

No. 1652

**BELGIUM
and
LUXEMBOURG**

Convention for the avoidance of double taxation with respect to taxes on capital. Signed at Luxembourg, on 9 October 1948

Official text: French.

Registered by Belgium on 6 March 1952.

**BELGIQUE
et
LUXEMBOURG**

Convention en vue d'éviter la double imposition en matière d'impôts sur le capital. Signée à Luxembourg, le 9 octobre 1948

Texte officiel français.

Enregistrée par la Belgique le 6 mars 1952.

[TRANSLATION — TRADUCTION]

No. 1652. CONVENTION¹ BETWEEN BELGIUM AND LUXEMBOURG FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON CAPITAL. SIGNED AT LUXEMBOURG, ON 9 OCTOBER 1948

The Belgian Government and the Luxembourg Government, in order that, as far as possible, the property of individuals or legal entities domiciled or established in one of the two States, which forms the physical or legal basis for tax assessment in the other State should not be liable to both the tax on capital as imposed by the Belgian Act of 17 October 1945 and the tax on capital as imposed by the Luxembourg Act of 8 July 1946, have agreed as follows :

INDIVIDUALS

Article 1

In the case of individuals, taxes shall be levied on the property owned by them as follows :

(a) Property movable or immovable by its nature, other than gold in ingots or coins and bank-notes which are located in one of the two States, shall be taxable in that State;

(b) Business or industrial concerns operated in one of the two States shall be taxable in that State.

In this connexion a business or industrial concern shall include, *inter alia*, the plant, merchandise, leasehold rights, goodwill, patents and trade-marks, and other intangible assets, and also claims on sundry debtors, bonds and bank deposits connected therewith.

(c) Claims secured by a preferential right or mortgage on a building situated in one of the two States shall be taxable in that State.

(d) Claims resulting from a loan contract or the opening of a credit not secured as aforesaid and payable in the currency of one of the two States, where the debtor is established in the same State and is not a corporate body while the creditor is established in the other State, shall be payable in the State in which the debtor is established.

For the purposes of the present Convention, general partnerships and limited partnerships, with the exception, however, of Belgian limited partnerships the

¹ Came into force provisionally upon signature on 9 October 1948 and definitively on 7 February 1952, by the exchange of instruments of ratification at Brussels, in accordance with article 9. This Convention is not applicable to the territories of the Belgian Congo and Ruanda-Urundi.

registered assets of which on 9 October 1944 represented a total of 10 million francs or more, shall be deemed to be individuals.

Article 2

All other property belonging to individuals shall be taxed in the State where such individuals have their fiscal domicile.

Subject to the provisions of items (b), (c) and (d) of Article 1, the foregoing provisions shall apply, *inter alia*, to claims on debtors, government securities, stocks, bonds and shares issued by any companies, organizations or bodies whatsoever, to gold in ingots or coin, and to bank-notes.

For the purposes of the present Convention, the fiscal domicile of an individual shall be understood to be his permanent home rather than his habitual residence.

Article 3

Persons having their domicile in one of the two States who fled to the other State on account of the war shall be deemed to have retained this domicile unless it is proved that they have transferred it to the other State.

The two Administrations shall confer together to settle disputed cases by common agreement.

LEGAL ENTITIES OTHER THAN COMPANIES

Article 4

For the purposes of the present Convention, legal entities other than companies shall be considered as individuals.

The Belgian State, and the Belgian legal entities referred to in Article 2, paragraph 1, of the Belgian Act of 17 October 1945, shall enjoy in the Grand Duchy the exemption provided for in Article 7 of the Act of 8 July 1946.

Similarly, the Grand Duchy and Luxembourg legal entities which have the same nature and character as the Belgian legal entities referred to in Article 2, paragraph 1, of the Belgian Act of 17 October 1945 shall enjoy in Belgium the exemptions provided for therein.

COMPANIES

Article 5

Subject to the exceptions provided for by the national legislation of each State, and without prejudice to the last paragraph of Article 1, companies shall be taxed in the State in which their head offices are situated.

For the purposes of the present Convention, a company shall be considered to have its head office in Belgium if it has availed itself of the faculty provided in Article 6, paragraph 5 of the Belgian Act of 17 October 1945 to place itself under the provisions of the said article.

Article 6

In the State other than that in which their head offices are situated, companies may also be taxed on the property which they possess in that State subject to the conditions laid down above in Article 1 for individuals. This tax, however, shall be reduced by one-quarter.

Article 7

When it is established that, on the date fixed for determining the basis on which taxes shall be assessed, at least seven per cent of the capital of a company having its head office in one of the two States belongs to a company having its head office in the other State, the latter company shall receive a rebate on the taxes paid by the former company.

Such rebate shall be equal to one-quarter of the tax levied on the proportion of the company's capital represented by the shares of the participating company.

Only stocks and shares which have been registered or declared in execution of the Belgian Decree Laws of 6 October 1944 and the Grand Duchy Decrees of 4 November 1944 shall be taken into account in applying the foregoing provisions.

The present article shall not apply to Luxembourg holding companies.

Article 8

The two Governments shall confer together to determine in what manner and on what dates the rebate provided for in Article 7 shall be paid, to settle by common agreement any difficulties which may arise in applying the Convention, and to give each other mutual assistance in the proper collection of the taxes referred to in this Convention.

Article 9

The present Convention shall take effect on the day on which each of the two Parties brings it into force in accordance with the provisions of its municipal law; it shall be ratified, and the instruments of ratification shall be exchanged at Brussels as soon as possible.

Nevertheless, the present Convention shall come into force provisionally from the date of signature.

IN FAITH WHEREOF, the undersigned, Viscount Joseph Berryer, Envoy Extraordinary and Minister Plenipotentiary of Belgium in Luxembourg, and Pierre Dupong, Minister of State, President of the Government, Acting Minister for Foreign Affairs, duly authorized by their Governments, have signed the present Convention.

DONE at Luxembourg in duplicate, 9 October 1948.

(Signed) Joseph BERRYER

(Signed) Pierre DUPONG