

No. 2317

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**UNITED STATES OF AMERICA  
and  
FINLAND**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington, on 3 March 1952**

*Official texts: English and Finnish.*

*Registered by the United States of America on 22 October 1953.*

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**ÉTATS-UNIS D'AMÉRIQUE  
et  
FINLANDE**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Washington, le 3 mars 1952**

*Textes officiels anglais et finnois.*

*Enregistrée par les États-Unis d'Amérique le 22 octobre 1953.*

No. 2317. CONVENTION<sup>1</sup> BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME SIGNED AT WASHINGTON, ON 3 MARCH 1952

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The President of the United States of America and the President of the Republic of Finland, 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 :

Dean Acheson, Secretary of State of the  
United States of America, and

The President of the Republic of Finland :

Johan A. Nykopp, Envoy Extraordinary and Minister  
Plenipotentiary of the Republic of Finland  
to the United States of America,

who, having communicated to one another their respective full powers, found in good and due form, have agreed as follows :

*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 and excess profits taxes.

(b) In the case of Finland : the State (National) income tax.

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

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<sup>1</sup> Came into force on 18 December 1952 by the exchange of the instruments of ratification at Helsinki and became operative retroactively from 1 January 1952, in accordance with article XXIII.

*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.

(b) The term " Finland " means the Republic of Finland.

(c) The term " permanent establishment " means a branch office, factory, 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 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 " includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

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

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

(h) The term “competent authorities” means, in the case of the United States the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of Finland, the Taxation Department of the Ministry of Finance.

(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 the tax laws of that State.

### *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 the entire income of such 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. In the determination of the net industrial and commercial profits of the permanent establishment there shall be allowed as deductions all expenses, wherever incurred, reasonably allocable to the permanent establishment, including executive and general administrative expenses so allocable.

(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 registered in that State shall be exempt from taxation in the other contracting State.

(2) The present Convention shall be deemed to have superseded, as of the effective date of this Convention, the arrangement between the United States and Finland providing for relief from double income taxation on shipping profits, effected by exchange of notes dated June 6, 1946 and January 7, 1947.<sup>1</sup>

#### *Article VI*

(1) The rate of United States tax on dividends derived from a United States corporation by a resident or corporation or other entity of Finland, not engaged in trade or business in the United States through a permanent establishment therein, shall not exceed 15 percent: provided that such rate of tax shall not exceed 5 percent if such Finnish corporation controls, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends from its own subsidiary corporation. Such reduction of the rate to 5 percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

(2) The rate of Finnish tax on dividends derived from a Finnish corporation by a resident or corporation or other entity of the United States, not engaged in trade or business in Finland through a permanent establishment therein, shall not exceed 15 percent: provided that such rate of tax shall not exceed 5 percent if such United States corporation controls, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends, other than interest and dividends from its own subsidiary corporation. Such reduction of the rate to 5 percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced

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<sup>1</sup> United Nations, *Treaty Series*, Vol. 15, p. 273.

rate. For the purposes of this paragraph the combined Finnish tax on such dividends and the Finnish property tax on the capital stock of a Finnish corporation owned by such resident or corporation of other entity shall not exceed an amount computed at such rates as applied to dividends, if any, so derived.

#### *Article VII*

(1) 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 tax by such former State.

(2) Bonds, bank deposits and trade balances beneficially owned by a resident or corporation or other entity of the United States shall be exempt from the Finnish property tax.

#### *Article VIII*

Royalties for the right to use copyrights or in respect of the right to produce or reproduce any literary, dramatic, musical, or artistic work (but not inclusive of rents or royalties in respect of motion picture films) derived from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State, not engaged in trade or business in the former State through a permanent establishment therein, shall be exempt from tax imposed by such former State.

#### *Article IX*

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

(2) A resident or corporation or other entity 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 as if such resident or corporation or other entity were engaged in trade or business within such other contracting State through a permanent establishment therein during such taxable year.

#### *Article X*

(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 Finnish citizen who is not also a citizen of the United States) shall be exempt from Finnish tax.

(b) Wages, salaries and similar compensation and pensions, paid either directly, or from funds or institutions created, by Finland or by the political subdivisions or communities thereof, to an individual (other than a United States citizen who is not also a citizen of Finland) shall be exempt from United States tax. The term "funds or institutions" shall not be deemed to include a corporation even if such corporation is owned, in whole or in part, by the Government of Finland.

(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 XI

(1) A resident of Finland 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 of, or under contract with, a resident, or corporation or other entity of Finland, 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 Finland.

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

*Article XII*

(1) Dividends and interest paid by a Finnish corporation shall be exempt from United States tax except where the recipient is a citizen, resident or corporation or other entity of the United States.

(2) Dividends and interest paid by a United States corporation shall be exempt from Finnish tax except where the recipient is a resident or corporation or other entity of Finland.

*Article XIII*

A professor or teacher, a resident of one of the contracting States, who temporarily visits the territory of 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 XIV*

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 purpose of his maintenance or studies.

*Article XV*

(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,<sup>1</sup> as in effect on the date of the entry into force of this Convention, deduct from its taxes the amount of Finnish taxes specified in Article I of this Convention.

(b) Finland in determining its taxes specified in Article I of this Convention in the case of its residents or corporations or other entities may, regardless of any other provision of this Convention, include in

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<sup>1</sup> United States of America : 26 U. S. C. § 131.



the basis upon which such taxes are imposed all items of income taxable under the revenue laws of Finland as if this Convention has not come into effect. Finland 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 the taxpayer's entire income but not in excess of the income tax paid to the United States and to the political subdivisions thereof on or with respect to the income so taxable in the United States.

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

#### *Article XVI*

The citizens of one of the contracting States shall not, while resident in the other contracting State, be subjected therein to other or more burdensome taxes than are the citizens of such other contracting State residing in its territory. As used in this paragraph,

(a) the term "citizens" includes all legal persons, partnerships, and associations created or organized under the laws in the respective contracting States, and

(b) the term "taxes" means taxes of every kind or description whether national, Federal, state, communal or municipal.

#### *Article XVII*

The competent authorities of the contracting States shall exchange such information (being information available under the respective taxation laws of the contracting States) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against tax avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade secret or trade process.

#### *Article XVIII*

Each of the contracting States may collect taxes, which are the subject of this Convention, imposed by the other contracting State (as though such tax were a tax imposed by the former State) as will ensure 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.

*Article XIX*

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 or trade process.

*Article XX*

Where a taxpayer shows proof that the action of the revenue authorities of the contracting States has resulted in double taxation in his case in respect of any of the taxes to which the present Convention relates, 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 may 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 XXI*

(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 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 XXII*

(1) The competent authorities of the two contracting States may prescribe regulations necessary to interpret and carry out the provisions of this Convention. With respect to the provisions of this Convention relating to exchange of information 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, 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 XXIII*

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Helsinki 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 Finnish languages, the two texts having equal authenticity, this third day of March, 1952.

For the President of the United States of America :  
Dean ACHESON [SEAL]

For the President of the Republic of Finland :  
Johan A. NYKOPP [SEAL]