

No. 1705

**UNITED STATES OF AMERICA
and
NORWAY**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington, on 13 June 1949
Protocol of exchange of the instruments of ratification of the above-mentioned Convention. Signed at Washington, on 11 December 1951

Official texts: English and Norwegian.

Registered by the United States of America on 15 April 1952.

**ÉTATS-UNIS D'AMÉRIQUE
et
NORVÈGE**

Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Washington, le 13 juin 1949
Protocole relatif à l'échange des instruments de ratification de la Convention susmentionnée. Signé à Washington, le 11 décembre 1951

Textes officiels anglais et norvégien.

Enregistrés par les États-Unis d'Amérique le 15 avril 1952.

No. 1705. CONVENTION¹ BETWEEN THE UNITED STATES OF AMERICA AND NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT WASHINGTON, ON 13 JUNE 1949

The President of the United States of America and His Majesty the King of Norway, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have appointed for that purpose as their respective Plenipotentiaries :

The President of the United States of America :

James E. Webb, Acting Secretary of State of the United States of America, and

His Majesty the King of Norway :

Wilhelm Munthe Morgenstjerne, Ambassador Extraordinary and Plenipotentiary of Norway at Washington.

who, having communicated to one another their full powers, found in good and due form, have agreed upon the following Articles :

Article I

(1) The taxes referred to in this Convention are :

(a) In the case of the United States of America :
The Federal income tax including surtaxes.

(b) In the case of Norway :
The national and the communal income taxes, including the old age pension tax, the war pension tax, the tax on bank deposits and the seamen's tax.

(2) The present Convention shall also apply to any other income taxes of a substantially similar character imposed by either contracting State subsequently to the date of signature of the present Convention.

Article II

(1) As used in this Convention :

(a) The term " United States " means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

¹ Came into force on 11 December 1951 by the exchange of the instruments of ratification at Washington, in accordance with article XXII.

(b) The term "Norway" means the Kingdom of Norway; the provisions of the Convention shall not, however, extend to Svalbard and Jan Mayen, nor do they apply to the Norwegian dependencies outside Europe.

(c) The term "permanent establishment" means a branch office, factory, workshop, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a *bona fide* commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(d) The term "enterprise of one of the contracting States" means, as the case may be, "United States enterprise" or "Norwegian enterprise."

(e) The term "enterprise" includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

(f) The term "United States enterprise" means an enterprise carried on in the United States by a resident of the United States or by a United States corporation or other entity; the term "United States corporation or other entity" means a partnership, corporation or other entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States.

(g) The term "Norwegian enterprise" means an enterprise carried on in Norway by a resident of Norway or by a Norwegian corporation or other entity; the term "Norwegian corporation or other entity" means a partnership, corporation or other entity created or organized in Norway or under Norwegian laws.

(h) The term “competent authorities” means, in the case of the United States, the Commissioner of Internal Revenue or his authorized representative; and in the case of Norway, the Ministry of Finance and Customs.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under its own tax laws.

Article III

(1) An enterprise of one of the contracting States shall not be subject to taxation in the other contracting State in respect of its industrial and commercial profits unless it is engaged in trade or business in such other State through a permanent establishment situated therein. If it is so engaged such other State may impose its tax upon such profits of the enterprise from sources within such other State.

(2) In determining the industrial or commercial profits from sources within the territory of one of the contracting States of an enterprise of the other contracting State, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the territory of the former contracting State by such enterprise.

(3) Where an enterprise of one of the contracting States is engaged in trade or business in the territory of the other contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment and the profits so attributed shall, subject to the law of such other contracting State, be deemed to be income from sources within the territory of such other contracting State.

(4) The competent authorities of the two contracting States may lay down rules by agreement for the apportionment of industrial and commercial profits.

Article IV

Where an enterprise of one of the contracting States, by reason of its participation in the management or the financial structure of an enterprise of the other contracting State, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally

have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article V

(1) Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft shall be exempt from taxation in the other contracting State.

(2) The provisions of this Article shall be deemed to suspend the arrangement between the United States and Norway providing for relief from double income taxation on shipping profits, effected by exchanges of notes dated November 26, 1924, January 23, 1925, and March 24, 1925.¹

Article VI

Interest on bonds, securities, notes, debentures, or on any other form of indebtedness derived from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

Article VII

Royalties and other amounts derived, as consideration for the right to use copyrights, artistic and scientific works, patents, designs, secret processes and formulas, trade-marks and other like property (including rentals and like payments in respect of motion picture films), from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State : Provided, That each of the contracting States reserves the right according to the principles of Article IV to deny a deduction to the payor thereof for such royalty or any portion thereof as is not considered by the revenue authorities of such State to be reasonable consideration for the right to use the property referred to in this Article.

Article VIII

(1) Income from real property (not including interest derived from mortgages and bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable

¹ League of Nations, *Treaty Series*, Vol. LXVII, p. 417 and Vol. CIV, p. 512.

only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) A resident or corporation of one of the contracting States deriving any such income from sources within the other contracting State may, for any taxable year, elect to be subject to the tax of such other contracting State, on a net basis, as if such resident or corporation were engaged in trade or business within such other contracting State through a permanent establishment therein during such taxable year.

Article IX

Gains derived from the sale or exchange of real property shall be taxable only in the contracting State in which such property is situated.

Article X

(1) A resident of Norway shall be exempt from United States tax upon compensation for labor or personal services (including the practice of the liberal and artistic professions) if he is temporarily present in the United States for a period or periods not exceeding a total of 183 days during the taxable year and either of the following conditions is met :

(a) his compensation is received for labor or personal services performed as an employee, or under contract with, a resident, or corporation or other entity of Norway, or

(b) his compensation received for labor or personal services does not exceed \$10,000.

(2) The provisions of paragraph (1) of this Article shall apply *mutatis mutandis*, to a resident of the United States with respect to compensation for such labor or personal services performed in Norway.

(3) The provisions of paragraphs (1) and (2) of this Article shall have application to directors' fees representing reasonable compensation for services rendered whether or not the recipient of such fees has been present at any time during the taxable year in the contracting State from which payment of such fees has been made.

(4) The provisions of this Article shall have no application to the income to which Article XI (1) relates.

Article XI

(1) (a) Wages, salaries and similar compensation, and pensions paid by the United States or by the political subdivisions or territories thereof

to an individual (other than a Norwegian citizen who is not also a citizen of the United States) shall be exempt from Norwegian tax.

(b) Wages, salaries and similar compensation, and pensions paid either directly by, or from funds or institutions created by, Norway or Norwegian communities or counties (fylker) to an individual (other than a United States citizen who is not also a citizen of Norway) shall be exempt from United States tax.

(2) Private pensions and life annuities derived from within one of the contracting States and paid to individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term "pensions," as used in this Article, means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term "life annuities" as used in this Article means a stated sum payable periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article XII

A professor or teacher, a resident of one of the contracting States, who temporarily visits the other contracting State for the purpose of teaching for a period not exceeding two years at a university, college, school or other educational institution in the other contracting State, shall be exempted in such other contracting State from tax on his remuneration for such teaching for such period.

Article XIII

A student or apprentice, a resident of one of the contracting States, who temporarily visits the other contracting State exclusively for the purposes of study or for acquiring business or technical experience shall not be taxable in the latter State in respect of remittances received by him from abroad for the purposes of his maintenance or studies.

Article XIV

(1) It is agreed that double taxation shall be avoided in the following manner :

(a) The United States in determining its taxes specified in Article I of this Convention in the case of its citizens, residents or corporations may, regardless of any other provision of this Convention, include in the

basis upon which such taxes are imposed all items of income taxable under the revenue laws of the United States as if this Convention had not come into effect. The United States shall, however, subject to the provisions of section 131, Internal Revenue Code,¹ as in effect on the date of the entry into force of this Convention, deduct from its taxes the amount of Norwegian taxes specified in Article I of this Convention.

(b) Norway in determining its taxes specified in Article I of this Convention in the case of its residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of Norway as if the Convention had not come into effect. Norway shall, however, deduct from the taxes so calculated that portion of such tax liability which the taxpayer's income from sources in the United States (not exempt from United States tax under this Convention) bears to his entire income. The competent authority of Norway may, however, decide that the deduction shall not exceed the United States tax on income taxable in the United States.

(2) The provisions of this Article shall not be construed to deny the exemptions from United States tax or Norwegian tax, as the case may be, granted by Article XI (1) of this Convention.

Article XV

With a view to the more effective imposition of the taxes to which the present Convention relates, each of the Contracting States undertakes, subject to reciprocity, to furnish such information in the matter of taxation, which the authorities of the State concerned have at their disposal or are in a position to obtain under their own law, as may be of use to the authorities of the other State in the assessment of the taxes in question and to lend assistance in the service of documents in connection therewith. Any information so exchanged shall be treated as secret and shall only be disclosed to persons (including a court) concerned with the assessment, determination and collection of the taxes which are the subject of the present Convention, or the determination of appeals in relation thereto. No information shall be exchanged which would disclose a trade, business, industrial or professional secret. Information and correspondence relating to the subject matter of this Article shall be exchanged between the competent authorities of the contracting States in the ordinary course or on request.

¹ United States of America : 26 U.S.C. § 131.

Article XVI

In accordance with the preceding Article and insofar as may be found to be practicable, the competent authorities of each contracting State shall forward to the competent authorities of the other contracting State as soon as practicable after the close of each calendar year the following information relating to such calendar year :

The names and addresses of all addressees within such other State deriving from sources within the former State dividends, interest, royalties, pensions, annuities, wages, salaries, rents, or other fixed or determinable annual or periodical income, showing the amount of such income with respect to each addressee.

Article XVII

(1) The contracting States undertake to lend assistance and support to each other in the collection of the taxes which are the subject of the present Convention, together with interest, costs, and additions to the taxes.

(2) In the case of applications for enforcement of taxes, revenue claims of each of the contracting States which have been finally determined may be accepted for enforcement by the other contracting State and may be collected in that State in accordance with the laws applicable to the enforcement and collection of its own taxes.

(3) Any application shall include a certification that under the laws of the State making the application the taxes have been finally determined.

(4) The assistance provided for in this Article shall not be accorded with respect to the citizens, corporations, or other entities of the State to which application is made.

Article XVIII

The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it except that such State may refuse to comply with the request for reasons of public policy or if compliance would involve violation of a trade, business, industrial or professional secret.

Article XIX

Where a taxpayer shows proof that the action of the revenue authorities of the contracting States has resulted, or will result, in double taxation contrary to the provisions of the present Convention, he shall be entitled to lodge a claim with the State of which he is a citizen or, if he is not a citizen of either of the contracting States, with the State of which he is a resident, or, if the

taxpayer is a corporation or other entity, with the State in which it is created or organized. Should the claim be upheld, the competent authority of such State shall undertake to come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

Article XX

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed or which may hereafter be granted to such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to Conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

Article XXI

(1) The competent authorities of the two contracting States may prescribe regulations necessary to carry into effect the present Convention within the respective States. With respect to the provisions of this Convention relating to exchange of information, service of documents, and mutual assistance in the collection of taxes, such authorities may, by common agreement, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, costs of collection, minimum amounts subject to collection and related matters.

(2) The competent authorities of the two contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

Article XXII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Washington as soon as possible. It shall have effect for the taxable years beginning on or after the first day of January of the year in which such exchange takes place.

(2) The present Convention shall continue effective for a period of five years and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention 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.

DONE at Washington, in duplicate, in the English and Norwegian languages, the two texts having equal authenticity, this thirteenth day of June, 1949.

For the President of the United States of America :

[SEAL] James E. WEBB

For His Majesty the King of Norway :

[SEAL] Wilhelm MUNTHER MORGENSTIERNE

PROTOCOL OF EXCHANGE OF THE INSTRUMENTS OF RATIFICATION OF THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND NORWAY OF 13 JUNE 1949¹ FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT WASHINGTON, ON 11 DECEMBER 1951

The undersigned, James E. Webb, Acting Secretary of State of the United States of America, and Wilhelm Munthe de Morgenstierne, Ambassador Extraordinary and Plenipotentiary of the Kingdom of Norway to the United States of America, being duly authorized thereto by their respective Governments, have met for the purpose of exchanging the instruments of ratification by their respective Governments of the convention between the United States of America and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Washington on June 13, 1949, and, the respective instruments of ratification of the convention aforesaid having been compared and found to be in due form, the exchange took place this day.

As recited in the ratification on the part of the United States of America, the Senate of the United States of America, in its resolution of September 17, 1951, advising and consenting to the ratification of the convention aforesaid, expressed a certain understanding with respect thereto, as follows :

“ It is understood that the application of Article XVII of the convention shall be confined and limited as granting authority to each Contracting State to collect only such taxes imposed by the other Contracting State as will insure that the exemption or reduced rate of tax granted under the present convention by such other State, shall not be enjoyed by persons not entitled to such benefits. ”

The text of the said understanding was communicated by the Government of the United States of America to the Government of Norway. The Government of Norway has accepted the said understanding. Accordingly, it is understood by the two Governments that, upon entry into force of the convention aforesaid in accordance with its provisions, Article XVII thereof shall be applied in accordance with the said understanding.

¹ See p. 190 of this volume.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Protocol of Exchange.

DONE in duplicate, in the English and Norwegian languages, at Washington this eleventh day of December 1951.

For the President of the United States of America :

James E. WEBB

For His Majesty the King of Norway :

Wilhelm MUNTHE MORGENSTIERNE