

## **TREATY USA - JAMAICA**

*CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAMAICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME (THE CONVENTION), TOGETHER WITH A RELATED EXCHANGE OF NOTES, SIGNED AT KINGSTON ON MAY 21,*

GENERAL EFFECTIVE DATE UNDER ARTICLE 29: 1 JANUARY 1982

### **ARTICLE 17**

#### **Investment or Holding Companies**

If 25 per cent or more of the capital of a company which is a resident of a Contracting State is owned directly or indirectly by individuals who are not residents of that State, and if by reason of special measures the tax imposed by that State on that company with respect to dividends, interest or royalties arising in the other Contracting State is substantially less than the tax generally imposed by the first-mentioned State on corporate business profits, then, notwithstanding the provisions of Articles 10 (Dividends), 11 (Interest), or 12 (Royalties), that other State may tax such dividends, interest or royalties. For the purpose of this Article, the source of dividends, interest or royalties shall be determined in accordance with paragraph 3(a), (b), or (c) of Article 24 (Relief from Double Taxation).

## **PROTOCOL**

### **ARTICLE III**

Article 17 (Investment or Holding Companies) of the Convention shall be deleted and replaced by the following:

#### **“ARTICLE 17**

#### **LIMITATIONS ON BENEFITS**

1. A person (other than an individual) which is a resident of a Contracting State shall not be entitled under this Convention to relief from taxation in the other Contracting State unless
  - (a) more than 75 percent of the beneficial interest in such person is owned, directly or indirectly, by one or more individual residents of the first-mentioned Contracting State; and

- (b) the income of such person is not used in substantial part, directly or indirectly, to meet liabilities (including liabilities for interest or royalties) to persons who are residents of a State other than a Contracting State, other than any such persons who are individuals subject to tax in a Contracting State on their worldwide income by reason of citizenship.

A company that has substantial trading in its stock on a recognized exchange in a Contracting State is presumed solely for purposes of subparagraph (a), to be owned by individual residents of the Contracting State in which the company is resident, as determined under Article 4 (Residence).

- 2. Paragraph 1 shall not apply if it is determined that the acquisition, ownership or maintenance of such person and the conduct of its operations did not have as a principal purpose obtaining benefits under this Convention.
- 3. The requirements of paragraph 2 are satisfied, in particular, where a company resident in Jamaica and owned by individual residents of third States derives income with respect to which the company claims United States tax benefits under this Convention, the company does not use such income in the manner described in paragraph 1(b) and:
  - (a) the company is engaged in business operations in Jamaica and the income with respect to which the company claims United States tax benefits is incidental to or derived in connection with the business operations in Jamaica; or
  - (b) the individuals owning the company are residents of countries that have income tax conventions in force with the United States and, pursuant to such conventions, the individuals would have been entitled to United States tax benefits the same as, or substantially similar to, the United States tax benefits claimed by the company under this Convention, had the individuals earned the income directly.

The provisions of this paragraph shall apply, *mutatis mutandis*, to a company resident in the United States and owned by residents of third States that derives income with respect to which Jamaican tax benefits are claimed under this Convention."