MOORE

Agreement between the Government of the Republic of Mozambique and the Government of the Republic of Botswana

Resolution No. 24/2011 of 10 June



TABLE OF CONTENTS

RESOLUTION NO. 24/2011 OF 10 JUNE 1

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF MOZAMBIQUE AND THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA TO AVOID DOUBLE TAXATION AND PREVENT TAX EVASION IN MATTERS OF INCOME TAXES 2

ARTICLE 1 – Persons concerned 2

ARTICLE 2 – Taxes concerned 2

ARTICLE 3 – General definitions 2

ARTICLE 4 – Resident 3

ARTICLE 5 – Permanent establishment 4

ARTICLE 6 – Income from immovable property 6

ARTICLE 8 – International Transport 7

ARTICLE 9 – Associated companies 8

ARTICLE 10 – Dividends 8

ARTICLE 11 – Interest 9

ARTICLE 12 – Royalties 10

ARTICLE 13 – Capital gains 11

ARTICLE 14 – Income from employment 11

ARTICLE 15 – Percentage of council members 12

ARTICLE 16 – Artists and sportsmen 12

ARTICLE 17 – Pensions and annuities 12

ARTICLE 18 – Public remuneration 13

ARTICLE 19 – Teachers, teachers and researchers 13

ARTICLE 20 – Students 14

ARTICLE 21 – Remuneration for technical work 14

ARTICLE 22 – Other Income 15

ARTICLE 23 – Method for eliminating double taxation 15

ARTICLE 24 – Non-discrimination 16

ARTICLE 25 – Mutual Settlement Procedure 16

ARTICLE 26 – Exchange of information 17

ARTICLE 27 – Assistance in Collection 17

ARTICLE 28 – Members of the diplomatic mission and consular posts 18

TABLE OF CONTENTS

ARTICLE 29 – Entry into force *18*

ARTICLE 30 – Denunciation *18*

WHY MOORE? **20**

MOORE IN THE WORLD 20

MOORE MOÇAMBIQUE **22**

OUR SERVICES 22

Expert Consulting Services *22*

Auditing *22*

Accounting Services *23*

Taxation *23*

..... **24**

RESOLUTION NO. 24/2011 OF 10 JUNE

If there is a need to comply with the requirements set out in the Agreement between the Government of the Republic of Mozambique and the Government of the Republic of Botswana to Avoid Double Taxation and Prevent Tax Evasion in Matters of Income Taxes, under the provisions of Article 204(1)(g) of the Constitution of the Republic, the Council of Ministers determines:

Article 1. The Agreement between the Government of the Republic of Mozambique and the Government of the Republic of Botswana for the Avoidance of Double Taxation and Prevention of Tax Evasion in Matters of Income Taxes, signed on 27 February 2009 in Cape Town, Republic of South Africa, the text of which in Portuguese is an integral part of this Resolution, is hereby ratified.

Art. 2. The Ministry of Finance is responsible for adopting all necessary measures for the implementation of this Agreement.

Approved by the Council of Ministers, on January 25th, 2011.

Public.

The Prime Minister, Aires Bonifácio Baptista Ali.

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF MOZAMBIQUE AND THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA TO AVOID DOUBLE TAXATION AND PREVENT TAX EVASION IN MATTERS OF INCOME TAXES

The Government of the Republic of Mozambique and the Government of the Republic of Botswana desirous of entering into an Agreement with a view to avoiding double taxation and preventing tax evasion of Income Taxes;

Agree as follows:

ARTICLE 1 – Persons concerned

This Agreement applies to persons residing in one or both of the Warring States.

ARTICLE 2 – Taxes concerned

1. The current taxes to which this Agreement applies are as follows:

a) No Botswana

(i) Income Tax, including any pre-payment withholding tax or taxes on advance payments in respect of the foregoing taxes;

(ii) Capital gains tax (hereinafter referred to as the "Botswana Tax"). e

b) In Mozambique

(i) Personal Income Tax (IRPS);

(ii) Corporate Income Tax (IRPC) (hereinafter referred to as the "Mozambican Tax").

2. Nothing in this Agreement shall limit the right of each Contracting State to levy taxes on profits from a mining company to Lima at an effective rate different from that levied on profits from any other industry. The term "mining company" means an enterprise engaged in mining activities.

3. The Agreement shall also apply to taxes of an identical or substantially similar nature which are established after the date of signature of the Agreement and which may be added to or replace existing taxes. The competent authorities of the Contracting States shall notify each other of substantial changes in their respective tax laws.

ARTICLE 3 – General definitions

1. For the purposes of this Agreement, unless the context requires otherwise:

(a) The term "Botswana" means the Republic of Botswana;

(b) The term "Mozambique" means "the territory of the Republic of Mozambique and its territorial waters, including the islands where, in accordance with Mozambican law and international law, the Republic of Mozambique holds sovereign rights over the research and exploitation of natural resources, the sea coast, its subsoil and the underlying waters";

(c) The expressions "Contracting State" and "the other Contracting State" shall designate, depending on the context, Mozambique or Botswana;

(d) the term "undertaking" means a body or entity considered to be a body for tax purposes;

(e) The term "competent authority" means:

(i) in Botswana, the Minister of Finance and Planning and Development, represented by the Commissioner-General of the Botswana Unified Revenue Service; e

(ii) In Mozambique, the Minister of Finance or his authorized representative.

(f) the terms "undertaking of a Contracting State" and "undertaking of the other Contracting State" mean respectively an undertaking operated by a resident of a Contracting State and an undertaking operated by a resident of the other Contracting State;

(g) the term "international traffic" means any transport by a ship, aircraft, rail or road transport operated by an undertaking of a Contracting State, except where the ship, aircraft, rail or road transport is operated only between places situated in the other Contracting State;

(h) The term "national" means:

(i) any individual holding the nationality of a Contracting State;

(ii) Any legal person or association formed in accordance with the laws in force in that Contracting State.

(i) the term "person" means a natural person, a company, a joint venture, a joint venture, an estate and any other group of persons which is treated as an entity for tax purposes; e

j) The term "professional services" includes self-employed activities, especially scientific, literary, artistic, educational or teaching, as well as self-employed activities of doctors, lawyers, engineers, architects, dentists and accountants.

2. With respect to the application of this Agreement at any given time by a Contracting State, any expression not defined therein, unless the context requires otherwise, shall have the meaning given to it at that time by the laws of that State, for the purposes of the Taxes to which this Agreement applies, or any meaning under the tax laws applicable by that Contracting State, and the interpretation resulting from that legislation shall prevail over that resulting from other legislation of that State.

ARTICLE 4 – Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is subject to tax there by reason of his domicile, residence, place of conduct or any other criterion of a similar nature, and also includes that State and its political subdivisions or local authority. However, that term

does not include any person who is subject to tax in that State, only in respect of income from sources located in that State.

2. Where, by virtue of paragraph (1), a natural person is resident of both Contracting States, the situation shall be determined as follows:

(a) shall be deemed to be resident only in the State in which he has a permanent residence. If he has a permanent residence at his disposal in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closest (centre of vital interests);

(b) if the State in which he has the centre of vital interests cannot be determined or if he does not have a permanent residence at his disposal in any of the States, he shall be deemed to be a resident only of the Contracting State in which he habitually resides;

(c) if he habitually stays in both States or if he does not habitually stay in either 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 is not a national of either of them, the competent authorities of the Contracting States shall settle the case by common accord.

3. Where, by virtue of paragraph (1), a person, other than a natural person, is resident of both Contracting States, he shall be deemed to be resident only in the State in which his effective management is situated.

ARTICLE 5 – Permanent establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed facility through which the undertaking carries on all or part of its business.

2. The term "permanent establishment" shall include, in particular:

a) A place of direction;

b) A branch;

c) An office;

d) A factory;

e) A workshop;

(f) a mine, oil or gas well, quarry or any natural resource extraction site;

g) An installation or structure used for the exploitation of natural resources, provided that such installation or structure is maintained for a period of more than 183 days.

3. The term "permanent establishment" also includes:

(a) a construction site or assembly or supervision project in connection with that project only if that site, project or activities last for a period of more than 183 days;

(b) the provision of services, including consultancy services, by an undertaking through employees or other personnel employed in the undertaking for such purposes, but only if such activities continue (for the same or another project connected thereto) in that Contracting State, for a period or periods totalling more than 183 days in any 12-month period commencing or ending in the relevant tax year; e

(c) the provision of professional services or other activities of a self-employed nature by an individual, but only when such services continue within the territory of the Contracting State for a period or periods exceeding, in aggregate, 183 days in any 12-month period commencing or ending in the relevant tax year.

4. Notwithstanding the provisions of this Article, the term "permanent establishment" shall be understood as not implying:

(a) premises used solely for storing or exhibiting goods or merchandise belonging to the undertaking;

b) The maintenance of a stock of goods or merchandise belonging to an undertaking, solely for the purpose of storing or exhibiting them;

(c) the maintenance of a stock of goods or merchandise belonging to the undertaking, exclusively to be processed by another undertaking;

(d) the maintenance of a fixed installation, solely for the purpose of purchasing goods or collecting information for the undertaking;

e) The maintenance of a fixed installation, maintained solely to carry out for the undertaking, any other preparatory or auxiliary activity;

(f) the maintenance of a fixed installation only for the exercise of any combination of the activities referred to in (a) to (e), provided that the overall activity of the fixed installation resulting from this combination is of a preparatory or ancillary nature.

5. Notwithstanding paragraphs (1) and (2) of this Article, where a person other than an independent agent referred to in paragraph 6 acts in a Contracting State on behalf of an undertaking of another Contracting State, a permanent establishment in the first State referred to shall be deemed to be a permanent establishment in the first State in respect of the activities which that person carries on in that undertaking if that person:

(a) it has and habitually exercises in the first State referred to powers to conclude contracts on behalf of that undertaking; or

(b) it does not have such authority, but usually maintains in the first mentioned Contracting State a stock of goods or merchandise belonging to the undertaking of which it regularly supplies goods and merchandise on behalf of the latter.

Unless the activities of such a person are limited to those specified in paragraph (4), which, if carried on through a fixed facility, would not allow such fixed installation or activity to be regarded as a permanent establishment in accordance with the provisions of that subparagraph.

6. An undertaking shall not be regarded as having a permanent establishment in a Contracting State merely because it carries on its business in that State through a broker, a Commissioner-General or any other independent agent, provided that such persons act in the normal course of their business.

7. Without prejudice to the foregoing provisions of this Article, an insurance undertaking of a Contracting State shall, except in respect of reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other Contracting State or insures risks situated there through a person other than an independent agent to whom the provisions of paragraph (6) apply.

8. The fact that a company resident in a Contracting State is controlled or controlled by a company which is resident in the other Contracting State or carries on its business in that other State (whether through a permanent establishment or otherwise) is not in itself sufficient to make either of those companies a permanent establishment of the other.

ARTICLE 6 – Income from immovable property

1. Income which a resident of a Contracting State receives from immovable property, including income from agricultural or forestry holdings, situated in the other Contracting State may be taxed in that other Contracting State.

2. The term "immovable property" shall have the meaning given to it by the law of the Contracting State in which such property is situated. The term shall always include the accessories, livestock and equipment of agricultural and forestry holdings, rights to which the provisions of private law relating to the ownership of immovable property apply, usufruct of immovable property and rights to variable or fixed remuneration for the exploitation or concession of the exploitation of mineral deposits, sources and other natural resources.

3. The provisions of paragraph (1) shall apply to income derived from the direct use, lease or any other form of use of immovable property.

4. The provisions of paragraphs (1) and (3) shall also apply to income from the immovable property of an undertaking.

ARTICLE 7 – Corporate profits

1. The profits of an undertaking in a Contracting State may be taxed in that State only unless the undertaking carries on its business in the other Contracting State through a permanent establishment situated there. If the undertaking carries on its business in this way, its profits may be taxed in the other State, but only in so far as they are attributable to that permanent establishment.

2. Subject to paragraph 3 of this Article, where an undertaking of a Contracting State carries on its activity in the other Contracting State through a permanent establishment situated there, the profits which it would make if it were a separate and separate undertaking carrying on the same or similar activities under the same or similar conditions shall be allocated to that Contracting State the profits which it would make if it

were a separate and separate undertaking carrying on the same or similar activities. and dealing with the undertaking of which it is: permanent establishment with absolute independence.

3. In determining the profit of a permanent establishment, it shall be permissible to deduct expenses incurred in order to achieve the purposes pursued by that permanent establishment, including management and general administration expenses, incurred for the purpose referred to, whether in the State in which that permanent establishment is situated or outside it. However, no deduction shall be allowed in respect of amounts, if any, paid (unless it is a question of reimbursement of expenses incurred) by the permanent establishment in favour of the head office of the undertaking. or any other of its establishments, in the form of royalties, remuneration or other similar payments in the case of the use of patents or other rights, or through commissions, for specific services performed or management, or, except in the case of banking undertakings, through loans to the permanent establishment. Similarly, in determining the profits of a permanent establishment, the amounts charged (other than reimbursement of expenses incurred) by the permanent establishment at the head office of the undertaking or any of its other establishments by way of royalties, royalties or other similar payments in return for the use of patents or other rights, or through commissions, for specific services performed or by management, or, except in the case of banking undertakings, by interest on loans taken out at the head office of the undertaking or any of its establishments, shall not be taken into account.

4. No profit shall be attributed to a permanent establishment by reason of the mere purchase of goods or merchandise by that permanent establishment for the undertaking.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be calculated each year in accordance with the same method, unless there are valid and sufficient reasons for proceeding differently.

6. Where profits comprise elements of income specifically dealt with in other articles of this Agreement, the provisions of this Agreement shall not be affected by this article.

ARTICLE 8 – International Transport

1. The profits of an undertaking of a Contracting State arising from the operation of ships, aircraft, rail or road transport in international traffic may be taxed only in that State.

2. For the purposes of this Article, profits from the operation of ships, aircraft, rail or road transport in international traffic shall include:

(a) profits from the single-hull leasing of ships or aircraft used in international traffic; e

(b) profits from the hire of rail or road transport used in international traffic;

(c) And such profits are accidental in relation to the profits to which the provisions of paragraph (1) apply.

3. The profits of a company in a Contracting State from the use of container hire (including trailers, barges and equipment related to the transport of containers) used for transport in international traffic of goods or goods may only be taxed in that State.

4. The provisions of paragraph (1) shall also apply to profits from participation in a pool, joint operation or an international operating body.

ARTICLE 9 – Associated companies

1. When:

(a) an undertaking of a Contracting State participates, directly or indirectly, in the management, control or capital of an undertaking of the other Contracting State; or

(b) the same persons. participate, directly or indirectly, in the management, control or capital of an undertaking of a Contracting State and of an undertaking of another Contracting State.

And in both cases, the two companies, in their commercial or financial relations, are linked by accepted or imposed conditions that differ from those that would be established between independent companies, the profits that, if these conditions did not exist, would have been obtained by one of the companies, but were not because of those conditions, can be included in the profits of that company and, consequently, taxed.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - the profits on which an enterprise of the other Contracting State has been taxed in that other State, and the profits thus included constitute profits which would have been obtained by the enterprise of the first State, if the conditions agreed between the two enterprises had been the conditions which would have been established between independent enterprises, the other State shall make an appropriate adjustment to the amount of tax levied therein on the profits referred to. In determining this adjustment, the other provisions of this Agreement shall be taken into account and the competent authorities of the Contracting States shall consult each other if necessary.

ARTICLE 10 – Dividends

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is resident and in accordance with the legislation of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax thus established may not exceed:

(a) the percentage of the gross amount of the dividends if the beneficial owner is a company holding at least 25 per cent of the capital of the company paying the dividends; or

b) 12% of the gross amount of dividends, in other cases.

This paragraph shall not affect the taxation of the company on the profits on which the dividends have been distributed.

3. The term "dividends" as used in this article means income from shares, shares or enjoyment bonuses, shares in mines, shares in founders or other rights (other than credits) which enable them to participate in profits, as well as income derived from other shares subject to the same tax regime as income from shares under the law of the State of which the company distributing them is resident.

4. The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the dividends, who is resident in a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is resident, through a permanent establishment situated there, and the shareholding in respect of which the dividends are paid is actually linked to that permanent establishment. In such a case, the provisions of Article 7 shall apply.

5. Where a company resident in a Contracting State derives profits or income from the other Contracting State, that other State may not levy any tax on dividends paid by the company, except in so far as those dividends are paid to a resident of that other State or in so far as the shareholding in respect of which the dividends are paid is actually linked to a permanent establishment situated in that other State, or to subject the undistributed profits of the company to undistributed profits tax, even if the dividends paid or undistributed profits consist, in whole or in part, of profits or income from that other State.

ARTICLE 11 – Interest

1. Interest originating in a Contracting State and paid to a resident of the other Contracting State may be taxed only in that other State.

2. However, such interest may be taxed in the Contracting State from which it originates and in accordance with the legislation of that State, but if the recipient is the actual beneficiary of the interest, the tax so established may not exceed 10% of the gross amount of interest.

3. Notwithstanding the provisions of paragraph (2), interest accruing from a Contracting State may be exempt from tax in that State if it is obtained by the Government of the other Contracting State or a local authority, or any agency owned or controlled by the Government or authority.

4. The term "interest" as used in this article means income from claims of any kind secured or unsecured by a mortgage and whether or not entitled to share in the debtor's profits, and in particular income from government debt and loan obligations, including premiums and advantages in connection with such securities or bonds. For the purposes of this article, penalties for late payment shall not be considered to be interest.

5. The provisions of paragraphs (1), (2) and (3) of this Article shall not apply if the beneficial owner of the interest, who is resident in a Contracting State, carries on business in the

other Contracting State from which the interest accrues, through a permanent establishment situated there, and the claim in respect of which the interest is paid is actually linked to that permanent establishment or to such a fixed installation. In this case, the provisions of Article 7 shall apply.

6. Interest shall be deemed to have accrued from a Contracting State where the debtor is the State itself, a local authority or a resident of that State. However, where the person liable for interest, whether or not he is a resident of a Contracting State, has in a Contracting State a permanent establishment in respect of which the obligation for which the interest is paid has been contracted and that permanent establishment bears the payment of that interest, such interest shall be deemed to accrue from the Contracting State in which the permanent establishment is situated.

7. Where, by reason of special relationships existing between the debtor and the beneficial owner or between them and any other person, the amount of interest paid, taking into account the claim on which it is paid, exceeds the amount that would have been agreed between the debtor and the beneficial owner in the absence of such relationships, the provisions of this Article shall apply only to the latter amount. In such a case, the excess may continue to be taxed in accordance with the law of each Contracting State, taking into account the other provisions of this Agreement.

ARTICLE 12 – Royalties

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

2. However, such royalties may also be taxed in the Contracting State from which they originate and in accordance with the legislation of that State, but if the person receiving the royalty is the beneficial owner of the royalty, the tax so established shall not exceed 10 per cent of the gross amount of the royalty.

3. The term "royalties" as used in this Article means the consideration of any kind paid for the use or grant of use of a copyright in a literary, artistic or scientific work (including motion pictures, films, recordings or discs for radio or television broadcast), a patent, a trade mark, a design, a plan, a formula or a secret process, or for the use of or right to use industrial, commercial or scientific equipment or for information relating to experience acquired in the industrial, commercial or scientific sector.

4. The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the royalty, who is resident in a Contracting State, carries on an activity in the other Contracting State from which the royalty is derived, through a permanent establishment situated there, and the right or property in respect of which the royalty is paid is actually connected with that permanent establishment. In this case, the provisions of Article 7 shall apply.

5. A royalty shall be deemed to have come from a Contracting State where the debtor is that State, a local authority or a resident of that State. However, where the person liable for payment of the royalty is or is not a resident of a Contracting State, has in the

Contracting State a permanent establishment in respect of which the obligation giving rise to the payment of the royalty has been entered into and that permanent establishment bears the payment of that royalty, such royalty shall be deemed to come from the Contracting State in which the permanent establishment is situated.

6. Where, by reason of special relationships existing between the debtor and the beneficial owner of the royalty or between any other person, the amount of the royalty, taking into account the performance for which it is paid, exceeds the amount that would be agreed between the debtor and the beneficial owner in the absence of such relationships, the provisions of this Article shall apply only to the latter amount. In such a case, the excess may continue to be taxed in accordance with the law of each Contracting State, taking into account the other provisions of this Agreement.

ARTICLE 13 – Capital gains

1. Gains which a resident of a Contracting State derives from the disposal of immovable property referred to in Article 6 and situated in the other Contracting State or from the disposal of shares in an undertaking whose assets consist principally of this type of property may be taxed in that other Contracting State.

2. Gains arising from the disposal of movable property forming part of the assets of a permanent establishment which an undertaking of one Contracting State has in the other Contracting State, including gains arising from the disposal of that permanent establishment (alone or with the whole of the undertaking), may be taxed in that other State.

3. The profits of an undertaking of a Contracting State arising from the disposal of ships, aircraft or rail or road transport vehicles operating in international traffic or of movable property used for the operation of such ships, aircraft or rail or road transport may be taxed only in that State.

4. Gains arising from the disposal of any property other than those referred to in paragraphs (1), (2) and (3) may be taxed only in the Contracting State of which the seller is resident.

5. Notwithstanding the provisions of paragraph (4), gains arising from the disposal of shares or other rights of an enterprise which is resident of one of the Contracting States and derived from a person who was resident of that State and who, after acquiring such shares or rights, has become resident of another Contracting State, may be taxed in the first mentioned State if the disposal of the shares or other rights of an enterprise occurs at any time during the ten years following the date on which the person ceased to be a resident of the first said State.

ARTICLE 14 – Income from employment

1. Subject to Articles (15), (17) and (18), wages, salaries and other benefits: similar remuneration obtained from employment by a resident of a Contracting State may be taxed only in that State, unless the employment is carried on in the other Contracting

State. If the employment is carried on there, the corresponding remuneration may be taxed in that other State.

2. Notwithstanding paragraph (1), remuneration received by a resident of a Contracting State from employment in the other Contracting State may be taxed in the first mentioned State only if:

(a) the beneficiary remains in the other Contracting State for a period or periods not exceeding a total of 183 days in any twelve-month period beginning or ending in the tax year in question;

(b) the remuneration is paid by an employer or on behalf of an employer who is not a resident of the other State; e

(c) the remuneration is not borne by a permanent establishment which the employer has in the other Contracting State.

3. Notwithstanding the foregoing provisions of that article, remuneration derived from employment on board a ship, aircraft, rail or road transport operated in international traffic by an undertaking of a Contracting State may be taxed in that State.

ARTICLE 15 – Percentage of council members

Percentages and other similar remuneration received by a resident of a Contracting State as a member of the Board of Directors of a company which is resident in the other Contracting State may be taxed in that other State.

ARTICLE 16 – Artists and sportsmen

1. Notwithstanding Articles 7 and 14, income received by a resident of a Contracting State as an entertainment professional, such as a theatre, cinema, radio or television performer, or musician, as well as an sportsman, from his personal activities carried out in that capacity in the other Contracting State may be taxed in that other State.

2. Notwithstanding the provisions of Articles 7 and 14, income from activities personally carried out by an entertainment professional or sportsman in that capacity, attributed to another person, may be taxed in the Contracting State in which those activities of the entertainment professionals or sportsmen are carried out.

3. Income obtained by a resident of a Contracting State from the activities referred to in paragraph (1) shall be exempt from tax in that other State if the visit to that other State is wholly or substantially supported by public funds of the first mentioned Contracting State or by a local authority and such income is for the public benefit.

ARTICLE 17 – Pensions and annuities

1. Subject to the provisions of paragraph (2) of Article 18, pensions and other similar remuneration and pensionable years originating in a Contracting State and paid to a resident of another Contracting State may be taxed in the first Contracting State.

2. Notwithstanding paragraph (1), pensions and other similar payments made under the legislation on the social security system of a Contracting State shall be taxed only in that State.

3. The term "annuity" means a fixed amount payable from time to time, on fixed dates, during life or for a definite or determinable period in discharge of an obligation resulting from the adequate delivery of money or monetary value.

ARTICLE 18 – Public remuneration

(1.a) Wages and other similar remuneration, other than pensions, paid by a Contracting State or local authority to a natural person as a result of services rendered to that State or local authority may be taxed only in that State.

(b) However, such remuneration may be taxed in the other Contracting State only if the services are supplied in that State and if the natural person is a resident of that State who:

(i) You are a national of that State; or

(ii) That he or she did not become its resident solely for the purpose of providing such services.

(2.a) Any pension or other similar remuneration paid by a Contracting State or by a local authority to a natural person, either directly or through funds set up by them, to a natural person, as a result of services rendered to that State or authority, may be taxed only in that State.

(b) However, such pensions or similar remuneration may be taxed in the other Contracting State only if the natural person is a resident and a national of that State.

3. The provisions of Articles 14, 15 and 17 of this Agreement shall apply to remuneration and pensions paid as a result of services rendered in connection with an activity carried out by a Contracting State or by one of its local authorities.

ARTICLE 19 – Teachers, teachers and researchers

1. Notwithstanding the provisions of Article 14, a teacher, lecturer and researcher who makes a temporary visit to one of the Contracting States for a period not exceeding two years from the date of arrival in that State, solely for the purpose of teaching or research at a university, college, school or other educational institution in that State and who is or was immediately prior to that visit, a resident of the other Contracting State shall be exempt from tax in the first mentioned State, provided that the remuneration comes from sources located outside that State.

2. For the purposes of this article, a natural person shall be deemed to be a resident of a Contracting Status if he or she is a resident of that Contracting Status in the tax year in which he or she visits the other or in the year preceding that tax year.

ARTICLE 20 – Students

1. A student, apprentice or trainee who remains in a Contracting State for the sole purpose of pursuing his studies or vocational training there and who is or was immediately prior to his stay a resident of the other Contracting State shall be exempt from tax in the first mentioned State in respect of payments received from sources outside that first mentioned State for the purposes of his maintenance, studies or training.

2. With respect to grants and scholarships not covered by paragraph (1), the student or trainee referred to in paragraph (1) shall benefit from the same tax exemptions, benefits or reductions as residents of the first Contracting State.

ARTICLE 21 – Remuneration for technical work

1. Remuneration for technical work originating in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such remuneration for technical work may also be taxed in the Contracting State from which it originates and in accordance with the legislation of that Contracting State; but if such remuneration for technical work is provided by a resident of the other Contracting State who is subject to tax in that State, the tax payable in the Contracting State from which the remuneration for technical work originates may not exceed 10% of the gross amount of such remuneration.

3. The term "remuneration for technical work", as used in this article, means payments of any nature whatsoever to any person other than the employee of the person who; makes the payments, in consideration for any service of an administrative, technical, managerial or consulting nature.

4. The provisions of paragraphs (1) and (2) shall not apply; if the actual recipient of the remuneration for technical work, being a resident of a Contracting State, pursues the activity in the other Contracting State from which the remuneration for technical work originates, through a permanent establishment situated there, and the remuneration for technical work being paid is actually linked to that permanent establishment. In this case, the provisions of Article 7 shall apply.

5. Remuneration for technical work shall be deemed to have come from a Contracting State where the debtor is that State itself, a local authority of that State or a resident of that State. However, where the person liable for remuneration for technical work is or is not a resident of a Contracting State, has in a Contracting State a permanent establishment with which the obligation has been contracted by which the remuneration for technical work is paid, and that permanent establishment bears the payment of such remuneration for technical work, such remuneration shall be deemed to come from the Contracting State in which the permanent establishment is situated.

6. Where, due to special relationships existing between the debtor and the beneficiary: the actual remuneration for technical work or between them and any other person, the amount of the remuneration for technical work exceeds the amount that would be

agreed between the debtor and the beneficial beneficiary, in the absence of such relationships, the provisions of this Article shall apply only to the latter amount. In this case, the excess may continue to be taxed in accordance with the legislation of each Contracting State, taking into account the other provisions of this Agreement.

ARTICLE 22 – Other Income

1. Items of income from a Contracting State and from which it originates not expressly dealt with in the preceding Articles of this Agreement may be taxed only in that State.

2. The provisions of paragraph (1) of this Article 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 an activity in the other Contracting State through a permanent establishment situated there, and the right or property in respect of which it is paid is actually connected with that permanent establishment. In such a case, the provisions of Article 7 of the EEC Treaty shall be deemed to be the same as the income of immovable property.

3. Notwithstanding the provisions of paragraphs (1) and (2), items of income of a resident of a Contracting State not mentioned in the preceding Articles of the Agreement and originating in the other Contracting State may be taxed in that other State.

ARTICLE 23 – Method for eliminating double taxation

1. Double taxation shall be eliminated as follows:

(a) In Botswana, subject to the provisions of Botswana law, in respect of the deductibility of a Botswana tax credit, from taxes paid under the laws of a State outside Botswana, the Mozambican tax paid under Mozambican law and in accordance with this Agreement, whether direct or by deduction, on Botswana taxable profits or income payable with respect to the same profits or income in respect of which Mozambican tax is calculated. However, the amount of such credit shall not exceed the amount of Botswana tax payable on such income under Botswana law;

(b) In Mozambique, where a resident of Mozambique obtains income which, in accordance with the provisions of this Agreement, may be taxed in Botswana. Mozambique shall deduct from the income tax of that resident an amount equal to the income tax paid in Botswana; the amount deducted shall not, however, exceed the fraction of the tax calculated before the deduction corresponding to the tax income in Botswana.

2. For the purposes of paragraph (1) of this Article, the terms "Taxes paid in Botswana" and "Taxes paid in Mozambique" shall be considered to be amounts which could have been paid in Botswana or Mozambique, as the case may be, but were not paid by virtue of the exemption or reduction permitted on the basis of legislation of a Contracting State for the promotion of development taxable in Botswana.

ARTICLE 24 – Non-discrimination

1. Nationals of a Contracting State shall not be subject in the other Contracting State to any taxation or related obligation which is different or more onerous than that to which nationals of that other State who are in the same situation are or may be subject, in particular as regards residence.

2. The taxation of a permanent establishment which an undertaking of one Contracting State has in the other Contracting State shall not be less favourable in that State than that of undertakings of that other State engaged in the same activities.

3. Undertakings of a Contracting State whose capital, in whole or in part, directly or indirectly, is owned. or controlled by one. or more residents of the other Contracting State shall not be subject, in the State first mentioned, to any taxation or related obligation different or more onerous than that to which similar undertakings of the first State are or may be subject.

4. Unless the provisions of Article 9 (1), Article 11 paragraph (7), Article 12 (6) or Article 21 paragraph (6) apply, interest, royalties, remuneration for technical work and other sums paid by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible, for the purpose of determining the taxable profit of such enterprise, under the same conditions as if they were paid to a resident of the State first mentioned.

5. Nothing in this Article shall be construed to oblige a Contracting State to extend to non-residents of that State the personal deductions, rebates and reductions for tax purposes granted to its own residents.

ARTICLE 25 – Mutual Settlement Procedure

1. Where a person considers that the measures taken by a Contracting State or by both Contracting States lead or may lead to taxation against him which is not in accordance with the provisions of this Agreement, he may, independently of the remedies provided for by the national law of that State, submit in writing the grounds of his complaint to the competent authority of the Contracting State of which he is a resident or, if his case falls within the scope of Article 24(1), to that of the Contracting State of which he is a national. The case shall be lodged within three years from the date of the first notification of the measure giving rise to taxation not in accordance with the provisions of this Agreement.

2. If the complaint appears to it to be well founded and is not in a position to provide a satisfactory solution to the complaint, the competent authority shall endeavour to settle the matter by amicable agreement with the competent authority of the other Contracting State in order to avoid taxation not in accordance with this Agreement. Any agreement reached shall be applied irrespective of the time limits laid down in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve, by amicable settlement, any difficulties or doubts which may give rise to the interpretation

or application of the Agreement. They may also consult each other with a view to eliminating double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States may, where necessary, communicate directly with each other with a view to the implementation of this Agreement in order to reach agreement in accordance with the terms set out in the preceding paragraphs.

ARTICLE 26 – Exchange of information

1. The competent authorities of the Contracting States shall exchange with each other the information necessary to apply the provisions of this Agreement or the domestic law of the Contracting States relating to the taxes covered by the Agreement, in particular for the prevention of fraud or evasion of such taxes, to the extent that the taxation provided for therein is not contrary to this Agreement. The exchange of information shall not be restricted by the provisions of Articles 1 and 2. Any information received by a Contracting State shall be considered secret; in the same way as information obtained on the basis of the domestic law of that State, and may be communicated only to persons or authorities (including courts and administrative bodies) responsible for the levying or collection, declaratory or enforcement procedures or the decision of appeals relating to taxes covered by this Agreement. Such persons or authorities shall use the information thus obtained only for the purposes referred to. Such information may be disclosed in the discourse of public court hearings or judicial decisions.

2. The provisions of paragraph (1) may never be interpreted. in the sense of imposing on the competent authorities of a Contracting State the obligation:

(a) to take administrative measures contrary to its own legislation and administrative practice or to those of the other Contracting State;

(b) to provide information which cannot be obtained on the basis of its legislation or in the context of its normal administrative practice or that of the other Contracting State;

c) To transmit information revealing a business, industrial, commercial or professional secret, or commercial process or information the disclosure of which would be contrary to public policy.

3. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters on which this exchange of information may take place.

ARTICLE 27 – Assistance in Collection

1. The Contracting States may, to the extent permitted by their domestic legislation, assist each other in collecting the taxes referred to in Article 2 as well as the interest and penalties related thereto, provided that the Contracting State requesting the assistance has taken due steps to recover such taxes.

2. Complaints which are the subject of a request for assistance shall not take priority over the taxes due in the assisting Contracting State and the measures referred to in paragraph (1) of Article 26 shall also cover any information which, pursuant to this Article, is provided by the competent authority of a Contracting State.

3. The competent authorities of the Contracting States shall establish by common accord the detailed rules for the application of this Article.

ARTICLE 28 – Members of the diplomatic mission and consular posts

The provisions of this Agreement shall be without prejudice to the tax privileges enjoyed by members of diplomatic missions or consular posts by virtue of general rules of international law or special provisions of agreement.

ARTICLE 29 – Entry into force

1. Each of the Contracting States shall notify the other Contracting State of the completion of the procedures required by its legislation for the entry into force of this Agreement.

This Agreement shall be effective on the date of receipt of the last such notice. This Agreement shall be effective on the date of the last receipt of such notices.

2. The provisions of this Agreement shall apply:

(a) with respect to withholding taxes, for amounts paid or credited, from the first day immediately following the entry into force of the Agreement; e

b) In relation to other taxes:

(i) in Botswana, in relation to income tax, on taxable income generated on or after the first day of July of the year immediately following the entry into force of the Agreement; e

(ii) In Mozambique, in respect of tax periods commencing on or after the first day of January immediately following the date on which the Agreement enters into force.

ARTICLE 30 – Denunciation

This Agreement shall remain in force as long as it is not terminated by a Contracting State. Any Contracting State may terminate the Agreement through diplomatic channels, by giving at least six months' notice before the end of any calendar year, starting from the fifth year following the entry into force. In this case, the Agreement shall cease to apply:

a) With regard to withholding taxes, the attributed amounts paid after the end of the calendar year in which the said notice was made;

(b) in respect of other taxes in respect of the taxable year commencing; after the end of the calendar year in which such notice was given.

In witness of which, the signatories, duly authorized to do so, have signed this Agreement.

Done in duplicate in Cape Town, on February 27, 2009 in English and Portuguese, both texts being equally authentic.

By the Government of the Republic of Mozambique, Illegible. — By the Government of the Republic of Botswana, Illegible.

WHY MOORE?

Moore in the world

Founded in London in 1907, Moore is a leading international accounting and consulting group, with a network of 558 firms. Our goal is not only to meet clients' needs in the most effective and cost-effective way, but also to help them develop and achieve future success. We seek to establish the necessary trust in our client relationships, ensuring that we are their first choice for their business needs.

As one of the top 10 international accounting firms, Moore is growing rapidly, taking a modern and dynamic approach. The firm prioritizes client needs over mere expansion, fostering a unique culture through organic growth. This client-centric philosophy is based on strong relationships and highly personalized service.

Among our main strategic objectives is the construction of a competitive and quality group, with a strong international customer base, focused on profitability and strengthening each region. Customers have access to a wide range of essential services, including:

- Auditing
- Business Secretarial
- Business Finance
- Accounting
- Recruitment and Training
- Tax Consulting
- Taxation
- Payroll
- Risk Management, Corporate Governance and Internal Audit

Member firms offer a wide range of professional services and specialist skills to support clients' cross-border objectives while maintaining high standards of service at the local level. They adhere to common terms of membership, objectives and auditing standards, with the quality of services being regularly assessed to maintain Moore's tradition of excellence.

As a global network, we are at the heart of communities around the world. We help you better understand your country, industry and local community – to plan for the present and prepare for the future.

MOORE



MOORE MOÇAMBIQUE

Moore Mozambique, aligned with the global network, is an auditing and consulting firm recognized for innovation, quality and commitment to the future. Present in Mozambique since 1999, it was initially associated with the BDO network.

We have a team of approximately 100 highly qualified professionals, dedicated to offering solutions adapted to the needs of our customers.

We believe in a personalized service, in which each client is accompanied by a "Client Service Partner", ensuring proximity, efficiency and excellence in the provision of services. By combining technical expertise, experience and innovation, we create value for our clients.

In recent years, Moore Mozambique has recorded significant growth, consolidating its position in the market and continuously investing in the development of solutions that anticipate the challenges of the future

Our Services

Expert Consulting Services

Moore Mozambique has qualified consultants to develop solutions that add value to companies and other entities that seek our services. Our extensive experience allows us to offer functional and practical solutions, designed by our team with the use of advanced technological tools and always considering the particularities of each business.

Our services include:

- Company valuation
- Feasibility studies
- Investments and financing
- Restructuring of companies and organizations
- Strategic and business plans
- Information systems consulting, focusing on the implementation and development of integrated systems
- Human Resources Consulting
- Specific training

Auditing

In addition to validating financial information from companies and institutions, we analyze not only the correct application of standards and legislation, but also the internal control system and the continuity of operations.

Our professional performance in this area includes, in particular:

- Full audit of financial statements
- Review of internal control
- Limited review of financial statements
- Examination of forward-looking financial information
- Specific audits (incentives, due diligence, accounting, research, statistics)
- Internal audit, management, information technology, taxation and others

Accounting Services

Moore Mozambique is the largest accounting service provider in the country, with more than 30 technicians and several client companies.

We offer the ideal solution for entrepreneurs and institutions that want to focus on their core business, delegating specialized administrative tasks to experienced and qualified professionals.

Our main services include:

- IFRS transition and implementation
- Accounting Services
- Accounting outsourcing
- Payroll services
- Account consolidation
- Education

Taxation

Moore Mozambique monitors the compliance with tax obligations of companies, institutions and individuals, reviewing strategies to optimize tax solutions and minimize tax risks.

Our services include:

- Monitoring compliance with tax obligations and charges
- Mergers and acquisitions
- Insolvency proceedings
- Complete diagnosis of the fiscal situation
- Tax planning and prevention
- Studies on the tax framework
- Support in the taxation of expatriates
- Preparation of the Transfer Pricing Dossier
- Advice on capital transfer

MOORE

CONTACTS:

Avenida 25 de Setembro, nº 1230, 3º
Andar, Bloco 5, CP 4200

Maputo

Republic of Mozambique

Tel.: +258 21 300720

Email: eferreira@mooremz.co.mz

Moore Global is an association of independent firms of which Moore – Sociedade de Contabilistas e Auditores Certificados, Lda is part as an independent company, with legal authorization to carry out Audit and Certification of Accounts activities, by order of 27/10/99 of the Vice-Minister of Planning and Finance.

Copyright © Moore – Sociedade de Contabilistas e Auditores Certificados, Lda. All rights reserved.

Please think about the environment before printing this document.