

**No. 2648**

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**SWEDEN  
and  
CANADA**

**Agreement for the avoidance of double taxation and the establishment of rules for reciprocal fiscal assistance in the matter of income taxes. Signed at Ottawa, on 6 April 1951**

*Official texts: Swedish and English.*

*Registered by Sweden on 12 August 1954.*

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**SUÈDE  
et  
CANADA**

**Accord tendant à éviter les doubles impositions et à établir des règles d'assistance réciproque en matière d'impôts sur le revenu. Signé à Ottawa, le 6 avril 1951**

*Textes officiels suédois et anglais.*

*Enregistré par la Suède le 12 août 1954.*

No. 2648. AGREEMENT<sup>1</sup> BETWEEN THE ROYAL GOVERNMENT OF SWEDEN AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE ESTABLISHMENT OF RULES FOR RECIPROCAL FISCAL ASSISTANCE IN THE MATTER OF INCOME TAXES. SIGNED AT OTTAWA, ON 6 APRIL 1951

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The Royal Government of Sweden and the Government of Canada, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, agree as follows :

*Article I*

1. The taxes which are subject to this Agreement are :

(a) In Canada :

Income taxes, including surtaxes, which are imposed by the Government of Canada.

(b) In Sweden :

The State income tax, including coupon tax.

2. This Agreement shall also apply to any other taxes of a substantially similar character imposed by Canada subsequent to the signing of this Agreement, and to any other State taxes of a substantially similar character imposed by Sweden subsequent to the signing of this Agreement.

*Article II*

1. In the present Agreement, unless the context otherwise requires :

(a) The terms "one of the territories" and "the other territory" mean Sweden or Canada, as the context requires.

(b) The term "tax" means Swedish tax or Canadian tax, as the context requires.

(c) The term "person" includes any body of persons, corporate or not corporate.

(d) The term "company" includes any body corporate.

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<sup>1</sup> Came into force on 1 September 1951 by the exchange of the instruments of ratification at Stockholm, in accordance with article XXI.

(e) The terms “resident of Sweden” and “resident of Canada” mean respectively any person who is resident in Sweden for the purposes of Swedish tax and not resident in Canada for the purposes of Canadian tax and any person who is resident in Canada for the purposes of Canadian tax and not resident in Sweden for the purposes of Swedish tax; a company shall be regarded as resident in Canada if its business is managed and controlled in Canada and as resident in Sweden if it is incorporated under the laws of Sweden and its business is not managed and controlled in Canada, or if it is not so incorporated but its business is managed and controlled in Sweden.

(f) The terms “resident of one of the territories” and “resident of the other territory” mean a person who is a resident of Sweden or a person who is a resident of Canada, as the context requires.

(g) The terms “Swedish enterprise” and “Canadian enterprise” mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Sweden and an industrial or commercial enterprise or undertaking carried on by a resident of Canada; and the terms “enterprise of one of the territories” and “enterprise of the other territory” mean a Swedish enterprise or a Canadian enterprise, as the context requires.

(h) The term “permanent establishment” when used with respect to an enterprise of one of the territories, means a branch, office, factory, or other fixed place of business, a mine, quarry or any other place of natural resources subject to exploitation. It also includes a place where building construction is carried on by contract for a period of at least one year, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. In this connexion —

(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;

(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;

(iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. The term "industrial or commercial profits", as used in the present Agreement, does not include income in the form of dividends, interest, rents or royalties, management charges, or remuneration for labour or personal services.

Subject to the provisions of this Agreement such items of income shall be taxed separately or together with industrial and commercial profits in accordance with the laws of the Contracting States.

3. In the application of the provisions of the present Agreement by one of the Contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Agreement.

### *Article III*

1. The industrial or commercial profits of a Swedish enterprise shall not be subject to Canadian tax unless the enterprise is engaged in trade or business in Canada through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Canada, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Canadian enterprise shall not be subject to Swedish tax unless the enterprise is engaged in trade or business in Sweden through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Sweden, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories is engaged in trade or business in the other territory 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 in that other territory 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.

4. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

5. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, the Government of that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

*Article IV*

Where

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory, and

in either case

conditions are made or imposed between the two enterprises in their commercial or financial relations, which differ from those which would be made between independent enterprises,

then any profits which would but for those conditions 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*

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

*Article VI*

1. The rate of Canadian tax on dividends derived from sources within Canada by a resident of Sweden shall not exceed 15 per cent.

Notwithstanding the provisions of the foregoing paragraph, the Canadian tax on dividends paid to a company which is a resident of Sweden by a company resident in Canada, more than 50 per cent of whose shares which have under all circumstances full voting rights are owned by the former company, shall not exceed 5 per cent.

2. The rate of Swedish coupon tax on dividends paid to a resident of Canada shall not exceed 15 per cent.

Notwithstanding the provisions of the foregoing paragraph the Swedish coupon tax on dividends paid to a company which is a resident of Canada by a company resident in Sweden, more than 50 per cent of whose shares which have under all circumstances full voting rights are owned by the former company, shall not exceed 5 per cent.

3. The rate of Canadian tax on interest, rents, royalties or similar payments from sources within Canada received by a resident of Sweden shall not exceed 15 per cent.

4. The phrase “rents, royalties or similar payments” in paragraph 3 of this Article includes any payment

- (i) for the use in Canada of property,
- (ii) in respect of an invention used in Canada, or
- (iii) for any property, trade name, design or other thing whatsoever used or sold in Canada.

#### *Article VII*

Copyright royalties and other like payments made in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including rents or royalties in respect of motion picture films) and derived from sources within one of the territories by a resident of the other territory shall be exempt from tax in that first-mentioned territory.

#### *Article VIII*

1. Income of whatever nature derived from real property within the territory of Canada (other than income from mortgages or bonds secured by real property but including a royalty paid in respect of any extraction of natural resources) by a resident of Sweden shall be exempt from tax in Sweden.

2. Any capital sum derived from sources within one of the territories from the sale of patent rights by a resident of the other territory shall be exempt from tax in that first-mentioned territory.

#### *Article IX*

1. Remuneration (other than pensions) paid by Sweden to an individual for services rendered to Sweden in the discharge of governmental functions shall be exempt from Canadian tax if the individual is a citizen of Sweden.

2. Remuneration (other than pensions) paid by Canada to an individual for services rendered to Canada in the discharge of governmental functions shall be exempt from Swedish tax.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Governments for purposes of profit.

#### *Article X*

1. An individual who is a resident of Sweden shall be exempt from Canadian tax on profits or remuneration in respect of personal (including professional) services performed within Canada in any taxation year if —

(a) he is present within Canada for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Sweden.

2. An individual who is a resident of Canada shall be exempt from Swedish tax on profits or remuneration in respect of personal (including professional) services performed within Sweden in any year of assessment if —

(a) he is present within Sweden for a period or periods not exceeding in the aggregate 183 days during that year, and

(b) the services are performed for or on behalf of a person resident in Canada.

3. The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture or radio artists, musicians and athletes.

### *Article XI*

1. Any pension or annuity derived from sources within Canada by an individual who is a resident of Sweden shall be exempt from Canadian tax.

2. Any pension or annuity derived from sources within Sweden by an individual who is a resident of Canada shall be exempt from Swedish tax.

3. The term “annuity” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, 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 from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college or other establishment for further education in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

### *Article XIII*

A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

### *Article XIV*

A resident of one of the territories shall be exempt in the other territory from any tax on gains from the sale, transfer, or exchange of capital assets.

*Article XV*

1. As far as may be in accordance with the provisions of the Income Tax Act Canada agrees to allow as a deduction from Canadian tax on any income derived from sources within Sweden the appropriate amount of Swedish tax paid thereon.

The special tax payable in Sweden by public entertainers such as theatre and radio artists, musicians and athletes (*bevillningsavgifter för vissa offentliga foreställningar*) shall be regarded, for purposes of this paragraph, as Swedish tax.

2, Income from sources within Canada which under the laws of Canada and in accordance with this Agreement is subject to tax in Canada either directly or by deduction shall be exempt from Swedish tax :

Provided that where such income is a dividend paid by a company being a resident of Canada to a person resident in Sweden, not being a company, Swedish tax may be charged on the gross amount of the dividend, but the amount of Swedish tax chargeable shall be reduced by a sum equal to 15 per cent of the amount of the dividend so charged.

Provided further that where such income is of a kind mentioned in paragraph 3, of Article VI (other than a royalty or like payment described in Article VII or VIII) paid by a resident of Canada to a person resident in Sweden, whether a company or not, Swedish tax may be charged on the gross amount of such income but the amount of Swedish tax chargeable shall be reduced by a sum equal to 15 per cent of the amount of such income so charged.

3. For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

4. The graduated rate of Swedish tax to be imposed on residents of Sweden may be calculated as though income exempted under this Agreement were included in the amount of the total income.

*Article XVI*

The citizens of one of the Contracting States, residing within the other Contracting State, shall not be subjected to more burdensome taxes than the citizens of the last-mentioned State.



*Article XVII*

Where under the provisions of this Agreement a resident of Canada is exempt or entitled to relief from Swedish tax, similar exemption or relief shall be applied to the undivided estates of deceased persons in so far as one or more of the beneficiaries is a resident of Canada.

*Article XVIII*

1. The competent authorities of the Contracting States will exchange information of a fiscal nature which is available to them, or which they are able to obtain under their own legislation and which would be useful to assure the regular assessment and collection of the taxes referred to in this Agreement, as well as the application with respect to these taxes of the legal provisions relative to the prevention of fiscal fraud.

The information so exchanged shall retain its secret nature and shall not be disclosed to persons other than those charged with assessment and collection of the taxes referred to in this Agreement.

The provisions of this Article shall not in any case be considered as requiring one of the Contracting States to disclose to the other State information other than that which its own fiscal legislation permits it to obtain, or information of which the furnishing would involve the disclosure of industrial, commercial or professional secrets or trade processes.

Neither shall these provisions be considered as imposing on one of the two Contracting States the obligation to perform an administrative act which would be contrary to its regulations or practices.

2. The term "competent authorities" means, in the case of Canada, the Minister of National Revenue or his authorized representative; and in the case of Sweden, the Finance Ministry.

*Article XIX*

1. Any taxpayer who shows proof that the action of the revenue authorities of the two Contracting States has resulted in double taxation with respect to the taxes referred to in this Agreement, may lodge a claim with the State in which he resides. Should the claim be upheld, the competent authority of this State may come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation.

2. The competent authorities of the two Contracting States may likewise come to an agreement for the purpose of overcoming double taxation in cases not otherwise provided by this Agreement, as well as in the case where the interpretation or the application of this Agreement gives rise to difficulties or doubts.

*Article XX*

The Agreement between Sweden and Canada dated 21st November, 1929,<sup>1</sup> for reciprocal exemption from income tax of profits accruing from the business of shipping shall not have effect for any period for which the present Agreement has effect.

*Article XXI*

1. This Agreement is drafted in the Swedish and English languages, the two texts having equal force. It shall be ratified by the Contracting States. Ratification by His Majesty the King of Sweden shall be subject to the consent of the Riksdag.

2. The instruments of ratification shall be exchanged at Stockholm with the shortest delay.

3. The present Agreement shall come into force on the date on which the Instruments of Ratification are exchanged and shall thereupon have effect —

(a) In Sweden :

(i) as respects tax on income which is assessed in or after the calendar year beginning on 1st January, 1951, being income for which preliminary tax is payable during the period 1st March, 1950, to 28th February, 1951, or any succeeding period;

(ii) as respects coupon tax on dividends payable on or after 1st January, 1950.

(b) In Canada :

(i) as respects income tax, including surtax, for the taxation year 1950 and subsequent taxation years;

(ii) as respects the tax levied under Part II of the Income Tax Act, amounts paid or credited to non-residents on or after 1st January, 1950.

*Article XXII*

The present Agreement shall continue in effect indefinitely but either of the Contracting States may, on or before 30th June in any calendar year, give to the other State written notice of termination and, in such event, the present Agreement shall cease to be effective —

(a) In Sweden :

(i) as respects tax on income for which preliminary tax is payable after the last day of February, in the calendar year next following that in which the notice is given;

<sup>1</sup> League of Nations, *Treaty Series*, Vol. XCVII, p. 331.

(ii) as respects coupon tax on dividends payable on or after 1st January in the calendar year next following that in which the notice is given.

(b) In Canada :

(i) As respects income tax, including surtax, for the taxation year next following that in which the notice is given;

(ii) As respects tax levied under Part II of the Income Tax Act, amounts paid or credited to non-residents on or after 1st January in the calendar year next following that in which the notice is given.

DONE in duplicate, at Ottawa this 6th day of April, 1951.

For the Royal Government of Sweden :

Per WIJLMAN

[L.S.]

For the Government of Canada :

D.C. ABBOTT

[L.S.]

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