

**SAINT CHRISTOPHER AND NEVIS**

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**STATUTORY RULES AND ORDERS**

**No. 36 of 2011**

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**Income Tax (Double Taxation Relief) (Monaco) Order**

In exercise of the powers conferred by section 87 of the Income Tax Act Cap 20.22, the Governor-General makes the following Order:

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**1. Citation.**

This Order may be cited as the Income Tax (Double Taxation Relief) (Monaco) Order, 2011.

**2. Declaration.**

It is hereby declared

- (a) that the arrangement specified in the Schedule to this Order have been made with the Government of Monaco; and
- (b) that it is expedient that this arrangement shall have effect.

**SCHEDULE**

**Convention Between Saint Kitts And Nevis And The Principality Of Monaco  
For The Avoidance Of Double Taxation And The Prevention Of Fiscal Evasion  
With Respect To Taxes On Income And Capital.**

The Government of Saint Kitts and Nevis and the Government of the Principality of Monaco, desirous to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, have decided to conclude this Convention:

**Article 1  
PERSONS COVERED**

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 and on capital imposed on behalf of a Contracting State or of its local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital gains.
3. The existing taxes to which the Convention shall apply are in particular:
  - a) in the case of Saint Kitts and Nevis all taxes imposed or administered by Saint Kitts and Nevis;
  - b) in the case of the Principality of Monaco:  
the profits tax (l'impôt sur les benefices);  
(hereinafter referred to as "Monegasque tax");
4. The Convention shall apply also to any identical or substantially similar taxes that are imposed 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 that have been made in their taxations laws.

**Article 3**  
**GENERAL DEFINITIONS**

1. For the purposes of this Convention, unless the context otherwise requires:
  - a) the term "Saint Kitts and Nevis" means the twin island Federation of Saint Kitts (Saint Christopher) and Nevis and when used in a geographical sense, means the territory of the island of Saint Kitts and the island of Nevis;
  - b) the term "Monaco" means the Principality of Monaco and, when used in a geographical sense, means the territory of the Principality of Monaco;
  - c) the term "person" includes an individual, a company and any other body of persons;
  - d) the term "company" means any juridical person or any entity that is treated as a juridical person for tax purposes;
  - e) the term "enterprise" applies to the carrying on of any activity or business;
  - f) 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;
  - g) the term "international traffic" means any transport by a ship, aircraft or road vehicle operated by an enterprise that has its place of effective management in a Contracting State except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;

- h) the term “competent authority” means:
    - (i) in the case of Saint Kitts and Nevis: the Financial Secretary or his authorised representative;
    - (ii) in the case of Monaco: the Counsellor of the Government for Finance and Economy or his authorised representative;
  - i) the term “national” means:
    - (i) any individual possessing the nationality of a Contracting State;
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
  - j) the term “activity”, in comparison with an enterprise, and “business” include the performance of professional services and of other activities of an independent character.
2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

**Article 4**  
**RESIDENT**

1. For the purposes of this Convention, the term “resident of a Contracting State”, means:
- a) in the case of Saint Kitts and Nevis, any person who, under the laws of Saint Kitts and Nevis has in Saint Kitts and Nevis his domicile, residence, place of management or any other criterion of a similar nature.
  - b) in the case of the Principality of Monaco, any person who, under the laws of the Principality of Monaco, has in Monaco his domicile, residence, or place of management, and also includes that State and any local authorities thereof.
2. Where by reason of the provisions of paragraph 1 an individual is resident of both Contracting States, then his status shall be determined as follows:
- a) he shall be deemed to be a resident only 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 only 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 only 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 only 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 only 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, and
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A construction or assembling site constitutes a permanent establishment only if it lasts more than twelve months.
4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include :
  - a) the use of facilities solely for the purpose of storage, display or delivery of merchandise belonging to the enterprise;
  - b) the maintenance of a stock of merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - c) the maintenance of 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 merchandise or of collecting information, for the enterprise;
  - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised

through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a 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.
7. 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 shall be taxable exclusively in that other State.
2. The term “immovable property” shall have the meaning which it has under the law of Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, dead or alive livestock used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or leasing, and use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall apply to the income from immovable property of an enterprise.

**Article 7**  
**BUSINESS PROFITS**

1. The 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 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. Subject to the provisions of paragraph 3, 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 profits which it might be expected to make if it were distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

**Article 8**  
**SHIPPING, INLAND WATERWAYS TRANSPORT 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. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.
4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

**Article 9**  
**ASSOCIATED ENTERPRISES**

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

#### **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 subject to withholding taxes 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
  - a) 5% per cent of the gross amount of the dividends if the beneficial owner is a company;
  - b) 0% per cent of the gross amount of the dividends, if the beneficial owner is an individual and resident of either Contracting State or a partnership held by individuals and beneficial owners who are resident of either Contracting State.

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, “jouissance (life interest)” shares or “jouissance” rights, mining shares, founders’ shares of 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 State 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

#### **Article 11 INTEREST**

1. Interest arising in a Contracting State and whose beneficial owner is a resident of the other contracting State are only taxed in that other State.
2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.
3. The provisions of paragraph 1 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provision of Article 7 shall apply.
4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

#### **Article 12 ROYALTIES**

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
2. The term "royalties" as used in this Article, means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

### **Article 13** **CAPITAL GAINS**

1. Gains derives 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 shall be taxable exclusively 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircrafts or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

### **Article 14** **INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 15, 17 and 18, 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 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 commencing or ending in the fiscal year concerned, and

- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
  - c) the remuneration is not borne by a permanent establishment 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, an aircraft or a road vehicle operated in international traffic, or aboard a boat engaged in inland waterways, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.
  4. Notwithstanding the provisions of this Article, the Social Services Levy imposed by Saint Kitts and Nevis shall be applicable in respect of all employment exercised in Saint Kitts and Nevis.

**Article 15**  
**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 16**  
**ARTISTES AND SPORTSMEN**

1. Notwithstanding the provisions of Articles 7 and 14, 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 a sportsman, or as a model from his or her 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

**Article 17**  
**PENSIONS**

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration, paid to a resident of a Contracting State in consideration of past employment, shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, pensions and other amounts paid in application of the Social Security law of a Contracting State shall be taxable only in that State.
3. Notwithstanding with the provisions of paragraph 1, pensions and other similar remuneration (fixed payments included) derived from a Contracting State and paid to a resident of the other Contracting State, are not taxable in that other State if these payments derived from contributions, doles or insurance premiums paid to an additional pension regime by the beneficiary or on behalf of him, or allowances

made by the employer to an internal regime, and if these contributions, doles, insurance premiums or allowances have been effectively subjected to tax in the first Contracting State.

**Article 18**  
**GOVERNMENT SERVICE**

1. a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision thereof to an individual, in respect of services rendered to that State or authority shall be taxable only in that State.
- b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and if 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. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or one of the local authorities thereof to an individual in respect of services rendered to that State or this authority shall be taxable only in that State.
- b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or one of the local authorities thereof.

**Article 19**  
**STUDENTS**

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

**Article 20**  
**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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

**Article 21**  
**CAPITAL**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, shall be taxable exclusively in that other State.
2. Capital represented by 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, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

**Article 22**  
**ELIMINATION OF DOUBLE TAXATION**

1. In the case of Saint Kitts and Nevis, double taxation shall be eliminated as follows:  
Where a resident of Saint Kitts and Nevis derives income which, in accordance with the provisions of this Agreement, is taxable in Monaco, then Saint Kitts and Nevis shall allow as a deduction from the tax on income of that resident an amount equal to the tax paid in Monaco provided that such deduction shall not exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from Monaco.
2. In the case of Monaco, double taxation shall be eliminated as follows:  
Where a resident of Monaco derives income which, in accordance with the provisions of this Agreement, is taxable in Saint Kitts and Nevis, then Monaco shall allow as a deduction from the tax on income of that resident an amount equal to the tax paid in Saint Kitts and Nevis provided that such deduction shall not exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from Saint Kitts and Nevis.
3. For the purposes of paragraphs 1 and 2 of this Article, the terms “tax paid” shall be deemed to include the amount of tax which would have been paid in the Contracting State, should an exemption or reduction not be granted in accordance with the laws and regulations of the Contracting State.

**Article 23**  
**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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of

Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. 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 in 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.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 4 of Article 12, 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.
4. 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.
5. The provisions of this Article shall apply to taxes referred to by this Convention.

#### **Article 24** **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 or 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 23, to that of the Contracting State of which he is a national. The case must be presented within five 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, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

**Article 25**  
**EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes provided by the Convention imposed on behalf of the Contracting States or of their local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1.
2. Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a 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*).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions or paragraph 3 be construed to permit a Contracting State to decline to supply information solely asked because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

**Article 26**  
**MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS**

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

**Article 27**  
**ENTRY INTO FORCE**

1. Each Contracting State shall notify to the other Contracting State, in writing by diplomatic channels, the achievement of procedures required by its legislation in order to put into effect this Convention. The Convention shall enter into force at the date of the reception of the latter of these notifications.
2. The Convention shall be applicable:
  - a) in the case of withholding taxes, to income attributed on or after the first January of the calendar year following immediately to the year during which the Convention shall enter into force;
  - b) in the case of other taxes on income or capital, to taxes due for any taxable year beginning on or after the first January of the calendar year following immediately to the year during which the Convention shall enter into force.
3. The provisions of Article 25 of this Convention shall be applicable in respect of the tax years beginning the first January of the taxable year following to the year during which this Convention shall enter into force, or after this date.

**Article 28**  
**TERMINATION**

1. This Convention shall remain in force until terminated by a Contracting State. Each Contracting State can terminate this Convention through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the termination of a five-year period from the date of its entry into force.
2. The Convention shall cease to have effect :
  - a) in the case of withholding taxes, to income attributed on or after the first January of the calendar year following immediately to the year during which the notice is given;
  - b) in the case of other taxes on income or capital, to taxes due for any taxable year beginning on or after the first January of the calendar year following immediately to the year during which the notice is given.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose, have signed this Convention.

Done in two copies at Basseterre, St. Kitts in the Federation of Saint Kitts and Nevis on the 17<sup>th</sup> day of September 2009.

in French and English language, the two texts are evidence.

For the Government of the  
Saint Kitts and Nevis  
Denzil Douglas (Dr)  
Prime Minister

For the Government of the  
Principality of Monaco  
H. E. Gilles Noghes  
Ambassador of Monaco to  
USA

#### **ADDENDUM**

#### **EXCHANGE OF LETTERS REGARDING ARTICLE 25 OF THE TREATY BETWEEN SAINT KITTS AND NEVIS AND THE PRINCIPALITY OF MONACO**

I have the honour to refer to Article 25 of the tax Convention between Saint Kitts and Nevis and the Principality of Monaco and propose in the name of the Government of Saint Kitts and Nevis to add the following precisions:

1. It is admitted that the competent authority of the requested State shall provide on request of the competent authority of the State requesting the information for purposes referred to in Article 25.
2. The competent authority of the applicant State shall provide in support of its written request with the most possible details the following information to the competent authority of the requested State when introducing a request for information under the Convention, to demonstrate the foreseeable relevance of the information to the request:
  - a) the identity of the person under examination or investigation; as well as all probate documents and other circumstantial evidences which the request is based upon;
  - b) the period on which information is requested;
  - c) the indications on the information sought, notably its nature and the form in which the applicant State wishes to receive information from the requested State;
  - d) the tax purpose for which the information are requested;
  - e) reasons which allow to consider that the information requested are held in the requested State or are in the possession or under the control of a person within the jurisdiction of the requested State;
  - f) to the extent known, the name and address of any person who allows to consider she is in possession of the requested information;

- g) a statement specifying that the request is in conformity with the law and regulations, as well as the administrative practices of the requesting State, that if the requested information were within the jurisdiction of the applicant State, then the competent authority of the said State would be able to obtain the information under the laws of the requesting State or in the normal course of administrative practices and that it is in conformity with this Convention;
  - h) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
3. The competent authority of the requested State may decline to provide the requested information when the request is not made in conformity with this Convention.

I have the honour to propose that, if the above is acceptable for your Government, this letter and your agreement shall constitute together an Agreement between our two Governments which shall become an integral part of the Convention.

**DONE** by exchange of letters on behalf of the Government of Saint Christopher and Nevis signed by Dr. Denzil Douglas, Prime Minister and dated 17<sup>th</sup> September 2009 and on behalf of the Government of the Principality of Monaco signed by H. E. Gilles Noghes, Ambassador of Monaco to the USA and dated 17<sup>th</sup> September 2009.

Made this 6<sup>th</sup> day of July, 2011

CUTHBERT M SEBASTIAN  
*Governor-General*