregating more than 183 days in any twelve-month period.
3. 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.
4. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 5 applies – is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
 - (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 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; or
 - (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will

not be considered an agent of an independent status within the meaning of this paragraph but in such cases the provisions of paragraph 4 shall apply.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from immovable property

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated and shall include any option or similar right in respect thereof. 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, rights to explore for or to exploit mineral deposits, sources and other natural resources, rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources and rights to amounts computed by reference to the amount or value of production from such 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 business profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the business profits of the enterprise may be taxed in the other State, but only so much of them as is attributable to that permanent establishment.

2. Notwithstanding the provisions of paragraph 1 where an enterprise of a Contracting State which has a permanent establishment in the other Contracting State carries on business activities in that other State, otherwise than through the permanent establishment, of the same or similar kind as the business activities carried on by the permanent establishment, then the business profits of such activities may be attributable to the permanent establishment unless the enterprise shows that such activities could not have been reasonably undertaken by that permanent establishment.

3. Subject to the provisions of paragraph 4, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the business 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.

4. In the determination of the business profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether incurred in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents, know-how or other rights, or by way of commission or other charges, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents, know-how or other rights, or by way of commission or other charges for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

5. No business 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. Insofar as it has been customary in a Contracting State to determine the business profits to be attributed to a permanent establishment on the basis of an apportionment of the total business profits of the enterprise to its various parts, nothing in paragraph 3 of this Article shall preclude that Contracting State from determining the business profits to be so 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 laid down in this Article.

7. For the purposes of the preceding paragraphs, the business 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.

8. Where business profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall (except as otherwise specifically provided therein), not be affected by the provisions of this Article.

Article 8

Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is resident.
3. Profits of an enterprise of a Contracting State from the use, maintenance, or rental of containers (including trailers, barges and related equipment for the transport of containers) shall be taxable only in that State to the extent used for the transport of goods or merchandise in international traffic.
4. The provisions of paragraphs 1 and 3 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
5. With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium, known as the Scandinavian Airlines System (SAS), the provisions of paragraphs 1, 3 and 4 shall only apply to such part of the profits as corresponds to the shareholding in the consortium held by Det Danske Luftfartselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

Article 9

Associated enterprises

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

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

2. Where a re-determination has been made by a Contracting State to the income of an enterprise in accordance with paragraph 1, then the other Contracting State shall, if it agrees with such redetermination and if necessary to prevent double taxation, make a corresponding adjustment to the income of the enterprise of that other Contracting State. In the event the other Contracting State disagrees with such re-determination, the two Contracting States shall endeavour to reach agreement in accordance with Article 26.

Article 10 Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 10% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly or indirectly at least 25% of the capital or of the voting power, as the case may be, of the company paying the dividends;
- (b) 15% of the gross amount of the dividends in all other cases.

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

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 16, as the case may be, shall apply.

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

6. Notwithstanding the provisions of paragraph 5, where a company which is a resident of one of the Contracting States, having a permanent establishment in the other Contracting State, derives profits or income from that permanent establishment, any remittances of such profits by the permanent establishment to a resident of the first-mentioned State may be taxed in accordance with the law of the other Contracting State but the rate of tax imposed on such remittances shall not exceed 10%.

Article 11 Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 12.5% of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. Notwithstanding the provisions of paragraphs 1 and 2, interest derived by:
 - (a) a Contracting State or an instrumentality thereof (including the Bank of Jamaica, the Jamaica Development Bank, the Jamaica Mortgage Bank, the National Bank of Denmark, the Industrialization Fund for Developing Countries, The Danish Export Credit Council, the Danish Export Finance Corporation, The Ship Credit Fund of Denmark) and such other institutions of either Contracting State as the competent authorities may agree, pursuant to Article 26 (Mutual agreement procedure); or
 - (b) a resident of a Contracting State with respect to debt obligations guaranteed or insured by that Contracting State or an instrumentality thereof;
 shall be exempt from tax by both Contracting States.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 16, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been

agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10% of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 16, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

Article 13

Management fees

1. Management fees arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such management fees may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the management fees the tax so charged shall not exceed 10% of the gross amount of the management fees. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. The term "management fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments for, or in respect of, the provision of industrial or commercial advice or management or technical services, or similar services or facilities, but it does not include payments for professional services mentioned in Article 16.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the management fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the management fees arise, through a permanent establishment situated therein, and the obligation to pay the management fees is effectively connected with:
 - (a) such permanent establishment; or
 - (b) business activities referred to in paragraph 2 of Article 7.

In such case, the provisions of Article 7 shall apply.
5. Management fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the management fees, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the management fees is incurred, and the management fees are borne by that permanent establishment, then the management fees shall be deemed to arise in the State in which the permanent establishment is situated.
6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the management fees, having regard to the advice, services or use 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.
7. If a resident of a Contracting State who is the beneficial owner of management fees which arise in the other Contracting State so elects, the tax chargeable in respect of those management fees in the Contracting State in which they arise shall be calculated as if he had a permanent establishment in that State and as if those management fees were taxable

in accordance with Article 7; such election must be notified within three years of the receipt of the management fees.

Article 14 **Limitation of benefits**

In respect of Articles 10, 11, 12 and 13, each Contracting State reserves its right to refuse to grant the benefit of the exemptions and reliefs provided for in these Articles in the case where the income is received by a person who is a resident of the other State if such person is controlled directly or indirectly by a person who is not a resident of either State but of a State with which the Contracting State where the income arises has no convention for the avoidance of double taxation. In such case, the competent authority of the State denying the benefit of the Convention shall inform the competent authority of the other State and the competent authorities shall settle the mode of application of this provision.

Article 15 **Capital gains**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State or from the alienation of shares or similar rights in a company the assets of which consist mainly of such immovable property, may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in the other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

With respect to gains derived by the Danish, Norwegian and Swedish air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by Det Danske Luftfartselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

4. Gains from the alienation of shares in a company which is a resident of a Contracting State may be taxed in that State, but only if the shares alienated form part of an interest of at least 30% in the company.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 16**Independent personal services**

1. Income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity shall be taxable only in that Contracting State.
2. Notwithstanding the provisions of paragraph 1, income derived by an individual who is a resident of a Contracting State from the performance of personal services in an independent capacity in the other Contracting State may also be taxed in that other Contracting State, if:
 - (a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
 - (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 90 days in the taxable year concerned; in such a case only so much of the income as is derived from his activities performed in that other State may be taxed in that other State; or
 - (c) if the remuneration for his activities in the other Contracting State is paid by a resident of that Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State and exceeds in the taxable year an amount of 45,000 Danish kroner or the equivalent in Jamaican currency.
3. 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 17**Dependent personal services**

1. Subject to the provisions of Articles 18, 20, 21 and 23, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

4. Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Denmark.

Article 18 **Directors' fees**

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

Article 19 **Artistes and athletes**

1. Notwithstanding the provisions of Articles 16 and 17, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 16 and 17, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply:

- (a) to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof;
- (b) to a non-profit organisation, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof;
- (c) to an entertainer or athlete in respect of services provided to an organisation referred to in sub-paragraph (b).

Article 20 **Pensions, annuities, payments under a social security system and alimony**

1. Pensions, annuities and social security payments arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

2. The term "annuities" as used in this Article means a stated sum paid periodically at stated times during life or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

3. Alimony and other maintenance payments paid to a resident of a Contracting State shall be taxable only in that State. However, any alimony or other maintenance payment paid by a resident of one of the Contracting States to a resident of the other Contracting

State, shall, to the extent it is not allowable as a relief to the payer, be taxable only in the first-mentioned State.

Article 21

Government service

1. (a) Remuneration, other than a pension, 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 taxable only in that State.
- (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. The provisions of Articles 17 and 18 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 22

Students

A student or business apprentice who is present in a Contracting State for the purposes of his education or training and who is, or was immediately before his stay in that State, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State on:

- (i) payments made to him by persons residing outside that first-mentioned State for the purpose of his maintenance, education or training; and
- (ii) remuneration from employment performed in that first-mentioned State provided the remuneration does not exceed 20,000 Danish Kroner or its equivalent in Jamaican currency for any taxable year, provided that such employment is directly related to his studies or is necessary for the purpose of his maintenance.

The benefits under sub-paragraph (ii) shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken but shall in no event exceed a period of five consecutive years from the date of his first arrival in that Contracting State.

Article 23

Other income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right

or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 16, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

Article 24

Relief from double taxation

1. In the case of Denmark double taxation shall be avoided as follows:

- (a) Subject to the provisions of sub-paragraph (c), where a resident of Denmark derives income which, in accordance with the provisions of this Convention, may be taxed in Jamaica, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Jamaica.
- (b) Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Jamaica.
- (c) Where a resident of Denmark derives income which, in accordance with the provisions of this Convention, shall be taxable only in Jamaica, Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax, which is attributable to the income derived from Jamaica.

2. In the case of Jamaica, double taxation shall be avoided as follows:

Subject to the provisions of the law of Jamaica regarding the allowance as a credit against Jamaican tax of tax paid in a territory outside of Jamaica (which shall not affect the general principles hereof), where a resident of Jamaica derives income which, in accordance with the provisions of this Convention, may be taxed in Denmark, Jamaica shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Denmark and where a company which is a resident of Denmark pays a dividend to a company resident in Jamaica, which controls directly or indirectly at least 25% of the capital or of the voting power, as the case may be, in the first-mentioned company, the deduction shall take into account the tax payable in Denmark by that first-mentioned company in respect of the profits out of which such dividend is paid.

3. For the purpose of paragraph 1, income tax paid in Jamaica by a resident of Denmark on profits attributable to a trade or business carried on in Jamaica or on dividends, interest or royalties received from a company which is a resident of Jamaica shall include any amount which in accordance with this Convention would have been payable as Jamaican tax for any year of assessment, but for an exemption from, or a reduction of, tax granted for that year or any part thereof under:

- (a) any of the following provisions, that is to say:
 - Section 10(4) of the Motion Picture Industry (Encouragement) Act;
 - Parts II and VI of the Industrial Incentives Act;
 - Sections 10 and 11 of the Export Industry (Encouragement) Act;
 - The Industrial Incentives (Regional Harmonization) Act, 1974;
 - Section 10(1)(a) of the Petroleum Refining Industry (Encouragement) Act;

Sections 36A, 36B, 36C and 36D of the Income Tax Act;

Part V of the First Schedule to the Income Tax Act;

Sections 7 and 8 of the Resort Cottages (Incentives) Act;

so far as they were in force on, and have not been modified since the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character;

- (b) any other provisions granting exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it had not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

4. Where under any provision of this Convention income is relieved from tax in one of the Contracting States and, under the law in force in the other Contracting State, a person, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State during the calendar year in which such income accrues or the next succeeding calendar year.

Article 25

Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. **This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.**

4. Nothing contained in this Article shall be construed as preventing Jamaica from charging tax under Section 48(5) of the Income Tax Act of Jamaica on a life insurance company which is a resident of Denmark.

5. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12, or paragraph 6 of Article 13, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other

Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

6. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

Article 26

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall 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 Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities shall, through consultations, develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedures provided for in this Article.

Article 27**Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 28**Diplomatic agents and consular officers**

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

Article 29**Territorial extension**

1. This Convention may be extended, either in its entirety or with any necessary modifications to any part of the territory of the Contracting States which is specifically excluded from the application of the Convention and which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 31 shall also terminate, in the manner provided for in that Article, the application of the Convention to any part of the territory of the Contracting States to which it has been extended under this Article.

Article 30
Entry into force

1. This Convention shall be subject to ratification in accordance with the applicable procedures of each Contracting State and the instruments of ratification shall be exchanged as soon as possible.
2. The Convention shall enter into force in both Contracting States upon the exchange of instruments of ratification and its provisions shall have effect:
 - (a) in respect of taxes withheld at the source on amounts paid or credited to non-residents on or after the first day of the second month next following the date on which the Convention enters into force;
 - (b) in respect of other taxes, for taxable periods beginning on or after the first day of January next following the date on which the Convention enters into force.
3. The arrangements for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income made between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Denmark by a Convention dated 27th March, 1950 and applied with certain modifications to Jamaica by Exchanges of Notes dated 18th November 1954 and 22nd December 1954 shall terminate upon the entry into force of this Convention and thereupon cease to have effect at the time when the provisions of this Convention shall be effective in accordance with the provisions of paragraphs 1 and 2.

Article 31
Termination

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention at any time after five (5) years from the date on which the Convention enters into force provided that at least six (6) months' prior notice of termination has been given through diplomatic channels. In such event, the Convention shall cease to have effect:
 - (a) in respect of taxes withheld at source, on amounts paid or credited on or after the first day of January next following the expiration of the six-month period;
 - (b) in respect of other taxes, for taxable periods beginning on or after the first day of January next following the expiration of the six-month period.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate in the English language at Copenhagen this sixteenth day of August 1990.

PROTOCOL

At the signing of the Convention between the Government of Jamaica and the Government of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the said Convention:

Re Article 5, paragraph 5:

For the purpose of the second sentence of paragraph 5 of Article 5 an enterprise which forms part of a group of enterprises shall be regarded as a distinct and separate enterprise.

Re Article 15, paragraph 1:

The word "mainly" shall be construed as referring to 50% or more.

Re Article 19, paragraph 2:

Paragraph 2 of Article 19 shall apply whether or not the person to whom the income accrues is controlled by the entertainer or athlete, as the case may be.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate in the English language at Copenhagen this sixteenth day of August 1990.

PROTOCOL

At the signing of the Convention between the Government of Jamaica and the Government of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the said Convention:

Article 8, paragraph 2.

For the purpose of the above-mentioned paragraph 2 of Article 8 an enterprise which is a resident of a Contracting State shall be treated as a resident of that State if it is a resident of that State.

Article 12, paragraph 1.

The word "mainly" shall be construed as referring to 50% or more.

Article 13, paragraph 2.

Paragraph 2 of Article 13 shall apply whether or not the person by whom the services are rendered is a resident of the State of which he is a resident.

In witness whereof the undersigned, duly authorized, have signed the present Convention, and against the Government of Denmark.

Done in duplicate in the English language at Copenhagen this nineteenth day of August 1990.