

No. 2658

SWEDEN
and
DENMARK

Agreement (with Final Protocol) for the avoidance of double taxation with respect to taxes on income and property. Signed at Stockholm, on 27 October 1953

Official texts: Swedish and Danish.

Registered by Sweden on 12 August 1954.

SUÈDE
et
DANEMARK

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et la fortune. Signée à Stockholm, le 27 octobre 1953

Textes officiels suédois et danois.

Enregistrée par la Suède le 12 août 1954.

[TRANSLATION — TRADUCTION]

No. 2658. AGREEMENT¹ BETWEEN THE KINGDOM OF SWEDEN AND THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND PROPERTY. SIGNED AT STOCKHOLM, ON 27 OCTOBER 1953

The Kingdom of Sweden and the Kingdom of Denmark, 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

His Majesty the King of Denmark :

Mr. N. Chr. Stenderup, Counsellor of Embassy, Danish Chargé d'affaires at Stockholm,

Who, having examined each other's full powers, found in good and due form, have agreed upon the following provisions :

Article 1

This Agreement shall apply to individuals domiciled in the Kingdom of Sweden or in the Kingdom of Denmark, and to Swedish and Danish bodies corporate.

The Agreement shall not, in respect of Denmark, apply to the Faroe Islands or Greenland.

Article 2

For the purposes of this Agreement, taxes on income and property shall be taken to mean taxes levied in virtue of the laws of the Contracting States directly on net income or net assets, whether on behalf of the State or of the communes belonging thereto.

In particular, the following shall be regarded as such taxes :

1. Under Swedish law :

- (a) State income tax (*statlig inkomstskatt*);
- (b) State property tax (*statlig förmögenhetsskatt*);
- (c) Coupon tax (*kupongskatt*);

¹ Came into force on 18 December 1953, by the exchange of the instruments of ratification at Stockholm, in accordance with article 17.

- (d) Communal income tax (*kommunal inkomstskatt*);
- (e) Taxes and charges levied according to the same principles as any of the taxes specified above in sub-paragraphs (a) to (d); and
2. Under Danish law :
- (a) State tax on income and property (*indkomst- og formueskat til staten*);
- (b) Inter-communal tax on income and property (*fælleskommunal indkomst- og formueskat*);
- (c) Communal income tax (*kommunal indkomstskat*);
- (d) Taxes and charges levied according to the same principles as any of the taxes specified 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 domiciled.

For the purposes of this Agreement, an individual shall be deemed to be domiciled in one of the States if he has his actual dwelling and home there, or permanently resides there, or is otherwise for purposes of taxation there to be treated in the same manner as a person domiciled in that State. If as a result of the application of this provision he is regarded as being domiciled in both States, he shall, for the purposes of this Agreement, be deemed to be domiciled in that State with which he has the closest personal and economic relations. If the question where a person shall be deemed to be domiciled cannot be determined in accordance with the foregoing provision, he shall be deemed to be domiciled in the State of which he is a national; if he is a national of both States or is not a national of either State, the supreme financial authorities shall come to an agreement on each particular case.

For the purposes of this Agreement, a body corporate shall be deemed to be domiciled in the State in which the management or head administration has its seat.

The undivided estate of a deceased person shall be deemed to be domiciled in that State in which, in accordance with the second paragraph of this article, the deceased is deemed to have been domiciled at the time of his death.

Article 4

Income from immovable property shall be taxable only in that State in which the property is situated.

Article 5

Income from trade, industry or any other business or occupation carried on through a permanent establishment situated in one of the States shall, unless otherwise provided hereinafter, be taxable only in that State. If there are permanent establishments in both States, each State shall tax that portion of the income which is derived from the permanent establishment situated in its territory.

The term "permanent establishment" means a place where special plant has been installed or special arrangements made for the permanent use of a business, such as a place where an undertaking has its management, office, branch, permanent agency, factory, workshop, purchasing or sales office, warehouse, or mine, quarry or other mineral deposit subject to exploitation.

Income from part-ownership of an undertaking, except income derived from shares or similar securities, shall also be deemed to be income from business.

Article 6

Any royalty paid in respect of the use of immovable property or of the operation of a mine or quarry or of any other extraction of mineral deposits shall be taxable in the State in which such property, mine, quarry or mineral deposit is situated.

Any other royalty shall be taxable in accordance with the provisions of article 3.

An amount periodically paid for the use of a patent, design or the like shall be deemed to be a royalty.

Article 7

Income derived from a shipping or air transport undertaking the real centre of management of which is in one of the States shall be taxable only in that State.

Article 8

In respect of dividends, each State reserves the right, subject to 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 5 per cent of the gross amount of such dividends.

Where a deduction is made in one State in accordance with the first paragraph of this article, the other State shall allow, from its national income tax levied on the dividends, a special deduction of 5 per cent of the gross amount of the dividend or of such lesser percentage as may have been deducted by the

State from which the dividend is derived. In the case of Denmark, the last-mentioned deduction may be reduced by the amount of tax relief to which under Danish law a taxpayer is entitled by virtue of the deduction allowed, when computing income, in respect of tax collected at the source.

Where a dividend paid by a joint stock company in one State is received by a joint stock company in the other State which controls, directly or indirectly, not less than 50 per cent of the entire voting power in the joint stock company paying the dividend, the dividend shall be exempt from taxation in the latter State, but only to the extent to which the dividend would under the laws of that State have been exempt from taxation if both companies had been deemed to be domiciled in that State.

Article 9

Income from personal services (but excluding pensions) shall be taxable only in the State in which the taxpayer performs the services from which the income is derived.

Such income shall, however, be taxable as provided in article 3 where :

(a) the taxpayer is domiciled in one State and the income was derived from services performed in the other State for an employer domiciled elsewhere than in that State and the income concerned was paid by that employer;

(b) the taxpayer is domiciled in one State and his income from services performed in the other State is not taxed in the latter State.

Services performed wholly or mainly on board a Swedish or Danish vessel or aircraft shall be deemed to have been performed in the State whose nationality the vessel or aircraft possesses.

Article 10

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, for the purposes of his maintenance, education or training, by his relatives domiciled and liable to taxation in the other State.

Article 11

Capital consisting of immovable property in one of the two States or of appurtenances to such property shall be taxable only in that State.

Capital consisting of an undertaking for carrying on trade, industry or some other business or occupation shall be taxable only in the State which is entitled under the provisions of this Agreement to tax the income from such capital.

Article 12

This Agreement shall not affect the right of diplomatic and consular officers to such additional exemptions as have been or may hereafter be granted to such officers in virtue of the general rules of international law.

Where, owing to such additional exemptions, income or property is not taxed in the receiving State, the right of taxation shall be reserved to the sending State.

Article 13

The State in which a taxpayer is deemed to be domiciled may, in calculating the tax, apply the rate of tax that would have been applicable if the income and property which under this Agreement are taxable only in the other State had also been taxable in the former State.

Article 14

If a taxpayer can show proof that the action of the taxation authorities of the Contracting States has resulted in his being subjected to double taxation, he may lodge a claim with the State in which he is domiciled or of which he is a national. If the claim is considered to be valid, 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 avoiding such double taxation.

Article 15

Difficulties or doubts arising in connexion with the interpretation or application of this Agreement may be dealt with by special agreements between the supreme financial authorities of the Contracting States.

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 concerning the taxes covered by this Agreement which may arise in connexion with differences in the principles governing taxation in either State or otherwise, and for which no specific provision is made in this Agreement.

Article 17

This Agreement shall be ratified, in the case of Sweden, by His Majesty the King of Sweden, with the consent of the Riksdag, and, in the case of Den-

mark, by His Majesty the King of Denmark. The instruments of ratification shall be exchanged at Stockholm as soon as possible.

The Agreement shall enter into force upon the exchange of the instruments of ratification.

Article 18

When the instruments of ratification have been exchanged, the Agreement shall apply :

(a) in Sweden :

In respect of such taxes on income or property as are levied on the basis of the assessment for the year 1954 or any subsequent year;

In respect of coupon tax, on dividends falling due for payment on or after 1 January 1954;

(b) in Denmark :

In respect of such taxes on income or property as are levied on the basis of the assessment for the tax year 1954/1955 or any subsequent tax year.

On the entry into force of this Agreement, the Agreement of 6 May 1932¹ between the Kingdom of Sweden and the Kingdom of Denmark for the avoidance of double taxation with respect to direct taxes shall cease to apply but shall continue to be applicable with respect to assessments or reassessments for years preceding those specified above.

Article 19

The Agreement shall remain in force for so long as no notice of termination is given by either Contracting State. Such notice shall be given not less than six months before the expiry of the calendar year. If such notice is given, the Agreement shall apply for the last time :

(a) in Sweden :

In respect of such taxes on income or property as are levied on the basis of the assessment for the year next following that in which the notice of termination is given;

In respect of coupon tax, on dividends falling due for payment in the year in which the notice of termination is given;

(b) in Denmark :

In respect of such taxes on income or property as are levied on the basis of the assessment for the tax year beginning during the calendar year next following that in which the notice of termination is given.

¹ League of Nations, *Treaty Series*, Vol. CXXX, p. 161.

IN WITNESS WHEREOF the plenipotentiaries of the two States have signed this Agreement and have thereto affixed their seals.

DONE at Stockholm, on 27 October 1953, in duplicate, in the Swedish and Danish languages, both texts being equally authentic.

Östen UNDÉN
[L.S.]

N. Chr. STENDERUP
[L.S.]

FINAL PROTOCOL

On signing the Agreement concluded this day between the Kingdom of Sweden and the Kingdom of Denmark 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.

1. The list in article 2 of the Agreement of the taxes to which the Agreement relates is not intended to be 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 taxes on income and property levied in each State.

2. For the purposes of this Agreement, the term "commune" includes communes of both the higher and the lower categories.

3. This Agreement shall not apply to taxes on capital gains, turnover taxes, taxes on communications or consumption, special taxes on winnings from lotteries and betting, death duties and taxes on gifts; nor to the licence fees for certain public performances (*bevillningsavgift för vissa offentliga föreställningar*) levied in Sweden, or to corresponding taxes levied in Denmark.

4. 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 the other State.

Reversions and payments in discharge of reversions (including Danish fiefs and estates in tail) shall not come within the provisions of this Agreement, but capital vested in them and income derived from them shall be subject to taxation in accordance with the provisions in force in each State. Both States

agree in such cases to enter into negotiations through their supreme financial authorities as to the extent to which and the principles on which relief from taxation may be granted to the owners of such entailed estates if they are subject to double taxation.

5. The provisions of article 4 shall apply to income derived from the direct administration and use of immovable property; to income from letting, leasing or any other form of using such property; and to profit derived from the alienation of immovable property otherwise than in the regular course of business, and from appurtenances alienated together with the property.

Income from immovable property shall be deemed to include income from timber-felling on one's own or another person's land and income derived by a logger through the conveyance of the felled timber to a port of export and its sale within the country or through the processing of the timber in the country elsewhere than at a permanent establishment.

6. The term "occupation" as used in article 5 includes the liberal professions, i.e., the exercise of a scientific, artistic, literary, pedagogic or educational activity or of the professions of physician, lawyer, architect or engineer.

7. The provisions of article 5 shall apply to income derived from the direct conduct of a business; to income derived from placing the conduct of a business in the hands of others; and to profit from the alienation of a business or of a part thereof, or of objects used in the business.

8. 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 establishment within the meaning of the Agreement.

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

9. The supreme financial authorities may conclude a special agreement with a view to the equitable apportionment of income from a trade, industry or other business in the cases referred to in article 5, first paragraph, second sentence.

10. The expression "similar securities" in article 5, last paragraph, means, as regards the law in force in Sweden, share certificates of Swedish economic associations and, as regards the law in force in Denmark, share certificates held by limited partners, participants, shareholders or other persons who are part-owners of a business but do not have full liability.

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.

11. The fact that a taxpayer is deemed under article 3 to be domiciled in Sweden shall not prevent his being assessed for tax in Denmark in respect of income from personal services (cf. article 9, first paragraph) earned in Denmark during the income year which under Danish regulations serves as the basis for such assessment, if, by virtue of his residence in Denmark, he fulfils the conditions which render him liable to taxation under Danish law. The provisions of article 13 shall in such case apply to the calculation of tax in Denmark.

12. With respect to the principle of Danish law that taxation on the basis of residence in Denmark applies to income earned during the year preceding the tax year, the Contracting States agree that nothing in the Agreement shall be regarded as preventing the income referred to in article 3 from being taxed as aforesaid in Denmark and that the question whether such income must be regarded as subject to double taxation shall, under the Agreement, be decided by reference to whether taxes are levied in both States in respect of the same period of residence.

With respect to the provision of Danish law that a taxpayer who relinquishes his domicile in Denmark continues to be liable to taxation in Denmark until the end of the tax year, the two States have agreed as follows: If the taxpayer during his residence in Sweden becomes fully liable for income tax in that country, his liability for income tax in Denmark for the corresponding period shall lapse (with respect to liability for property tax, cf. paragraph 13). Liability to taxation in Denmark shall not, however, be affected if the taxpayer incurs a restricted liability for tax in Sweden, such as liability for tax on income derived from personal services (cf. article 9, first paragraph).

Notwithstanding the provisions of article 5 or of article 9, first paragraph, Denmark may, where a taxpayer removes from Sweden to Denmark, tax him,

after such removal, in respect of income derived in Sweden before the removal from a business which ceases to exist in consequence of the removal, or in respect of income derived from personal services earned in Sweden before the removal. If, however, a person continues under the provision of Danish law referred to in the second sub-paragraph to be fully liable to taxation in Denmark until the end of the tax year even though he has relinquished his domicile in Denmark and that person by reason of residence in Sweden incurs during the same period a restricted liability for income tax in Sweden (cf. second sub-paragraph, last sentence), he may not, after his return to Denmark, be taxed in Denmark in respect of income of the kind dealt with in this sub-paragraph which has been earned and taxed in Sweden.

If in consequence of the application of these provisions the amount of income affected by the aggregate of the tax operations in both States is substantially larger or substantially smaller than the amount which would have been subject to tax if all the income for the period concerned had been taxed in one operation, the supreme financial authorities of the two States may conclude special agreements providing for departure from these provisions.

13. With regard to the taxation of property, the provisions of article 3 shall not apply in the event of a taxpayer removing from one State to the other, but each State may in such case proceed in accordance with its own legislation except where the supreme financial authorities of the two States agree upon exceptions in special cases.

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

DONE at Stockholm, on 27 October 1953, in duplicate, in the Swedish and Danish languages, both texts being equally authentic.

Östen UNDÉN
[L.S.]

N. Chr. STENDERUP
[L.S.]