

SUBSIDIARY LEGISLATION 123.155

**DOUBLE TAXATION RELIEF (TAXES ON INCOME)
(THE PRINCIPALITY OF LIECHTENSTEIN) ORDER**

1st July, 2014*

LEGAL NOTICE 65 of 2014, as modified by [S.L.123.183](#).

1. The title of this order is the Double Taxation Relief (Taxes on Income) (The Principality of Liechtenstein) Order. Citation.

2. It is hereby declared:

Arrangements to
have effect.

- (a) that the arrangements specified in the Convention set out in the Schedule to this Order (hereinafter referred to as "the Convention") have been made with the Government of the Principality of Liechtenstein with a view to affording relief from double taxation in relation to the following taxes imposed by the laws of the Principality of Liechtenstein:
 - (i) the personal income tax (Erwerbssteuer);
 - (ii) the corporate income tax (Ertragssteuer);
 - (iii) the corporation taxes (Gesellschaftssteuern);
 - (iv) the real estate capital gains tax (Grundstücksgewinnsteuer);
 - (v) the wealth tax (Vermögenssteuer); and
 - (vi) the coupon tax (Couponsteuer);
- (b) that it is expedient that those arrangements should have effect following the entry into force of the Convention and in accordance with the relevant provisions of the Convention;
- (c) that the Convention shall enter into force on such date as may be announced by notice in the Government Gazette.*

*see article 1(1) of this Order as originally promulgated, and Legal Notice 259 of 2014.

SCHEDULE

(Article 2)

Convention

Between

the Government of the Republic of Malta

and

the Government of the Principality of Liechtenstein

for the avoidance of double taxation and the prevention of fiscal evasion

with respect to taxes on income and on capital

Preamble

The Government of the Republic of Malta and the Government of the Principality of Liechtenstein, hereinafter referred to as "Contracting States",

WHEREAS the Contracting States recognise that the well-developed economic ties between the Contracting States call for further economic cooperation;

WHEREAS the Contracting States wish to develop their relationship further by cooperating to their mutual benefits in the field of taxation; and

WHEREAS the Contracting States wish to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

have agreed as follows:

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 political subdivisions or 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 appreciation.

3. The existing taxes to which this Convention shall apply are in particular:

a) in the Principality of Liechtenstein:

- (i) the personal income tax (Erwerbssteuer);
- (ii) the corporate income tax (Ertragssteuer);
- (iii) the corporation taxes (Gesellschaftssteuern);
- (iv) the real estate capital gains tax (Grundstücksgewinnsteuer);
- (v) the wealth tax (Vermögenssteuer); and
- (vi) the coupon tax (Couponsteuer);

(hereinafter referred to as "Liechtenstein tax");

b) in Malta:

the income tax;

(hereinafter referred to as "Malta 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 taxation laws.

Article 3

General definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Liechtenstein" means the Principality of Liechtenstein, and, when used in a geographical sense, the area in which the tax laws of the Principality of Liechtenstein apply;
 - b) the term "Malta" means the Republic of Malta and, when used in a geographical sense, means the Island of Malta, the Island of Gozo and the other islands of the Maltese archipelago including the territorial waters thereof, as well as any area of the sea-bed, its sub-soil and the superjacent water column adjacent to the territorial waters, wherein Malta exercises sovereign rights, jurisdiction, or control in accordance with international law and its national law, including its legislation relating to the exploration of the continental shelf and exploitation of its natural resources;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Malta or the Principality of Liechtenstein, as the context requires;
 - d) the term "person" includes an individual, a company, an investment fund, a pension fund, a trust, a partnership, a Liechtenstein dormant inheritance and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) the term "enterprise" applies to the carrying on of any business;
 - g) 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;
 - h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - i) the term "business" includes the performance of professional services and of other activities of an independent character;
 - j) the term "competent authority" means:
 - (i) in Liechtenstein, the Fiscal Authority;
 - (ii) in Malta: the Minister responsible for finance or his authorised representative;
 - k) the term "national", in relation to a Contracting State, means:
 - (i) any individual possessing the nationality of that Contracting State;

- (ii) any person other than an individual deriving its status as such from the laws in force in that Contracting State;
- l) the term "investment fund" means:
 - (i) in Liechtenstein, an "Organismus für gemeinsame Anlagen in Wertpapieren (OGAW)" within the meaning of the Law on Undertakings for Collective Investment in Transferable Securities of 28 June 2011, LGBI. 2011, No. 295 (UCITSG), an "Investmentunternehmen für andere Werte oder Immobilien" within the meaning of the "Gesetz über Investmentunternehmen für andere Werte oder Immobilien" of 19 May 2005, LGBI. 2005, No. 156 (IUG);
 - (ii) in Malta, a scheme or arrangement which is licensed or otherwise authorised under the Investment Services Act (Cap. 370 of the Laws of Malta);
 - (iii) any other investment fund, arrangement or entity of a Contracting State which the competent authorities of the Contracting States agree to regard as a collective investment vehicle for the purpose of this paragraph;
- m) the term "pension fund or scheme" means:
 - (i) in Liechtenstein, any arrangement within the meaning of the "Gesetz über die betriebliche Pensionsvorsorge" of 20 October 1987, LGBI. 1988, No. 12 (BPVG) including the associated regulations;
 - (ii) in Malta, a retirement fund or retirement scheme licensed, registered or otherwise authorised under the Special Funds (Regulation) Act (Cap. 450 of the Laws of Malta);
 - (iii) any other pension fund or scheme of a Contracting State which the competent authorities of the Contracting States agree to regard as a pension fund or a scheme for the purpose of this paragraph.

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 any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident 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 building site or construction or installation project 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 goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- 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 may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property 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 and aircraft shall not be regarded as immovable property.

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

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

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 a distinct and separate enterprise engaged in the same or similar

activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

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 and air transport

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. 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 shall be taxable only in that other State, provided that the beneficial owner of the dividends is a resident of the other State.

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

2. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debtclaims, 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.

3. The provisions of paragraph 1 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.

4. 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 paid to a resident of the other Contracting State shall be taxable only in that other State, provided that the beneficial owner of the interest is a resident of the 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. However, the term "interest" shall not include income referred to in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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 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 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 derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, 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 derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic by an enterprise of that State, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

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

Article 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 is derived there from 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 or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

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 (or a board set up for a similar purpose) of a company or a trust 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, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or 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.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an artiste or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities or statutory bodies thereof. In such case, the income shall be taxable only in the Contracting State in which the artiste or the sportsman is a resident.

Article 17

Pensions

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration (including lump sum payments) paid to a resident of a Contracting State in consideration of past employment or self-employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump-sum payments) arising in a Contracting State may be taxed in that State, provided that such payments derive from contributions paid to or from provisions made under a pension scheme by the recipient or on his behalf or from endowments made by an employer to a company pensions scheme and to the extent that these contributions, provisions or the pensions or other similar remuneration have been subjected to tax or have been tax deductible in that State under the ordinary rules of its tax laws.

Article 18

Government service

1. a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof (including any legal entity or authority created under public law of that State) to an individual in respect of services rendered to that State or subdivision or authority (including any legal entity or authority created under public law of that State) 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 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. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump sum payments) paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof (including any legal entity or authority created under public law of that State) to an individual in respect of services rendered to that State or subdivision or authority (including any legal entity or authority created under public law of that State) shall be taxable only in that State.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration (including lump sum payments) in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof (including any legal entity or authority created under public law of that State).

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, may be taxed 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 of an enterprise of a Contracting State represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.

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. Subject to the provisions of the laws of Liechtenstein regarding the elimination of double taxation, which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

- a) Where a resident of Liechtenstein derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Malta, Liechtenstein shall, subject to the provisions of subparagraphs b) and c), exempt such income or capital from tax, but may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
- b) Where a resident of Liechtenstein derives items of income which, in accordance with the provisions of Articles 14, 15, 16 and 17, may be

taxed in Malta, Liechtenstein shall credit against Liechtenstein tax on this income the tax paid in accordance with the law of Malta and with the provisions of this Convention. The amount of tax to be credited shall not, however, exceed the Liechtenstein tax due on the income derived from Malta.

- c) Income from dividends within the meaning of Article 10 paid by a company that is a resident of Malta to a company that is a resident of Liechtenstein and that are not deductible in determining the profits of the payer, shall not be taxed in Liechtenstein.

- 2. In the case of Malta, double taxation shall be eliminated as follows:

Subject to the provisions of the law of Malta regarding the allowance of a credit against Malta tax in respect of foreign tax, where, in accordance with the provisions of this Convention, there is included in a Malta assessment income from sources within Liechtenstein, the Liechtenstein tax on such income shall be allowed as a credit against the relative Malta tax payable thereon.

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

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

4. Except where the provisions of paragraph 1 of Article 9, paragraph 4 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.

5. 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.

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

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 of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly, 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.

5. Where,

- a) under paragraph 1, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention; and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting State;

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.

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 of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

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 of paragraph 3 be construed to permit a Contracting State to decline to supply information solely 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

Protocol

The attached Protocol shall be an integral part of this Convention.

Article 28

Entry into force

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by their laws for the entry into force of this Convention have been satisfied. The Convention shall enter into force on the date of receipt of the last notification.

2. The Convention shall have effect:

- a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the Convention enters into force;
- b) in respect of other taxes on income and taxes on capital, to taxes chargeable for any taxable year (any calendar year or accounting period, as the case may be) beginning on or after 1 January of the calendar year next following the year in which the Convention enters into force.

Article 29

Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force. In such event, the Convention shall cease to have effect:

- a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the notice is given;
- b) in respect of other taxes on income and taxes on capital, to taxes chargeable for any taxable year (any calendar year or accounting period, as the case may be) beginning on or after 1 January of the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at New York this 27 day of September 2013, in the English and German languages, both texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

George W. Vella
For the Government of the
Republic of Malta

Aurelia Frick
For the Government of the
Principality of Liechtenstein

Protocol

At the signing today of the Convention between the Government of the Republic of Malta and the Government of the Principality of Liechtenstein for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

1. With reference to Article 3 paragraph 1 subparagraph d (Person):

It is understood that for the purposes of the Convention a Liechtenstein dormant inheritance is the wealth of a deceased person during the period between the time of death and the transfer of ownership to the successor(s) as taxable under Article 7 paragraph 3 of the Liechtenstein Tax Act.

2. With reference to Article 3 paragraph 1 subparagraph e (Company):

It is understood that for the purposes of the Convention the definition of a company includes Liechtenstein registered trusts or any other special asset dedication that is treated as a body corporate for Liechtenstein tax purposes.

3. With reference to Article 4 (Resident):

It is understood that for the purposes of the Convention a person is a resident of a Contracting State if under the domestic laws of that Contracting State it is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. A person is also considered liable to tax if he is subject to the tax laws of that Contracting State but is exempt from tax only if he meets all the requirements for exemption specified in that tax laws of that Contracting State.

It is understood that for the purposes of paragraph 3 in case of a trust, if a trustee is resident in a Contracting State and none of the trustees is resident in the other Contracting State, the trust is considered to be a resident of the first-mentioned Contracting State. If trustees are resident in both Contracting States then the trust is considered to be a resident in the Contracting State where the decisions concerning the administration of the trust are taken. In case such decisions are taken in both or in neither of the Contracting States then the competent authorities of the Contracting States shall settle the residence of the trust by mutual agreement.

4. With reference to Article 25 (Exchange of information):

It is understood that for the purposes of the Convention that

- a) this Article only obliges the Contracting States to exchange information upon request and only in respect of taxable periods beginning on or after 1 January of the calendar year next following the year in which this Convention enters into force;
- b) the information exchanged
 - (i) may not be used for any purpose other than for the purposes stated in paragraph 1 of Article 25 without the express written consent of the competent authority of the requested Contracting State; and
 - (ii) must not be disclosed to any other State or sovereign territory not party to this Convention;
- c) personal data may be transmitted to the extent necessary for the exchange of information according to Article 25 and subject to the provisions of the law of the supplying Contracting State;
- d) any request for information shall in all cases specify in writing:
 - (i) the identity of the person under examination or investigation,

- however, it is not necessary to provide the name of the taxpayer in order to define his identity, if this identity can be deduced from equivalent elements;
- (ii) the taxable period for which the information is sought;
 - (iii) a statement of the information sought including its nature and the form in which the applicant Contracting State wishes to receive the information from the requested Contracting State;
 - (iv) the matter under the applicant Contracting State's tax law with respect to which the information is sought;
 - (v) grounds for believing that the information requested is foreseeably relevant to the administration and enforcement of the domestic tax laws of the applicant Contracting State with regard to the person specified in subparagraph (i);
 - (vi) grounds for believing that the information requested is held in the requested Contracting State or is in the possession or control of a person within the jurisdiction of the requested State;
 - (vii) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - (viii) a statement that the request is in conformity with the law and administrative practices of the applicant Contracting State, that if the requested information was within the jurisdiction of the applicant State then the competent authority of the applicant State would be able to obtain the information under the laws or in the normal course of administrative practice of the applicant State and that it is in conformity with this Convention; and
 - (ix) a statement that the applicant Contracting State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties;
- e) for the purpose of paragraph d:
- (i) the term "applicant Contracting State" means the Contracting State requesting information;
 - (ii) the term "requested Contracting State" means the Contracting State requested to provide information.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at New York this 27 day of September 2013, in the English and German languages, both texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

George W. Vella
For the Government of the
Republic of Malta

Aurelia Frick
For the Government of the
Principality of Liechtenstein
