

**No. 3654**

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**ITALY  
and  
UNITED STATES OF AMERICA**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington, on 30 March 1955**

*Official texts: English and Italian.*

*Registered by Italy on 10 January 1957.*

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

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Washington, le 30 mars 1955**

*Textes officiels anglais et italien.*

*Enregistrée par l'Italie le 10 janvier 1957.*

No. 3654. CONVENTION<sup>1</sup> BETWEEN THE ITALIAN REPUBLIC AND THE UNITED STATES OF AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT WASHINGTON, ON 30 MARCH 1955

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The President of the United States of America and the President of the Italian Republic being desirous of concluding a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have appointed for that purpose as their respective Plenipotentiaries: The President of the United States of America :

John Foster Dulles, Secretary of State of the United States of America;  
and

The President of the Italian Republic :

Gaetano Martino, Minister of Foreign Affairs of the Italian Republic;  
who, having communicated to one another their respective full powers, found in good and due form, have agreed upon the following Articles :

*Article I*

The taxes referred to in this Convention are :

(a) In the case of the United States :  
the Federal income tax, including surtaxes.

(b) In the case of Italy :

- (1) Tax on land (*l'imposta sul reddito dei terreni*).
- (2) Tax on buildings (*l'imposta sul reddito dei fabbricati*).
- (3) Tax on movable wealth (*l'imposta sui redditi di ricchezza mobile*).
- (4) Tax on agricultural income (*l'imposta sui redditi agrari*).
- (5) Complementary tax (*l'imposta complementare progressiva sul reddito*).

*Article II*

(1) As used in this Convention :

(a) The term " United States " means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

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<sup>1</sup> Came into force on 26 October 1956, upon the exchange of the instruments of ratification at Rome, with retroactive effect from 1 January 1956, in accordance with article XXI.

(b) The term "Italy" means the Italian Republic.

(c) The term "permanent establishment" means a branch, office, factory, warehouse or other fixed place of business, but does not include the casual and temporary use of merely storage facilities, nor does it include an agency unless the agent has and exercises a general authority to negotiate and conclude contracts on behalf of an enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a bona fide commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the contracting States maintains in the other State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one contracting State has a subsidiary corporation which is a corporation of the other State or which is engaged in trade or business in the other State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

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

(e) The term "enterprise" includes every form of undertaking whether carried on by an individual, partnership, corporation, or any other entity.

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

(g) The term "Italian enterprise" means an enterprise carried on in Italy by a resident of Italy or by an Italian corporation or other entity; the term "Italian corporation or other entity" means a corporation or other entity created or organized in Italy or under Italian laws, or a partnership so created or organized.

(h) The term "competent authorities" means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury; and in the case of Italy, the Ministry of Finance, General Directorate for Direct Taxation.

(2) In the application of the provisions of the present Convention by one of the contracting States any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under the tax laws of such State.

*Article III*

(1) An enterprise of one of the contracting States shall not be subject to tax by the other contracting State in respect of its industrial and commercial profits unless it is engaged in trade or business in such other State through a permanent establishment situated therein. If it is so engaged such other State may impose its tax upon the entire income of such enterprise from sources within such other State.

(2) In determining the industrial or commercial profits from sources within one of the contracting States of an enterprise of the other contracting State, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the former contracting State by such enterprise.

(3) Where an enterprise of one of the contracting States is engaged in trade or business in the other contracting State through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment, and the profits so attributed shall, subject to the law of such other contracting State, be deemed to be income from sources within such other contracting State and shall be assessed according to the law of such other contracting State.

(4) The competent authorities of the two contracting States may lay down rules by agreement for the apportionment of industrial and commercial profits.

(5) In the determination of the net industrial and commercial profits of the permanent establishment there shall be allowed as deductions all expenses, wherever incurred, reasonably allocable to the permanent establishment, including executive and general administrative expenses so allocable.

*Article IV*

Where an enterprise of one of the contracting States, by reason of its participation in the management or the financial structure of an enterprise of the other contracting State, makes with or imposes on the latter, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally have accrued to one of the enterprises but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

*Article V*

(1) Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft registered in that State shall be exempt from taxation in the other contracting State.

(2) The present Convention shall be deemed to suspend the arrangement between the United States and Italy providing for relief from double income taxation on shipping profits, effected by exchange of notes dated March 10, 1926 and May 5, 1926.<sup>1</sup>

#### *Article VI*

If one of the contracting States imposes a tax based on property and income, an enterprise of the other contracting State

(1) shall be subject to such tax for the part which is based on property only with respect to property used or employed in the former State in the activity of such enterprise, and

(2) shall be exempt from such tax for the part based on income, if the enterprise is exempt from tax on income according to Article III or Article V of this Convention.

#### *Article VII*

(1) The rate of tax imposed by one of the contracting States upon dividends received from sources within such State by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall not exceed 15 percent.

(2) It is agreed, however, that the rate of tax imposed at the source on dividends shall not exceed five percent if the shareholder is a corporation controlling, directly or indirectly, at least 95 percent of the entire voting power in the corporation paying the dividend, and if not more than 25 percent of the gross income of such paying corporation is derived from interest and dividends other than interest and dividends received from its own subsidiary corporations. Such reduction of the rate to five percent shall not apply if the relationship of the two corporations has been arranged or is maintained primarily with the intention of securing such reduced rate.

(3) Each of the contracting States reserves the right to increase the rates of tax provided in this Article and, if either State so increases such rates in the case of residents or corporations or other entities of the other State, either State may terminate this Article by giving written notice of termination to the other State, through diplomatic channels, on or before the thirtieth day of June of any calendar year, and in such event this Article shall cease to be effective on and after the first day of January in the year next following that in which notice is given.

<sup>1</sup> League of Nations, *Treaty Series*, Vol. CXIII, p. 21.

*Article VIII*

Royalties and other amounts received as consideration for the right to use copyrights, patents, designs, secret processes and formulas, trade-marks and other like property (including in such royalties and other amounts rentals and like payments in respect of motion picture films or for the use of industrial, commercial, or scientific equipment) from sources within one of the contracting States by a resident or corporation or other entity of the other contracting State not having a permanent establishment in the former State shall be exempt from taxation in such former State.

*Article IX*

(1) Income from real property (not including interest derived from mortgages and bonds secured by real property) and royalties in respect of the operation of mines, quarries, or other natural resources, shall be taxable only in the contracting State in which such property, mines, quarries, or other natural resources are situated.

(2) A resident or corporation or other entity of one of the contracting States deriving any such income from sources within the other contracting State may, for any taxable year, elect to be subject to the tax of such other contracting State, on a net basis, as if such resident or corporation or other entity were engaged in trade or business within such other contracting State through a permanent establishment situated therein during such taxable year.

*Article X*

(1) (a) Wages, salaries and similar compensation, and pensions paid by the United States or by a political subdivision or territory thereof to an individual (other than a citizen of Italy or an individual who has permanent residence status therein) shall be exempt from tax by Italy.

(b) Wages, salaries and similar compensation, and pensions paid by Italy or by a political subdivision or territory thereof to an individual (other than a citizen of the United States or an individual who has permanent residence status therein) shall be exempt from tax by the United States.

(2) Private pensions and life annuities received from sources within one of the contracting States by individuals residing in the other contracting State shall be exempt from taxation in the former State.

(3) The term "pensions", as used in this Article, means periodic payments made in consideration for past services rendered or by a way of compensation for injuries received.

(4) The term "life annuities", as used in this Article, means a stated sum payable periodically at stated times during life, or during a specified number

of years, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

### Article XI

(1) Compensation for labor or personal services, including the practice of the liberal professions, shall be taxable only in the contracting State in which such services are rendered.

(2) The provisions of paragraph (1) are, however, subject to the following exceptions :

(a) A resident of Italy shall be exempt from United States tax upon such compensation if he is temporarily present in the United States for a period or periods not exceeding a total of ninety days during the taxable year and the compensation received for such services does not exceed \$ 2,000 in the aggregate. If, however, such compensation is received for labor or personal services performed as an employee of, or under contract with, a resident or corporation or other entity of Italy, he shall be exempt from United States tax if his stay in the United States does not exceed a total of ninety days during the taxable year.

(b) The provisions of paragraph (2) (a) of this Article shall apply, *mutatis mutandis*, to a resident of the United States with respect to compensation for personal services otherwise subject to income tax in Italy.

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

### Article XII

A student or business apprentice who is a resident of one of the contracting States (other than a citizen of the other contracting State) but who is temporarily present in the other contracting State exclusively for the purpose of study or training shall be exempt by such other State from tax on payments made to him by persons resident in the former State for the purpose of his maintenance, education and training.

### Article XIII

A resident of one of the contracting States (other than a citizen of the other contracting State), who temporarily visits the other contracting State for the purpose of teaching for a period not exceeding two years at a university, college, school, or other educational institution in the other contracting State, shall be exempt in such other contracting State from tax on his remuneration for such teaching for such period.

*Article XIV*

(1) Dividends and interest paid by an Italian corporation to a recipient, other than a citizen or resident of the United States or a United States corporation or other entity, shall be exempt from all income taxes imposed by the United States.

(2) Dividends and interest paid by a United States corporation to a recipient, other than a citizen or resident of Italy or an Italian corporation or other entity, shall be exempt from all income taxes imposed by Italy.

*Article XV*

(1) It is agreed that double taxation shall be avoided in the following manner :

(a) The United States in determining its income taxes specified in Article I of this Convention in the case of its citizens, residents or corporations may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income taxable under the revenue laws of the United States as if this Convention had not come into effect. The United States shall, however, subject to the provisions of sections 901, 902, 903, 904, and 905, Internal Revenue Code of 1954, deduct from its taxes the amount of Italian income taxes.

(b) Italy in determining its income taxes specified in Article I of this Convention in the case of its citizens, residents or corporations or other entities may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income as if this Convention had not come into effect. Italy shall, however, deduct from the taxes so calculated the United States tax on income from sources in the United States (not exempt from United States tax under this Convention), other than dividends, but in an amount not exceeding that proportion of the Italian taxes which such income (other than such dividends) bears to the entire income (other than such dividends) of the taxpayer. With respect to dividends from sources within the United States and taxes therein, Italy shall allow as a credit 8 percent of the amount of such dividends.

(2) The provisions of this Article shall not be construed to deny the exemptions from United States tax or Italian tax, as the case may be, granted by Articles XII and XIII of this Convention.

*Article XVI*

Where a taxpayer shows proof that the action of the revenue authorities of the contracting States has resulted, or will result, in double taxation contrary



to the provisions of the present Convention, he shall be entitled to lodge a claim with the State of which he is a citizen or, if he is not a citizen of either of the contracting States, with the State of which he is a resident, or, if the taxpayer is a corporation or other entity, with the State in which it is created or organized. Should the claim be upheld, the competent authority of such State will come to an agreement with the competent authority of the other State with a view to equitable avoidance of the double taxation in question.

#### *Article XVII*

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

#### *Article XVIII*

Each of the contracting States may collect such taxes, which are the subject of this Convention, imposed by the other contracting State (as though such taxes were taxes imposed by the former State), as will ensure that the exemptions or reduced rates of taxes granted under the present Convention by such other State shall not be enjoyed by persons not entitled to such benefits.

#### *Article XIX*

(1) The provisions of this Convention shall not be construed to deny or affect in any manner the right of diplomatic and consular officers to other or additional exemptions now enjoyed by, or which may hereafter be granted to, such officers.

(2) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the contracting States in the determination of the tax imposed by such State.

(3) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, or its relationship to conventions between one of the contracting States and any other State, the competent authorities of the contracting States may settle the question by mutual agreement.

*Article XX*

The competent authorities of the two contracting States may prescribe regulations necessary to interpret and carry out the provisions of this Convention and may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

*Article XXI*

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

(2) The present Convention shall become effective on the first day of January of the calendar year in which such exchange takes place. It shall continue to be effective for a period of five years beginning with such first day of January and indefinitely after that period, but may be terminated by either of the contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given and, in such event, the present Convention shall cease to be effective on the first day of January following the expiration of the six-month period.

DONE at Washington, in duplicate, in the English and Italian languages, the two texts having equal authenticity, this 30th day of March, 1955.

For the President  
of the United States  
of America :  
John Foster DULLES

For the President  
of the Italian Republic :  
Gaetano MARTINO