

**PROTOCOL AMENDING THE CONVENTION BETWEEN THE  
GOVERNMENT OF THE RUSSIAN FEDERATION AND THE  
GOVERNMENT OF THE KINGDOM OF SWEDEN FOR THE  
AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO  
TAXES ON INCOME**

The Government of the Russian Federation and the Government of the Kingdom of Sweden, desiring to conclude a Protocol to amend the Convention between the Government of the Russian Federation and the Government of the Kingdom of Sweden for the avoidance of double taxation with respect to taxes on income (hereinafter referred to as “the Convention”),

have agreed as follows:

**Article I**

1. In the title of the Convention, the words “with respect to taxes on income” shall be deleted and replaced by the words “with respect to taxes on income and on capital”.

2. The preamble of the Convention shall be deleted and replaced by the following:

“The Government of the Russian Federation and the Government of the Kingdom of Sweden, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-

shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States),

have agreed as follows:”

## **Article II**

1. The current wording of Article 1 (Personal scope) of the Convention shall become paragraph 1 of Article 1.

2. A new paragraph 2 shall be added to Article 1 (Personal scope) of the Convention which shall read as follows:

“2. In the case of an item of income derived by or through a person that is fiscally transparent under the laws of either Contracting State, such item shall be considered to be derived by a resident of a Contracting State to the extent that the item is treated for the purposes of the taxation law of such State as the income of a resident.”

## **Article III**

Paragraph 3 of Article 2 (Taxes covered) of the Convention shall be deleted and replaced by the following:

“3. The taxes to which this Convention shall apply are:

(a) in the Russian Federation:

- (i) the tax on profits of organisations;
- (ii) the tax on income of individuals;
- (iii) the tax on property of organisations;

(iv) the tax on property of individuals  
(hereinafter referred to as "Russian tax");

(b) in Sweden:

- (i) the national income tax (den statliga inkomstskatten);
- (ii) the withholding tax on dividends (kupongskatten);
- (iii) the income tax on non-residents (den särskilda inkomstskatten för utomlands bosatta);
- (iv) the income tax on non-resident artistes and athletes (den särskilda inkomstskatten för utomlands bosatta artister m.fl.);
- (v) the municipal income tax (den kommunala inkomstskatten);
- (vi) net wealth tax (statlig förmögenhetsskatt)  
(hereinafter referred to as "Swedish tax")."

#### **Article IV**

Paragraph 3 of Article 4 (Resident) of the Convention shall be deleted and replaced by the following:

"3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement."

#### **Article V**

In paragraph 3 of Article 8 (Income from international shipping and air transport) of the Convention and in paragraph 3 of Article 13 (Income

from the increment of the value of property) of the Convention the words “AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS)” shall be deleted and replaced by the words “SAS Sverige AB, the Swedish partner of SAS”.

#### **Article VI**

Paragraph 2 of Article 9 (Adjustment of income) of the Convention shall be deleted and replaced by the following:

“2. Where, in accordance with the provisions of paragraph 1, income which has been included by a Contracting State in the income of a person is also included by the other Contracting State in the income of another person, then the first State, if it considers that the adjustment made by the other State is justified both in principle and as regards the amount, shall make an appropriate adjustment to the amount of tax charged to the first person on such income. In determining this adjustment, due regard shall be paid to the other provisions of this Convention, and the competent authorities of the Contracting States shall consult each other as necessary.”

#### **Article VII**

1. Paragraphs 1, 2 and 3 of Article 10 (Dividends) of the Convention shall be deleted and replaced by the following:

“1. Dividends paid by a company which is a resident of a Contracting State, or by an investment fund which is established in a

Contracting State, to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in, and according to the laws of, the Contracting State of which the company paying the dividends is a resident, or in the case of an investment fund, in, and according to the laws of, the Contracting State under the laws of which it is established, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends (other than a paying company that is an investment fund) and this holding amounts to at least 80 000 euros or an equivalent amount in any other currency at the moment of the actual distribution of the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. The term “dividends” as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. This term also means any payments on units of investment funds.”

### Article VIII

1. Paragraph 4 of Article 13 (Income from the increment of the value of property) of the Convention shall be renumbered as paragraph 5.
2. A new paragraph 4 shall be added to Article 13 (Income from the increment of the value of property) of the Convention which shall read as follows:  
  
“4. Gains derived by a resident of a Contracting State from the alienation of shares or similar rights 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.”
3. The reference in paragraph 5, as renumbered, of Article 13 (Income from the increment of the value of property) of the Convention to “paragraphs 1, 2 and 3” shall be deleted and replaced by a reference to “paragraphs 1, 2, 3 and 4”.

### Article IX

1. Articles 22 to 25 of the Convention shall be renumbered as Articles 23 to 26.
2. Articles 26 to 29 of the Convention shall be renumbered as Articles 29 to 32.

## Article X

The following new Article shall be inserted immediately after Article 21 (Other income) of the Convention:

### “Article 22

#### *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 a resident of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic by a resident of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.

With respect to capital owned by the air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such part of the capital as corresponds to the participation held in that consortium by SAS Sverige AB, the Swedish partner of SAS.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.”

### Article XI

1. Paragraph 1 of Article 23 (Elimination of double taxation), as renumbered, of the Convention shall be deleted and replaced by the following:

“1. In the case of Russia, double taxation shall be eliminated as follows:

Where a resident of Russia receives income or owns capital which according to the provisions of this Convention may be taxed in Sweden, the amount of tax on such income or capital due to be paid in Sweden shall be deducted from the tax levied on the income or capital of such a person in Russia. Such deduction shall not, however, exceed the amount of the tax calculated in respect of such income or capital in accordance with the laws and rules of Russia.”

2. The following new subparagraph (d) of paragraph 2 of Article 23 (Elimination of double taxation), as renumbered, of the Convention shall be inserted:

“(d) Where a resident of Sweden owns capital which, in accordance with the provisions of this Convention, may be taxed in Russia, Sweden shall allow as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Russia. Such deduction shall not, however, exceed that part of the Swedish capital tax, as computed before the deduction is given,



which is attributable to the capital which may be taxed in Russia.”

### **Article XII**

1. Paragraph 1 of Article 25 (Mutual agreement procedure), as renumbered, of the Convention shall be deleted and replaced by the following:

“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 either Contracting State. 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. In paragraph 3 of Article 25 (Mutual agreement procedure), as renumbered, of the Convention the word “problems” shall be deleted and replaced by the words “difficulties or doubts”.

### **Article XIII**

Article 26 (Exchange of information), as renumbered, of the Convention shall be deleted and replaced by the following:

**“Article 26***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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

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 XIV**

The following new Articles shall be inserted immediately after

Article 26 (Exchange of information), as renumbered, of the Convention:

**“Article 27**

*Miscellaneous provisions*

Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

**Article 28**

*Limitation of benefits*

Notwithstanding any other provisions of this Convention, where:

- (a) a company that is a resident of a Contracting State derives its income primarily from other States
  - (i) from activities such as banking, shipping, financing or insurance; or
  - (ii) from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily in other States; and

(b) such income would bear a significantly lower tax under the laws of that State than income from similar activities carried out within that State or from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business in that State, as the case may be,

any provisions of this Convention conferring an exemption or a reduction of tax shall not apply to the income of such company and to the dividends paid by such company.”

#### **Article XV**

The following Protocol shall be added to the Convention:

#### **“PROTOCOL**

The Government of the Russian Federation and the Government of the Kingdom of Sweden have agreed at the signing of the Protocol amending the Convention between the Government of the Russian Federation and the Government of the Kingdom of Sweden for the avoidance of double taxation with respect to taxes on income upon the following provisions which shall form an integral part of the Convention.

##### **1. General**

It is understood that any information received under Article 26 (Exchange of information) of the Convention or a certificate of residence

shall not require legalisation or apostille for the purposes of application in a Contracting State, including its use in the courts and administrative bodies. This also applies to any other document issued by the competent authority of a Contracting State or its (his) authorised representative.

2. Regarding Article 10 (Dividends) of the Convention

- (a) For the purpose of paragraphs 1, 2 and 3, the term “investment fund” means:
- (i) in the case of the Russian Federation, an Investment Fund, established under the Federal Law no. 156-FZ of November 29, 2001 “On Investment Funds” as it may be amended from time to time;
  - (ii) in the case of Sweden, an investment fund established under the Swedish UCITS Act (SFS 2004:46) or the Alternative Investment Funds Managers Act (SFS 2013:561) as they may be amended from time to time.
- (b) It is understood that the term “dividends” includes profits on a liquidation.”

**Article XVI**

1. Each of the Contracting States shall notify the other in writing, through diplomatic channels, of the completion of the procedures required by its law for the entry into force of this Protocol.
2. This Protocol shall enter into force on the thirtieth day after the receipt of the later of the notifications referred to in paragraph 1 and shall have effect:

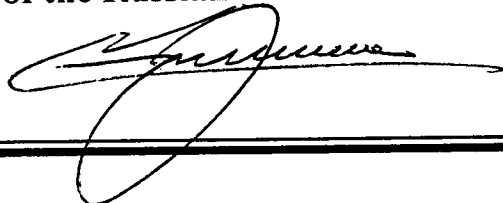
- (a) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the calendar year in which the Protocol enters into force;
- (b) in respect of other taxes on income, and taxes on capital, on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the calendar year in which the Protocol enters into force.

3. Notwithstanding the provisions of paragraph 2, the provisions of Article 26 of the Convention, as renumbered and as amended by Article XIII of this Protocol, shall have effect from the date of entry into force of the Protocol, without regard to the taxable year to which the matter or revenue claim relates.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at *Saint Petersburg* this *24<sup>th</sup>* day of *MAY 2018* in duplicate each in the Russian, Swedish and English languages, all texts being equally authentic. In case of any divergence the English text shall prevail.

**For the Government  
of the Russian Federation**



**For the Government  
of the Kingdom of Sweden**

