

No. 1655

BELGIUM
and
NETHERLANDS

Convention for the avoidance of double taxation with respect to taxes on capital. Signed at The Hague, on 25 September 1948

Official texts: French and Dutch.

Registered by Belgium on 6 March 1952.

BELGIQUE
et
PAYS-BAS

Convention tendant à éviter les doubles impositions en matière d'impôts sur le capital. Signée à La Haye, le 25 septembre 1948

Textes officiels français et néerlandais.

Enregistrée par la Belgique le 6 mars 1952.

[TRANSLATION — TRADUCTION]

No. 1655. CONVENTION¹ BETWEEN BELGIUM AND THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON CAPITAL. SIGNED AT THE HAGUE, ON 25 SEPTEMBER 1948

His Royal Highness the Prince Regent, on behalf of His Majesty the King of the Belgians, on the one hand and

Her Majesty the Queen of the Netherlands, on the other hand,

With a view to avoiding as far as possible double taxation resulting from the levying, upon the same property and assets, of the tax instituted by the Belgian Law of 17 October 1945 and of the tax instituted by the Netherlands Law of 11 July 1947,

Have decided to conclude for this purpose a Treaty for the avoidance of double taxation in the matter of the taxes on capital, and have appointed as their plenipotentiaries :

His Royal Highness the Prince Regent, on behalf of His Majesty the King of the Belgians :

His Excellency Mr. L. C. Nemry, Ambassador Extraordinary and Plenipotentiary of His Majesty the King of the Belgians;

Her Majesty the Queen of the Netherlands :

His Excellency Mr. D. U. Stikker, Minister of Foreign Affairs,

Who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article I

The following property which belongs to natural or legal persons having their fiscal domicile in one State and which is physically of legally situated in the other State, shall be taxable :

- (a) Immovable property situated in either of the two States, in that State;
- (b) A business or industrial establishment operated in either of the two States, in that State.

In this connexion, a business or industrial establishment shall include, *inter alia*, equipment, stock-in-trade, the right to the lease, goodwill, manu-

¹ Came into force provisionally upon signature on 25 September 1948 and definitively on 20 December 1951, by the exchange of instruments of ratification in Brussels in accordance with article 9. This Convention is not applicable to the territories of the Belgian Congo and Ruanda-Urundi.

- facturing patents and trade marks and other intangible elements, as well as the claims, securities and bank deposits attaching thereto;
- (c) Debts secured by a mortgage right or other real right upon immovable property situated in either of the two States, in that State.

Article 2

All other property belonging to the said persons shall be taxed in the State in which they have their fiscal domicile.

Subject to the provisions of Article 1 (b) and (c), this shall apply in particular to claims, public funds, shares, bonds and profit-sharing rights issued by any company, body, corporation or organization, gold bullion or coins, and banknotes.

Article 3

Nothing herein contained shall affect the application of Article 6 of the Belgian Law of 17 October 1945 to the companies governed by that article.

Article 4

For the purpose of the present Convention the fiscal domicile of natural persons shall be the place where they have their normal residence, the word "residence" being understood to mean the permanent home where they live, and the fiscal domicile of companies and partnerships having separate legal personality shall be the place where they have their registered offices.

Article 5

Persons having their domicile in either of the two States who took refuge in the other State because of wartime events shall be regarded as having retained that domicile, unless it is established that they have transferred the domicile to the other State.

Article 6

Notwithstanding any contrary provision of the present Convention, the Netherlands may, for the purpose of determining the tax known as the *vermogensheffing ineens* payable by persons having their fiscal domicile in the Netherlands, include in the tax assessment all items of property taxable in accordance with Netherlands law.

Nevertheless, the Netherlands shall deduct from the tax so calculated the tax on capital payable directly or indirectly in Belgium in respect of assets the taxation of which is reserved to Belgium by the Convention, in accordance with the value of such assets as estimated in the Netherlands.

Article 7

The Belgian State, the legal persons referred to in Article 2, paragraph 1 of the Belgian Law of 17 October 1945 and the property and assets falling within the provisions of Article 2, paragraph 2 (2) of that law shall be exempt from the Netherlands tax. Reciprocally, the Netherlands State, provinces, communes and other Netherlands public corporations, as well as public establishments, public utility establishments and legal persons, the shareholders, partners, participants or members of which are exclusively or almost exclusively Netherlands public corporations shall be exempt from the Belgian tax. The same shall apply to the property and assets referred to in Article 2, paragraph 2 (2) of the Belgian Law of 17 October 1945 and belonging to natural or legal persons having their fiscal domicile in the Netherlands.

Article 8

The High Contracting Parties shall concert with one another for the joint settlement of the difficulties to which the application of the Convention may give rise, particularly in individual cases where, notwithstanding the Convention, persons have been taxed in both States in respect of the same assets, and also for mutual assistance with a view to the accurate levying of the taxes referred to in this Convention and to the transfer of the funds necessary for their payment.

Article 9

This Convention shall be ratified and the instruments of ratification shall be exchanged in Brussels as soon as possible.

It shall be provisionally applicable from the date of signature.

IN FAITH WHEREOF the above-mentioned Plenipotentiaries have signed this Convention and have thereto affixed their seals.

DONE in duplicate at The Hague, the 25th day of September, nineteen hundred and forty-eight, in French and Dutch, both texts being authentic.

(Signed) L. NEMRY
(Signed) D. STIKKER