

No. 1309

**NORWAY
and
SWEDEN**

Convention for the avoidance of double taxation with respect to taxes on income and property (with final protocol). Signed at Oslo, on 21 June 1947

Official texts: Norwegian and Swedish.

Registered by the International Civil Aviation Organisation on 18 July 1951.

**NORVÈGE
et
SUÈDE**

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et la fortune (avec protocole final). Signée à Oslo, le 21 juin 1947

Textes officiels norvégien et suédois.

Enregistré par l'Organisation de l'aviation civile internationale le 18 juillet 1951.

TRANSLATION — TRADUCTION

No. 1309. CONVENTION¹ BETWEEN THE KINGDOM OF NORWAY AND THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND PROPERTY. SIGNED AT OSLO, ON 21 JUNE 1947

The Kingdom of Sweden and the Kingdom of Norway have resolved to conclude a Convention for the avoidance of double taxation with respect to taxes on income and property.

They have for that purpose appointed as their plenipotentiaries :

His Majesty the King of Sweden :

Baron Johan Hugo Beck-Friis, Envoy Extraordinary and Minister Plenipotentiary;

His Majesty the King of Norway :

Mr. Halvard M. Lange, His Minister for Foreign Affairs;

who, having examined each other's full powers, found in good and due form, have agreed upon the following provisions :

Article 1

The present Convention shall be applicable to nationals of the Kingdom of Sweden and the Kingdom of Norway and to Swedish and Norwegian corporate bodies.

Article 2

The present Convention shall be applicable to taxes on income or capital whether on account of the State or of the commune.

In particular the following shall be regarded as taxes on income or capital :

1. Under Swedish Law :

- (a) State tax on income and capital;
- (b) Special tax on capital;
- (c) Communal tax on income;
- (d) Coupon tax;

¹ Came into force on 22 September 1947, by the exchange of the instruments of ratification at Stockholm, in accordance with article 13.

- (e) Compensation tax; and
- (f) Taxes and charges levied according to the same principles as any of the taxes specified under (a) to (c).

2. Under Norwegian Law :

- (a) State tax on income and capital;
- (b) Extraordinary State tax on capital;
- (c) Communal tax on income and capital, and
- (d) Taxes and charges levied according to the same principles as any of the taxes specified under (a) to (c).

Article 3

Unless otherwise provided in the present Convention, income and capital shall be taxable only in the State where the taxpayer is deemed to be domiciled.

For the purposes of the present Convention, every taxpayer shall be deemed to be domiciled in one of the States if he has his actual dwelling and home in that State, or, should he have no such dwelling or home in either State, if he permanently resides there. Every taxpayer shall be deemed to reside permanently in one of the States during the period when he remains at any place in that State in circumstances which warrant the presumption that he does not intend to stay there merely temporarily.

Every taxpayer who has not his actual dwelling and home and who does not reside permanently in either of the States, but who is nevertheless liable to double taxation under the laws of those States, shall, for the purposes of the present Convention, be deemed to be domiciled in the State of which he is a national.

For the purposes of this Convention, a corporate body shall be deemed to be domiciled in the State in which the management or head administration has its seat. This provision shall not, however, affect the legislation of the two States in respect of the place of taxation of the undivided estate of a deceased person.

Article 4

Income from immovable property situated in one of the two States shall be taxable only in that State.

Article 5

Income from commerce, industry or any other activity or liberal profession derived from a permanent business establishment in one of the States shall be taxable, unless otherwise provided hereinafter, only in that State. Should there be permanent business establishments in both States, each State shall

tax the portion of the income derived from the permanent establishment situated in its territory.

A permanent business establishment shall be regarded as a place at which there are special installations or at which special arrangements have been made for the permanent use of such place for business or professional purposes, such as a place where the undertaking has its management, offices, branches, permanent agencies, factories, workshops or the like, buying or selling premises, warehouses (including permanent commission stocks), mines or other similar natural deposits.

Income from part-ownership of business undertakings shall also be deemed to be income from business, with the exception of income from shares or similar securities.

Article 6

Income from shipping or air undertakings, the actual seat of management of which is in one of the States, shall be taxable only in that State.

Article 7

In respect of dividends each State reserves the right, subject to applicable provisions of its revenue laws, to collect and retain the taxes which, under its own revenue laws, are deductible at the source, but not in excess of 10 per cent of the gross amount of such dividends.

Where deduction is made in one State in accordance with the first paragraph of this Article, the other State shall allow, from its national income tax levied on the dividends, a special deduction in respect of the tax deducted at the source in the first State, which deduction shall amount to not less than 5 per cent of the gross amount of the dividends.

Article 8

Capital consisting of immovable property in either State or appurtenances to such property shall be taxable only in that State.

Capital consisting of undertakings for engaging in commerce or industry or any other activity or liberal profession shall be taxable only in the State which is entitled by the provisions of this Convention to claim taxation on the income from the said capital.

Article 9

The State in which the taxpayer is deemed to be domiciled is entitled, when assessing the tax, to apply the scale of taxation that would have been applicable if the income and capital which, under this Convention, are taxable only in the other State, had also been taxable in the former State.

Article 10

If a taxpayer considers that the measures taken by the fiscal authorities of the contracting States have resulted in his being subjected to double taxation contrary to the present Convention, he may appeal to the State of which he is a national. If his objection is deemed to be valid, the supreme financial authorities of the State in question may come to an agreement with the supreme financial authorities of the other State with a view to eliminating the double taxation.

Article 11

The present Convention shall not apply to Spitsbergen or Jan Mayen.

Article 12

The present Convention shall apply first to taxes paid on the basis of the assessments made in 1948 in Sweden and in the financial year 1948/49 in Norway, except for assessments relating to financial years ending before 1 March 1947.

Article 13

The present Convention, done in duplicate in Swedish and Norwegian, shall be ratified on the part of Sweden by His Majesty the King of Sweden with the approval of the Riksdag and on the part of Norway by His Majesty the King of Norway. The instruments of ratification shall be exchanged at Stockholm as soon as possible. The Convention shall come into force as from the exchange of the instruments of ratification and shall remain in force until denounced by one of the contracting States. Denunciation shall take place at least eight months prior to the expiry of the calendar year. Where due notice is given, the Convention shall apply for the last time to taxes levied on the basis of assessments in respect of the calendar year to the end of which the denunciation refers, or, if the case arises, for the financial years ending not later than the aforementioned date.

IN FAITH WHEREOF the Plenipotentiaries of the two States have signed the Convention and have thereto affixed their seals.

DONE at Oslo, in duplicate, 21 June 1947.

[L. S.]

(Signed) Johan BECK-FRIIS

[L. S.]

(Signed) Halvard M. LANGE

FINAL PROTOCOL

On signing the Convention concluded this day between the Kingdom of Sweden and the Kingdom of Norway for the prevention of double taxation in the matter of direct taxes, the undersigned Plenipotentiaries have jointly made the following declarations, which shall constitute an integral part of the Convention.

1. With regard to taxpayers not belonging to either of the contracting States, the supreme financial authorities of those States may come to special agreements in each case, in accordance with the principles of this Convention, with a view to preventing double taxation.

2. The list of taxes on income and capital included in Article 2 of the Convention is not intended to be exhaustive.

Any doubtful points as to what taxes are included in the Convention shall be settled by agreement between the supreme financial authorities of the two States, who shall, whenever necessary, communicate to each other lists of the taxes levied on income and capital in each State.

3. By "communes" shall be understood in this Convention communes of both the higher and the lower categories.

4. For the purposes of this Convention taxes on income and capital shall not include turnover taxes, special taxes on winnings from lotteries and betting, succession dues and taxes on gifts, or, as regards Sweden, "taxes in respect of special privileges and rights".

5. If any doubt arises as to the State in which the taxpayer shall be deemed to be domiciled under Article 3, second paragraph, or if the taxpayer can be deemed under that Article to be domiciled in both States, the question of domicile shall be settled by a special agreement between the supreme financial authorities of the two States. In this respect they shall take into consideration in which State the taxpayer's economic interests may be considered to be centred, or, if this also cannot be decided, his nationality.

6. In respect of income or capital for which the undivided estate of a deceased person is taxed in one State, participants in the estate in the other State may not be taxed.

Where the income of a fund, institution or other similar corporate body is taxed in one State and the recipient of a dividend from such corporate body is taxed on such dividend in the other State, the supreme financial authorities of both States may by special arrangement determine to what extent the corporate body or the recipient of the dividend may be relieved from the liability to pay the tax. The same shall apply to taxation on capital.

7. The provisions of Article 4 shall apply to income derived both from the direct administration and use of immovable property with appurtenances, and to the income from letting, or leasing or any other form of using such property, together with profit derived from alienations of immovable property which do not take place in the regular course of business, and appurtenances sold in connexion with the property.

Income from immovable property shall be deemed for the purposes of this Convention to include income from timber-felling on the person's own property or on the property of others and income which he may obtain from the sale of felled timber within the country, and also from the working up of the timber in the country at places other than the permanent business establishment.

8. " Liberal profession " within the meaning of Article 5 shall include in particular scientific, artistic, pedagogic or educational work and the work of physicians, lawyers, architects and engineers.

9. The provisions of Article 5 shall also apply to income derived from the direct exercise of business and to income from the transfer of the business to others and profit on alienations of the business or parts thereof or of objects used in the business.

10. A permanent business establishment in one of the contracting States shall not be deemed to be permanent solely on the ground that an undertaking domiciled in the other State maintains business connexions in the former State through an entirely independent representative or a representative (agent) who, while permanently working for account of the undertaking in the former State, merely negotiates business as an intermediary, without being authorized to conclude transactions on behalf of the undertaking.

11. The supreme financial authorities of the two contracting States may conclude a special agreement with a view to the equitable allocation of income from commerce, industry and other business or liberal profession and of capital invested in such activity.

Where the revenue authority finds reason to recalculate income or capital in the relations between a parent concern in one State and a subsidiary concern in the other State or in other similar cases, the supreme financial authorities may make an equitable arrangement for the assessment of income or capital for the two taxpayers in question.

12. "Similar securities" in Article 5, last paragraph, shall be understood, as regards current Swedish law, to mean shares in Swedish economic associations, and, as regards current Norwegian law, shares in Norwegian companies with shared or otherwise limited liability, but not in ordinary *kommandit* companies.

If doubts arise as to the meaning of the expression "similar securities" on account of changes in the legal provisions in either State in respect of companies or other associations for carrying on business, the supreme financial authorities of the two States may conclude a special agreement on the subject.

13. Royalty paid for the use of immovable property or for exploiting mines or other mineral deposits shall be taxable in the State where the immovable property, mine or deposit is situated.

Other royalty shall be taxed in accordance with the provisions of Article 3, except that where a recipient of royalties has such influence over the conduct of the undertaking that he may fairly be regarded as directly participating in the carrying on of the business, the right of taxation shall be reserved to the State from which the royalties come.

Charges payable periodically for the use of patents, models or the like shall be deemed to be royalty.

14. In order to remove any doubt as to the meaning of Article 6, it is hereby declared that where an air navigation concern, not being a corporate body, has part-owners in both States, tax on the income from the business shall be levied only on the part-owners, each State taxing only the part of the income received by the part-owners in that State.

15. In order to remove any doubt, it is hereby declared that the dividend tax which is levied in Norway on shareholders domiciled abroad and to which the company concerned is liable shall be regarded as tax deducted at the source within the meaning of Article 7.

16. Students who reside in one of the contracting States solely for purposes of study shall be exempt from taxation by that State in respect of any allowances

for their maintenance and studies which they receive from their relatives domiciled and taxable in the other State.

17. In order to remove any doubt, it is hereby declared that the provisions of this Convention shall not affect the right to benefit by any more extensive exemptions which have been conferred, or which may hereafter be conferred, on diplomatic and consular officials in virtue of the general rules of international law.

Where, owing to such more extensive exemptions, there is no liability to taxation on income or capital in the State to which these officials are sent, the right of taxation shall be reserved to the State appointing them.

18. For the removal of doubt it is likewise hereby declared that where a person by reason of removing from one State to the other is taxed in both States on income referred to in Article 3 acquired at one and the same time, the right of taxation in accordance with the present Convention shall belong to the State in which he was domiciled when the income was acquired.

19. Each State shall be entitled to demand adequate proof that double taxation is taking place within the meaning of the present Convention.

20. Coupon tax on dividends on shares in a Swedish joint stock company shall be deemed to be paid on the basis of the assessments for the year after that in which the dividends became payable.

For the removal of doubt it is hereby declared that, in respect of taxes paid in advance in Sweden, the present Convention shall apply first to taxes paid in the income year 1948.

21. The present Convention shall not bring about any change in the Agreement of 14 June 1937¹ concerning the basis for the division of the revenues of the Luossavaara-Kiirunavaara Joint Stock Company for the purposes of taxation.

DONE at Oslo, in duplicate, 21 June 1947.

(Signed) Johan BECK-FRIIS
(Signed) Halvard M. LANGE

¹ League of Nations, *Treaty Series*, Vol. CLXXIX, p. 245.