

**No. 3191**

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**UNION OF SOUTH AFRICA  
and  
SWEDEN**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Stockholm, on 28 July 1955**

*Official texts: English, Afrikaans and Swedish.*

*Registered by the Union of South Africa on 27 March 1956.*

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**UNION SUD-AFRICAINNE  
et  
SUÈDE**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Stockholm, le 28 juillet 1955**

*Textes officiels anglais, afrikaans et suédois.*

*Enregistrée par l'Union Sud-Africaine le 27 mars 1956.*

No. 3191. CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE UNION OF SOUTH AFRICA AND THE ROYAL GOVERNMENT OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT STOCKHOLM, ON 28 JULY 1955

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The Government of the Union of South Africa and the Royal Government of Sweden,

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 plenipotentiaries :

The Government of the Union of South Africa :

His Excellency Mr. Basil Johnstone Jarvie, Envoy Extraordinary and Minister Plenipotentiary of the Union of South Africa in Sweden.

The Royal Government of Sweden :

Mr. Herman Zetterberg, Minister of Justice, Acting Minister for Foreign Affairs.

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows :

*Article I*

(1) The taxes which are the subject of the present Convention are :

(a) In Sweden :

The State income tax (including coupon tax) and the municipal tax and all other taxes on income which are chargeable in Sweden (hereinafter referred to as "Swedish tax").

(b) In the Union of South Africa :

The normal tax,  
the super tax,  
the non-resident shareholders' tax,

the provincial income tax and the provincial companies tax and all other taxes on income which are chargeable in the Union

(hereinafter referred to as "Union tax").

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<sup>1</sup> Came into force on 8 March 1956 in accordance with article XXI.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed in Sweden or the Union of South Africa subsequently to the date of signature of the present Convention.

### *Article II*

(1) In the present Convention, unless the context otherwise requires :

(a) The term "Union" means the Union of South Africa.

(b) The terms "territory of one of the Contracting Governments" and "territory of the other Contracting Government" mean Sweden or the Union, as the context requires.

(c) The term "tax" means Swedish tax or Union tax, as the context requires.

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

(e) The term "company" means any body corporate.

(f) The terms "resident of Sweden" and "resident of the Union" mean respectively any person who is resident in Sweden for the purposes of Swedish tax and not ordinarily resident in the Union for the purposes of Union tax and any person who is ordinarily resident in the Union for the purposes of Union tax and not resident in Sweden for the purposes of Swedish tax; a company shall be regarded as resident in Sweden if it is incorporated under the laws of Sweden and as resident in the Union if it is incorporated under the laws of the Union.

(g) The terms "company of one of the Contracting Governments" and "company of the other Contracting Government" mean a company which is a resident of Sweden or a company which is a resident of the Union, as the context requires.

(h) The terms "Swedish enterprise" and "Union 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 the Union, and the terms "enterprise of one of the Contracting Governments" and "enterprise of the other Contracting Government" mean a Swedish enterprise or a Union enterprise, as the context requires.

(i) The term "permanent establishment" when used with respect to an enterprise of one of the Contracting Governments means a branch, management, factory, or other fixed place of business, a mine, quarry or any other place of natural resources subject to exploitation 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 connection :

(i) An enterprise of one of the Contracting Governments shall not be deemed to have a permanent establishment in the territory of the other Contracting Government merely because it carries on business dealings in the territory of that other Contracting Government 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 Contracting Governments maintains in the territory of the other Contracting Government 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 of one of the Contracting Governments has a subsidiary company which is a company of the other Contracting Government or which is engaged in trade or business in the territory of that other Contracting Government (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company;

(iv) The fact that an enterprise of one of the Contracting Governments is erecting plant or machinery in the territory of the other Contracting Government shall not of itself constitute a permanent establishment of such enterprise in that other territory if the erection is an integral part of the contract for the supply of such plant or machinery.

(j) The term "industrial or commercial profits" includes mining profits but does not include income in the form of royalties, rents (including royalties or rents on cinematograph films), interest, dividends, management charges, remuneration for personal services or profits from the operation of transport services by air or sea.

(k) The term "profits" in relation to Union tax means "taxable income" as defined under the laws of the Union relating to the taxes which are the subject of the present Convention.

(2) In the application of the provisions of the present Convention by one of the Contracting Governments any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Government relating to the taxes which are the subject of the present Convention.

(3) The terms "Swedish tax" and "Union tax" do not include any sum which represents a penalty imposed under the laws of either Contracting Gov-

ernment relating to the taxes which are the subject of the present Convention or which is otherwise payable in respect of any default or omission in relation to those taxes.

### *Article III*

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

(2) The industrial or commercial profits of a Union enterprise shall not be subject to any of the Swedish taxes which are the subject of the present Convention 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 Contracting Governments is engaged in trade or business in the territory of the other Contracting Government 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.

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

(5) Profits derived by an enterprise of one of the Contracting Governments from sales, under contracts concluded in its territory, of goods or merchandise stocked in a warehouse or depot in the other territory for convenience of delivery and not for purposes of display shall not be attributed to a permanent establishment of the enterprise in that other territory notwithstanding that the offers of purchase have been obtained by an agent of the enterprise in that territory and transmitted by him to the enterprise for acceptance.

### *Article IV*

Where :

(a) an enterprise of one of the Contracting Governments participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Government, or

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

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*

Profits derived by the Government or a resident of one of the territories from operating ships or aircraft shall be exempt from tax (including any taxes on gross profits or turnover) in the other territory.

#### *Article VI*

(1) Where a company which is a resident of one of the territories derives profits from sources within or deemed to be within the other territory, the Government of that other territory shall not impose any form of taxation on dividends declared payable by that company in favour of persons not resident in that other territory nor shall the Government of that other territory impose any tax in the nature of a special tax on non-residents on the profits derived by that company directly as the result of the carrying on of business through a permanent establishment in that other territory.

(2) Dividends paid by a company of one of the Contracting Governments to a company of the other Contracting Government shall be exempt from tax in the territory of the last-mentioned Government; provided that in accordance with the laws in that territory the dividends would be exempt from tax if both companies had been resident there.

#### *Article VII*

A resident of Sweden, whether carrying on business in the Union or not, shall be exempt from Union tax in respect of interest on bonds or securities issued by any Government other than the Government of the Union in respect of which he is subject to Swedish tax.

#### *Article VIII*

(1) (a) Any royalty in respect of copyright derived from sources within the territory of one of the Contracting Governments by a resident of the territory of the other Contracting Government shall be exempt from tax in that first-mentioned territory.

(b) In respect of any royalty, other than a royalty referred to in subparagraph (a), derived from sources within the territory of one of the Contracting Governments by a resident of the territory of the other Contracting Government who is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, the Government of the first-mentioned territory shall reduce its tax attributable to such royalty by an amount equal to 50 per cent of the tax so attributable.

(2) In this Article the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, as the case may be, but does not include a royalty or other amount paid in respect of the operation of a mine or quarry or of other extraction of natural resources.

(3) Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption or reduction of tax provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

(4) Any capital sum derived from sources within the territory of one of the Contracting Governments from the sale of patent rights by a resident of the territory of the other Contracting Government who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

#### *Article IX*

(1) Income of whatever nature derived from real property within the territory of one of the Contracting Governments by a resident of the territory of the other Contracting Government shall be exempt from tax in the last-mentioned territory.

(2) Any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources within the territory of one of the Contracting Governments to a resident of the other Contracting Government shall be exempt from tax in the last-mentioned territory.

#### *Article X*

Where under the provisions of this Convention a resident of the Union 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 the Union.

*Article XI*

(1) Remuneration (other than pensions) paid by one of the Contracting Governments to any individual for services rendered to that Contracting Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government if the individual is not resident in that territory or is resident in that territory solely for the purpose of rendering those services.

(2) Any pension paid by one of the Contracting Governments to any individual for services rendered to that Contracting Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government, in so far as the remuneration for those services was exempt from tax in that territory under paragraph (1) of this Article or would have been so exempt if the present Convention had been in force at the time when the remuneration was paid.

(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 XII*

(1) An individual who is a resident of Sweden shall be exempt from Union tax on profits or remuneration in respect of personal (including professional) services performed within the Union in any year of assessment if :

(a) he is present within the Union 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, and

(c) the profits or remuneration are subject to Swedish tax.

(2) An individual who is a resident of the Union 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 the Union, and

(c) the profits or remuneration are subject to Union tax.

(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.



(4) The provisions of this Article shall not apply to the profits or remuneration of persons who are not *bona fide* employees of a principal.

#### *Article XIII*

(1) Any pension (other than a pension paid by the Government of the Union for services rendered to it in the discharge of governmental functions) and any life annuity, derived from sources within the Union by an individual who is a resident of Sweden and subject to Swedish tax in respect thereof, shall be exempt from Union tax.

(2) Any pension (other than a pension paid by the Government of Sweden for services rendered to it in the discharge of governmental functions) and any life annuity, derived from sources within Sweden by an individual who is a resident of the Union and subject to Union tax in respect thereof, shall be exempt from Swedish tax.

(3) The term "life 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 consideration of money paid.

#### *Article XIV*

The remuneration derived by a professor or teacher who is resident in the territory of one of the Contracting Governments, for teaching, during a period of temporary residence not exceeding two years, at a university, college or other establishment for higher education in the territory of the other Contracting Government, shall be exempted from tax by that other Contracting Government.

#### *Article XV*

(1) A student or business apprentice from the territory of one of the Contracting Governments who is receiving full-time education or training in the territory of the other Contracting Government, 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.

(2) A student at a university, college or other establishment for higher education in the territory of one of the Contracting Governments who for a period or periods not exceeding in the aggregate 100 days during the year of assessment is employed in the territory of the other Contracting Government in order to obtain a practical training required for his studies shall be exempt from tax in that other territory on remuneration in respect of the employment unless the remuneration exceeds 2 000 Swedish crowns or the equivalent in the currency of the Union as the case may be.

*Article XVI*

(1) Income from sources within the Union which under the laws of the Union and in accordance with this Convention is subject to tax in the Union either directly or by deduction shall, subject to the provisions of paragraph (2) of Article VI of this Convention, be exempt from Swedish tax : Provided that where such income is a dividend paid by a company resident in the Union to a person, other than a company, resident in Sweden, Swedish tax may be charged on the gross amount of the dividend but the amount of Swedish tax so chargeable shall be reduced by an amount equal to 7.5 per cent of the amount of such gross dividend : Provided further that where in respect of any income a reduction of 50 per cent of Union tax has been granted in accordance with the provisions of this Convention, the reduced amount of Union tax payable on that income shall be allowed as a credit against any Swedish tax charged on income accrued to or received by the person concerned during the year in which such reduced Union tax is paid.

(2) Income from sources within Sweden which under the laws of Sweden and in accordance with this Convention is subject to tax in Sweden either directly or by deduction shall be exempt from Union tax provided that where in respect of any income a reduction of 50 per cent of the Swedish tax is granted in accordance with this Convention that income may be charged with Union tax at a rate not exceeding 50 per cent of the Union tax which but for the provisions of this paragraph would have been charged thereon.

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

(4) For the purposes of this Article, profits or remuneration for personal (including professional) services performed in the territory of one of the Contracting Governments 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 the territory of one of the Contracting Governments shall be deemed to be performed in that territory.

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

*Article XVII*

(1) In respect of the taxes which are the subject of the present Convention the citizens of one of the Contracting Governments shall not be subjected in the territory of the other Contracting Government to any taxation or any requirement connected therewith which is other, higher or more burdensome than the taxation and connected requirements to which the citizens of the latter Government are or may be subjected.

(2) In this Article the term "citizens" means :

(a) in relation to Sweden, all Swedish subjects and all legal persons, partnerships and associations deriving their status as such from the law in force in Sweden;

(b) in relation to the Union, all South African Citizens and all bodies corporate or not corporate created under the laws of the Union.

*Article XVIII*

(1) The taxation authorities of the Contracting Governments shall exchange such information (being information available under the respective taxation laws of the Contracting Governments) 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 legal 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 persons 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.

(2) As used in this Article and in Article XIX, the term "taxation authorities" means, in the case of Sweden, the Minister of Finance or his authorized representative; and, in the case of the Union, the Commissioner for Inland Revenue or his authorized representative.

*Article XIX*

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

(2) The taxation authorities of the two Contracting Governments may likewise come to an agreement for the purpose of overcoming double taxation in

cases not otherwise provided by this Convention, as well as in the case where the interpretation or the application of this Convention gives rise to difficulties or doubts.

*Article XX*

The Agreement between Sweden and the Union, dated 25th May, 1951,<sup>1</sup> for the avoidance of double taxation on the income derived from shipping and aircraft shall cease to have effect :

(a) In Sweden as respects income assessed in or after the calendar year beginning on 1st January, 1956.

(b) In the Union as respects income derived in or after the year of assessment beginning on 1st July, 1955.

*Article XXI*

(1) The present Convention shall be ratified by the Contracting Governments. 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 Pretoria as soon as possible.

(3) This Convention shall come into force on the date on which the last of all such things shall have been done in Sweden and in the Union as are necessary to give the Convention the force of law in Sweden and in the Union respectively, 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, 1956, being income for which preliminary tax is payable during the period 1st March, 1955, to 29th February, 1956, or any succeeding period;

(ii) as respects coupon tax on dividends payable on or after 1st January, 1955.

(b) In the Union :

(i) as respects taxes on income for the year of assessment beginning on 1st July, 1955, and subsequent years of assessment;

(ii) as respects non-resident shareholders' tax on dividends declared on or after 1st July, 1955.

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<sup>1</sup> United Nations, *Treaty Series*, Vol. 197, p. 425.

*Article XXII*

The present Convention shall continue in effect indefinitely but either of the Contracting Governments may, on or before 30th June in any year after the calendar year 1958, give to the other Contracting Government written notice of termination and, in such event, the present Convention 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;

(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 the Union :

(i) as respects taxes on income for the year of assessment beginning on 1st July of the calendar year next following that in which notice is given;

(ii) as respects non-resident shareholders' tax on dividends declared on or after 1st July of the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the above-mentioned plenipotentiaries have signed the present Convention and have affixed thereto their seals.

DONE at Stockholm in duplicate, in the English, Afrikaans and Swedish languages, the texts being equally authentic, on the twenty-eighth day of July, 1955.

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