

No. 2642

**SWEDEN
and
FINLAND**

**Agreement (with Final Protocol) for the avoidance of double
taxation with respect to taxes on income and property.
Signed at Stockholm, on 21 December 1949**

Official texts: Swedish and Finnish.

Registered by Sweden on 12 August 1954.

**SUÈDE
et
FINLANDE**

**Convention (avec Protocole final) tendant à éviter la double
imposition en matière d'impôts sur le revenu et sur la
fortune. Signée à Stockholm, le 21 décembre 1949**

Textes officiels suédois et finnois.

Enregistrée par la Suède le 12 août 1954.

[TRANSLATION — TRADUCTION]

No. 2642. AGREEMENT¹ BETWEEN THE KINGDOM OF SWEDEN AND THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND PROPERTY. SIGNED AT STOCKHOLM, ON 21 DECEMBER 1949

The Kingdom of Sweden and the Republic of Finland, being desirous of avoiding, so far as possible, double taxation with respect to taxes on income and property, have decided to conclude an agreement.

They have for that purpose appointed as their plenipotentiaries :

His Majesty the King of Sweden :

His Excellency Mr. Östen Undén, His Minister of Foreign Affairs;

and

The President of the Republic of Finland :

Mr. Georg A. Gripenberg, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Stockholm.

The plenipotentiaries, after communicating to each other their full powers, found in good and due form, have agreed upon the following provisions :

Article 1

This Agreement shall be applicable to physical persons domiciled in the Kingdom of Sweden or in the Republic of Finland and to Swedish and Finnish bodies corporate.

Article 2

The provisions of the Agreement shall be applicable solely to direct taxes.

For the purposes of the present Agreement, direct taxes shall be deemed to mean taxes which, on the basis of the legislation of the States parties to the Agreement are levied directly on income (net or gross), or on capital or capital increase whether on behalf of the State or of the commune.

In particular, the following shall be deemed to be direct taxes :

1. Under Swedish law :

(a) State tax on income;

(b) State tax on property;

¹ Came into force on 28 April 1950, by the exchange of the instruments of ratification at Helsinki, in accordance with article 18.

- (c) Tax on coupons;
- (d) Real estate taxes and communal tax on income;
- (e) Forestry dues;
- (f) Taxes and charges levied on the same basis as any one of the taxes mentioned above in sub-paragraphs (a) to (e).

2. Under Finnish law :

- (a) Income and property tax;
- (b) Communal tax on income;
- (c) Church tithes; and
- (d) Taxes and dues, levied on the same basis as any one of the taxes mentioned above in sub-paragraphs (a) to (c).

Article 3

Unless otherwise provided in the present Agreement, income and property shall be taxable only in the Contracting State in which the taxpayer is deemed to be domiciled.

For the purposes of the present Agreement, 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 if he resides there permanently. If in accordance with the above rule, he is deemed to be domiciled in both States, for the purposes of this Agreement he shall be deemed to be domiciled in that State with which he has the closest personal and economic relations. If no agreement can be reached on this point, he shall be assumed to be domiciled in the State of which he is a national; if he is a national of both States, or if he is not a national of either State, the supreme financial authorities shall come to an agreement on each individual case.

A corporate body shall be deemed to be domiciled in the State of which it is a national.

The undivided estate of a deceased person shall be deemed to be domiciled in that one of the two States where, in accordance with the other paragraphs of this article, the deceased is deemed to have been domiciled at the time of death.

Article 4

Income from immovable property shall be taxable only in that one of the two States in which such property is situate.

Article 5

Income from undertakings or occupations derived from a permanent business establishment situate in one of the two States shall be taxable only in that State. If permanent business establishments are situate in both States,

each State shall tax that portion of the income which is derived from the establishment situate within its own territory.

The term "permanent business establishment" shall be deemed to mean a place in which special plant has been erected or special arrangements made for permanent operation in connexion with the undertaking concerned, such as the place in which the undertaking has its management, offices, branches, factories, works, buying or selling offices, mines, or any other mineral deposits under operation.

Income from part ownership of undertakings, other than income derived from shares and similar securities, shall also be deemed to be income derived from business activities.

Article 6

For purposes of taxation, royalties in respect of the utilization of immovable property shall be deemed to be on the same basis as income from immovable property. Royalties in respect of the operation of mines or other mineral deposits, which are immovable property, shall be taxable in that State where the mines or mineral deposits are situate.

Other royalties shall be taxable in that State where the recipient of the income is deemed to be domiciled; however, royalties derived from undertakings carried on by the recipient, shall be taxable on the same basis as income from the undertakings in question.

Article 7

Income from shipping or air navigation undertakings, the effective centre of management of which is in the territory of one of the two States, shall be taxable only in that State.

Article 8

Salaries, pensions or other emoluments paid on account of employment, service or permanent duties by either of the States, by Swedish or Finnish communes or by other Swedish or Finnish public bodies, shall be taxable only in that one of the two States from which the salary or emolument is received.

Salaries, pensions or other emoluments otherwise paid on account of employment, service or permanent duties, shall be taxable only in that one of the two States where the work in question is being or has been performed.

Article 9

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

If the deduction is made in either of the two States under the provisions of the first paragraph, the other State shall grant a special deduction in the State tax on income accruing from dividends, owing to the fact that the first-mentioned State deducted the tax at the source; this deduction shall not be less than 5 per cent of the gross amount of the dividends.

Article 10

Capital, consisting of immovable property (including appurtenances and live-stock and equipment in farming or forestry) in any one of the two States, shall be taxable only in that State.

Capital invested in undertakings or works shall be taxable only in that State which is entitled under the provisions of the present Agreement to tax the income from such capital.

Article 11

Each State shall, in accordance with its internal legislation, divide the amount of income and property proportionately between the parent undertaking in one State and the subsidiary in the other State. When such questions arise in one of the States, the supreme financial authorities in the other State shall be informed of the matter with a view to making the requisite revision of the calculation of the income and property of the undertaking located there. If possible, the supreme financial authorities shall take an equitable decision with regard to the calculation of income or property.

Article 12

This Agreement shall not affect the right to enjoy any more extensive exemptions which have been or may hereafter be accorded to diplomatic or consular officials in virtue of the general rules of international law.

When, as a result of such extended exemptions, the officials in question are immune from direct taxation by the State to which they are appointed, they shall continue to be taxed by the State by which they are appointed.

Article 13

In assessing the tax, the State in which the taxpayer is deemed to be domiciled shall be entitled to apply the same rate as would have been applicable if the income and property taxable under the provisions of the present Agreement had been taxable in the former State.

Article 14

If a taxpayer proves that the action of the financial authorities of the two Contracting States has resulted in his being subjected to double taxation, he shall be entitled to lodge a claim with the State in which he is deemed to be domiciled. If his claim should be upheld, the supreme financial authority of that State may come to an agreement with the supreme financial authority of the other State with a view to equitably avoiding such double taxation.

Article 15

In the event of difficulties or doubt arising concerning the interpretation and application of the present Agreement, the supreme revenue authorities of the two Contracting States may make special arrangements in the matter.

Article 16

The Contracting States undertake to leave it to their respective supreme financial authorities to arrive at an equitable settlement of any other question in respect of direct taxes which may arise in connexion with differences in the principles governing the collection of taxes in either of the States or otherwise concerning which the present Agreement contains no specific stipulation.

Article 17

The present Agreement shall come into force with regard to taxes assessed in 1950 for the calendar year 1949 (corresponding financial year).

With the coming into force of the present Agreement, the existing Convention of 16 March 1931¹ between the Kingdom of Sweden and the Republic of Finland for the avoidance of double taxation in the matter of direct taxes is hereby revoked; provided that the latter Convention shall remain applicable to questions of assessments or surcharges for the calendar year 1948 (corresponding financial year) or earlier years.

Article 18

The present Agreement, done in duplicate in Swedish and in Finnish, both texts of which are equally authentic, shall be ratified, as regards Sweden, with the consent of the Rigsdag, by His Majesty the King of Sweden and, as regards Finland, by the President of the Republic. The instruments of ratification shall be exchanged at Helsingfors as soon as possible.

The present Agreement shall come into force upon the exchange of the instruments of ratification and shall remain in force until it is denounced by one or the other of the two Contracting Parties. Denunciation shall take place at

¹ League of Nations, *Treaty Series*, Vol. CXVIII, p. 71.

least six months prior to the expiry of the calendar year. If such denunciation has taken place, the Agreement shall apply for the last time to taxes levied in respect of the calendar year on the expiry of which the denunciation takes effect (corresponding financial year).

IN WITNESS WHEREOF the respective plenipotentiaries of both States have signed this Agreement and have affixed their seals hereto.

Stockholm, 21 December 1949

Östen UNDÉN
[L.S.]

G. A. GRIPENBERG
[L.S.]

FINAL PROTOCOL

On signing the Agreement concluded this day between the Kingdom of Sweden and the Republic of Finland for the avoidance of double taxation with respect to taxes on income and property, the undersigned plenipotentiaries have jointly made the following declarations, which shall constitute an integral part of the Agreement.

Ad Article 1

A body corporate shall be deemed to have Swedish nationality if it is registered in Sweden, and Finnish nationality if it is registered in Finland. A body corporate which is not registered shall be deemed to have the nationality of the State in which its management or head administration has its seat.

A holding company shall be deemed to have the nationality of the State in whose territory its actual management is exercised.

Ad Article 2

1. The list of direct taxes in article 2 of the Agreement is not exhaustive.

Any doubtful points concerning what taxes are included in the Agreement shall be settled by agreement between the supreme financial authorities of the two States.

The supreme financial authorities of the two States shall, whenever necessary, communicate to each other lists of the direct taxes levied in each State.

2. For the purposes of this Agreement, direct taxes shall not include taxes on capital gains, turnover taxes, taxes on communications or consumption, special taxes on winnings from lotteries and betting or death duties and taxes on gifts; nor the undistributed profits tax (*ersättningsskatt*), the distribution

tax (*utskiftningskatt*) or the taxes in respect of special privileges and rights (*bevillningsavgifter för särskilda förmåner och rättigheter*) levied in Sweden.

The Agreement shall not apply to the Finnish communal tax in so far as that tax relates to gifts, inheritances, wills and entailed estates.

3. For the purposes of this Agreement, the term "commune" includes communes of both the higher and the lower categories and, in the case of Finland, provinces.

Ad Article 3

1. If a taxpayer removes from one State for the purpose of taking up residence in the other, his tax liability in the first State shall, in so far as it is determined by his place of residence, cease from the date on which the removal is completed.

2. Where income or property belonging to the undivided estate of a deceased person is taxed in one State, it may not be taxed in the hands of a participant in the estate in other State.

Ad Article 4

1. The provisions of article 4 shall apply to :

Income derived from the direct administration and use of immovable property;

Income from letting, leasing or any other form of using such property;

and

Profit derived from the alienation of immovable property, including appurtenances and the livestock and equipment of agricultural or forestry undertakings alienated together with the property.

2. Income from immovable property shall be deemed to include income from timber-felling on one's own or another person's land.

Ad Article 5

1. The provisions of article 5 shall apply to :

Income derived from the direct conduct of a business;

Income derived from placing the conduct of a business in the hands of others;

and

Profit from the alienation of a business or of a part thereof, or of objects used in the business.

2. The provisions of article 5 shall apply *inter alia* to income derived from the professional exercise of a scientific, artistic, literary, pedagogic or educational activity and to income derived from the professions of physician, lawyer, architect or engineer.

3. A building site on which work has proceeded or is expected to proceed for a period exceeding twelve months shall be deemed to be a permanent business establishment within the meaning of the Agreement.

A permanent business establishment shall be deemed to exist if an undertaking domiciled in one State has a representative (agent) in the other State permanently working in that State for the account of the undertaking and empowered to conclude transactions on its behalf.

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

4. Where an undertaking of one State purchases felled timber in the other State and there sells or processes the timber or conveys it to a port of export, the income thus accruing shall be taxed in the State in which the timber was felled even if the undertaking has no permanent business establishment in that State for the activity in question.

5. Where an undertaking of one State carries on business in the other State through a permanent business establishment in that State, the following principles shall be applied in apportioning the right to levy tax. The permanent business establishment shall be deemed to have derived from the business such income as it might be expected to earn if it were a completely independent undertaking dealing at arm's length with the undertaking of which it is a permanent establishment. If the permanent business establishment keeps separate accounts, the income shall if possible be determined by reference to those accounts, in which event the accounts shall, if necessary, be adjusted for the purposes of the tax assessment so as to show the income as aforesaid. If it appears that the income cannot be computed by reference to the accounts, it shall be fixed at an equitable percentage of the gross income of the business establishment, in which event the percentage shall be determined by reference to corresponding particulars of similar undertakings in the same State. Where necessary, the supreme financial authorities in particular cases shall conclude special agreements concerning the apportionment of the right to levy taxes.

The authorities shall keep one another informed of the income for which in the aforementioned cases a permanent business establishment is assessed in each State and shall jointly seek to determine the proper apportionment of the right to levy tax.

The provisions of this paragraph shall apply, as appropriate, in calculating the income referred to in paragraph 4.

6. The expression "similar securities" in article 5, last paragraph, means shares in economic associations and, so far as Finland is concerned, shares in co-operative societies.

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

Ad Article 6

1. The term "royalties" in article 6, second paragraph, means any kind of royalty (or other periodically recurring amount) paid as consideration for the privilege of using or for the exclusive use of any copyright, patent, design, secret process or formula, trade-mark or other like property.

2. Where a royalty from one State is received by a person domiciled in the other State, the person paying the royalty shall be entitled to a deduction in respect thereof for the purposes of his tax assessment in the State in which he is domiciled to the extent that the royalty does not appear to exceed a reasonable and equitable consideration for the rights for which the royalty is paid.

Ad Article 8

1. A person employed in one State who for reasons connected with his employment is temporarily present in the territory of the other State shall not, if he receives his remuneration exclusively from an employer domiciled in the former State, be deemed to have been employed in the latter State.

2. Where a person who for the purposes of this Agreement is deemed to be domiciled in a rural or urban commune situated on the frontier between the two States performs in such commune work in the other State from which he receives income as referred to in article 8, second paragraph, the provisions of article 3 shall apply to such income.

The Swedish frontier communes are the towns of Haparanda and the parishes of Nedertorneå, Karl Gustav, Hietaniemi, Overtorneå, Pajala and Karesuando.

The Finnish frontier communes are the town of Torneå and the parishes of Nedertorneå, Karunki, Overtorneå, Pello, Kolari, Muonio and Enontekiö.

3. A professor or teacher from one State who stays for not more than two years in the other State for the purpose of teaching at a university or college shall be exempted in the latter State from tax on his remuneration for such teaching.

4. A student attending a university or college in one State who is employed in the other State for not more than 100 days in a single calendar year for the purpose of receiving practical training required for his studies shall be exempt from tax in the latter State on income derived from such employment unless such income exceeds 1,500 Swedish kroner or 60,000 Finnish marks, as the case may be.

5. A student or an industrial or business apprentice who is present in one of the contracting States solely for purposes of education or training shall be exempt in that State from tax on payments made to him by his relatives domiciled in the other State for the purposes of his maintenance, education or training.

Ad Article 9

The tax on dividends which in Finland is collected as a withholding tax shall for the purposes of article 9 be deemed to be a tax deducted at the source.

Ad Article 14

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

Ad Article 17

1. 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.

2. Tax exemption with regard to the timber floating association established to carry out timber floating operations in the floatway of the Torne and Muonio frontier rivers shall be governed by such special arrangements as have been or may be agreed upon.

Stockholm, 21 December 1949

Östen UNDÉN
[L.S.]

G. A. GRIPENBERG
[L.S.]