

TO BE PUBLISHED IN PART II- SECTION 3 - SUB-SECTION (1)
OF THE GAZETTE OF INDIA EXTRAORDINARY

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE AND INSURANCE)

NOTIFICATION
INCOME-TAX

No. 1108

NEW DELHI, THE

~~14th~~ 1975

30th September 1975

G.S.R. No. Whereas the Government of India and the Government of Afghanistan have concluded an Agreement through exchange of letters as set out in the Annexure hereto, for the avoidance of double taxation of income of enterprises operating aircraft;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961) and section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Central Government hereby directs that all the provisions of the said Agreement shall be given effect to in the Union of India.

ANNEXURE

Ambassador of India
Kabul

September 14, 1975.

Excellency,

I have the honour to refer to the Agreement dated the 26th January, 1952 between the Government of India and

the Government of Afghanistan relating to air services, and to the discussions between the representatives of our two Governments in the reciprocal exemption of the airlines of India and Afghanistan from payment of income-tax and to confer on behalf of the Government of India the following understandings reached between our two Governments:

- (1) Income derived from the operation of aircraft by the airlines of India shall be exempt from the Afghanistana tax.
- (2) Income derived from the operation of aircraft by the airlines of Afghanistan shall be exempt from the Indian tax.
- (3) The exemption provided for in paragraphs (1) and (2) above shall also apply in respect of participation in pools of any kind regarding air transport by the airlines of India or Afghanistan; the exemption shall not, however, apply to income from operation of aircraft in internal traffic in India or Afghanistan.

(4) The exemption provided for in paragraphs (1), (2) and (3) above shall have effect in relation to the income derived from the operation of aircraft on or after the 23rd day of January, 1952, on which date the agreement relating to air services was signed between India and Afghanistan.

In case tax on income relating to the foregoing period has been levied by either Government as of the date of this agreement, the same shall be refunded by that Government on application to be made in this behalf within twelve months of the said date by the airlines of India or the Government of Afghanistan as the case may be.

(5) It is understood that:

- (a) The term "Indian tax" means the income-tax and surtax imposed under the tax laws of India.
- (b) The term "Afghanistan tax" means the income tax and the business transactions tax imposed by the Income Tax Law of Afghanistan.
- (c) The terms "Indian tax" and "Afghanistan tax" shall also include any identical or substantially similar taxes which are imposed hereafter by India or Afghanistan respectively in addition to or in place of the existing taxes.
- (d) The term "airlines of India" or "airlines of Afghanistan" means -
 - (i) airlines designated by the Government of India or the Government of Afghanistan, as the case may be, in pursuance of the Agreement dated 26th January, 1952 (as amended or revised from time to time) between the two Governments relating to air services; or
 - (ii) airlines which are authorised by the Government of India or the Government of Afghanistan, as the case may be, by a general or special arrangement between the two Governments to operate chartered flights between or beyond their territories.
- (e) The term "internal traffic" shall mean traffic which originates and terminates within India or within Afghanistan, as the case may be.
- (f) The term "operation of aircraft" means a business of transportation by air of persons, livestock, goods or mail, carried on by the owners or lessors or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises and any other activity directly connected with such transportation.

I have the honour also to propose that this letter and Your Excellency's letter of reply confirming the foregoing understandings shall be regarded as constituting

an agreement between the two Governments for the avoidance of double taxation of income of enterprises operating aircraft, which shall enter into force on the date of Your Excellency's reply and shall remain in force indefinitely, unless either of the Governments gives notice to the other Government of its intention to terminate this Agreement on or before the thirtieth day of June in any calendar year after the year 1980. In the event of such a notice, this agreement shall cease to be effective:

- (a) in India, in respect of income assessable for the assessment year commencing on the 1st day of April in the second calendar year following the calendar year in which the notice is given and the subsequent assessment years; and
- (b) in Afghanistan, in respect of income assessable for the taxable year commencing on the 1st day of Hamal, corresponding to the 21st day of March, in the second calendar year following the calendar year in which the notice is given and the subsequent taxable years."

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Sd.) K. R.P. Singh
Ambassador of India in Afghanistan
Kabul - Afghanistan.

H.E. Mr. Sultan Mahmood Ghazi
President,
Civil Aviation and Tourism Authority,
Kabul - Afghanistan.

President
Civil Aviation
and Tourism Authority

Excellency,

September 14, 1975.

I have the honour to acknowledge the receipt of Your Excellency's letter of today's date which reads as follows:

" I have the honour to refer to the Agreement dated the 26th January, 1952 between the Government of India and the Government of Afghanistan relating to air services, and to the discussions between the representatives of our two Governments on the reciprocal exemption of the airlines of India and Afghanistan from payment of income-tax and to confirm on behalf of the Government of India the following understandings reached between our two Governments:

(1) Income derived from the operation of aircraft by the airlines of India shall be exempt from the Afghanistan tax.

(2) Income derived from the operation of aircraft by the airlines of Afghanistan shall be exempt from the Indian tax.

(3) The exemption provided for in paragraphs (1) and (2) above shall also apply in respect of participation in pools of any kind regarding air transport by the airlines of India or Afghanistan; the exemption shall not, however, apply to income from operation of aircraft in internal traffic in India or Afghanistan.

(4) The exemption provided for in paragraphs (1), (2) and (3) above shall have effect in relation to the income derived from the operation of aircraft on or after the 26th day of January, 1952, on which date the Agreement relating to air services was signed between India and Afghanistan.

In case any tax on income relatable to the aforesaid period has been recovered by either Government as of the date

of this agreement, the same shall be refunded by that government on an application to be made in this behalf within twelve months of the said date by the airlines of India or the airlines of Afghanistan as the case may be.

(5) It is understood that:

(a) The term "Indian tax" means the income tax and surtax imposed under the tax laws of India.

(b) The term "Afghanistan tax" means the income tax and the business transactions tax imposed by the Income Tax Law of Afghanistan.

(c) The terms "Indian tax" and "Afghanistan tax" shall also include any identical or substantially similar taxes which are imposed hereafter by India or Afghanistan respectively in addition to or in place of the existing taxes.

(d) The term "airlines of India" or "airlines of Afghanistan" means-

(i) airlines designated by the government of India or the government of Afghanistan, as the case may be, in pursuance of the agreement dated 26th January, 1952 (as amended or revised from time to time) between the two governments relating to air services; or

(ii) airlines which are authorised by the Government of India or the Government of Afghanistan, as the case may be, by a general or special arrangement between the two governments to operate chartered flights between or beyond their territories.

(e) The term "internal traffic" shall mean traffic which originates in territories within India or within Afghanistan, as the case may be.

(f) The term "operation of aircraft" means a business of transportation by air of persons, livestock, goods or mail, carried on by the owners or lessors or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises and any other activity directly connected with such transportation.

I have the honour also to propose that this letter and Your Excellency's letter of reply confirming the ~~foregoing~~ ^{foregoing} understandings shall be regarded as constituting an agreement between the two Governments for the avoidance of double taxation of income of enterprises operating aircraft, which shall enter into force on the date of Your Excellency's reply and shall remain in force indefinitely, unless either of the Governments gives notice to the other Government of its intention to terminate this agreement on or before the thirtieth day of June in any calendar year after the year 1980. In the event of such a notice, this agreement shall cease to be effective:

- (a) in India, in respect of income assessable for the assessment year commencing on the 1st day of April in the second calendar year following the calendar year in which the notice is given and the subsequent assessment years; and
- (b) in Afghanistan, in respect of income assessable for the taxable year commencing on the 1st day of Hamal, corresponding to the 21st day of March, in the second calendar year following the calendar year in which the notice is given and the subsequent taxable years."

I have further the honour to confirm the foregoing understandings on behalf of the Government of Afghanistan and to agree that Your Excellency's letter and my reply thereto shall constitute an agreement between the two Governments as stated in Your Excellency's above-mentioned letter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(Sd.) Sultan Mahmood Ghazi
President, Civil Aviation and Tourism Authority,
Kabul - Afghanistan

H.E. Mr. K.R.P. Singh
Ambassador of India in Afghanistan,
Kabul - Afghanistan.

[1108 F.No.145/2/71-AD]
(S.R. Menta) Addl. Secy.