

**EXCHANGE OF LETTERS CONSTITUTING AN
AGREEMENT¹ BETWEEN THE GOVERNMENT
OF INDIA AND THE GOVERNMENT OF THE
UNITED STATES OF AMERICA FOR THE
AVOIDANCE OF DOUBLE TAXATION OF
INCOME OF ENTERPRISES
OPERATING AIRCRAFT
New Delhi, 26 November 1976**

LETTER No. 1

EMBASSY OF THE
UNITED STATES OF AMERICA
New Delhi,
November 26, 1976

EXCELLENCY,

I have the honour to refer to the conversations which were recently conducted between representatives of the Government of the United States of America and the representatives of the Government of India relating to the possibility of concluding an agreement between the two governments with a view to granting the international airlines of the two countries exemption from tax on their earnings on the basis of reciprocity, and to inform you that the Government of the United States of America agrees as follows :

- (1) The Government of the United States of America shall, on the basis of reciprocal exemption granted by the Government of India to citizens of the United States of America and to corporations organized in the United States of America, exclude from gross income and exempt from income tax all earnings derived :
 - (a) by a corporation organised in India, or
 - (b) by an individual who is
 - (i) a citizen of India and

1. Came into force on 26 November 1976.

(ii) a non-resident alien as to the United States of America from the operation of aircraft in international traffic. For this purpose, the term "operation of aircraft" shall mean the business of transportation by air of persons, livestock, goods or mail, carried on by the owners or lessees or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises, the incidental lease of aircraft and any other activity directly connected with such transportation.

The exemption herein provided shall also apply in respect of participation in pools of any kind regarding air transport.

For the removal of doubts, it is clarified that interest on funds connected with the operation of aircraft in international traffic shall be regarded as income from the operation of such aircraft.

- (2) This agreement shall be applicable with respect to taxable years beginning on or after the first day of January, 1976.
- (3) Either of the two governments may terminate this Agreement by giving to the other government six months prior notice of termination in writing and, in such event, the Agreement shall cease to be effective for the taxable years beginning on or after the first day of January next following the expiration of the six-month period.
- (4) The Government of the United States of America will consider this Note, together with your reply confirming that the Government of India agrees to terms corresponding to those outlines above, as constituting an Agreement between the two governments, entering into force on the date of your reply.

I avail myself of this opportunity to renew to your Excellency the assurance of my highest consideration.

Sd/-

DAVID T. SCHNEIDER
Charge d' Affaires ad interim

His Excellency
Shri S.R. MEHTA,
Additional Secretary to
the Government of India

LETTER No. 2

GOVERNMENT OF INDIA
Department of Revenue and Banking
New Delhi

November 26, 1976

EXCELLENCY,

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

[Not reproduced]

I have the honour to confirm that the Government of India agrees, on the basis of reciprocity to grant exemption from income-tax and surtax on income derived :

- (a) by a corporation organized in United States of America, or
- (b) by an individual who is
 - (i) a citizen of the United States of America and
 - (ii) non-resident in India

from the operation of aircraft in international traffic. The term "taxable year" in relation to India shall mean "previous year" as defined in the Income-tax Act, 1961 (43 of 1961).

I have further the honour to confirm on behalf of the Government of India the understandings outlined in Your Excellency's Note and to agree that Your Excellency's Note and my reply thereto shall constitute an Agreement between the two Governments.

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

Sd/-
S.R. MEHTA
Addl. Secy. to the Govt. of India

HIS EXCELLENCY
MR. DAVID T. SCHNEIDER
Charge d'Affaires
Embassy of the United States of
America, New Delhi

LETTER No. 3

EMBASSY OF THE UNITED STATES OF AMERICA
New Delhi, India

December 27, 1976

Mr. S.R. MEHTA, Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
North Block,
New Delhi,

Dear Mr. MEHTA,

On November 26, 1976 we exchanged letters concerning a reciprocal airline tax exemption. In this connection the text of the U.S. note does not make a specific reference to the aircraft registration requirement contained in Sections 872(b) (2) and 883(a) (2) of the U.S. Internal Revenue Code of 1954, as amended, though it had been intended that these requirements be covered by the note.

For the reason we wish by this letter, to confirm the U.S. statutory requirement that the aircraft, income from the operation of which is exempt from U.S. income-tax, be registered in India, which grants an equivalent exemption to U.S. corporations and to U.S. citizens non-resident in India in respect of income from the operation of aircraft registered in the United States.

I would be most grateful if you would kindly confirm this letter so as to meet the statutory requirements of the U.S. Internal Code.

Sincerely

Sd. /-

DAVID T. SCHNEIDER
Charge d'Affaires ad interim

LETTER No. 4

S.R. MEHTA,
Chairman

CENTRAL BOARD OF DIRECT TAXES
New Delhi, the 29th December 1976

Dear Mr. SCHNEIDER,

This is to acknowledge receipt of your letter dated December 27, 1976, regarding the Agreement between the Government of India and the Government of United States of America for the avoidance of

double taxation of income of the international airlines of the two countries and to confirm the text of your letter which reads as follows :

[Not reproduced]

Yours sincerely

Sd/-

S.R. MEHTA

H.E. Mr. DAVID T. SCHNIDER,
Charge d'Affaires ad interim,
Embassy of the U.S.A.
New Delhi
