

No. 4164

**DENMARK
and
NORWAY**

**Agreement (with Final Protocol) for the avoidance of
double taxation with respect to taxes on income and
property. Signed at Oslo, on 22 February 1957**

Official texts : Danish and Norwegian.

Registered by Denmark on 31 January 1958.

**DANEMARK
et
NORVÈGE**

**Convention (avec Protocole final) tendant à éviter les dou-
bles impositions en matière d'impôts sur le revenu et
sur la fortune. Signée à Oslo, le 22 février 1957**

Textes officiels danois et norvégien.

Enregistrée par le Danemark le 31 janvier 1958.

[TRANSLATION — TRADUCTION]

No. 4164. AGREEMENT¹ BETWEEN THE KINGDOM OF DENMARK AND THE KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND PROPERTY. SIGNED AT OSLO, ON 22 FEBRUARY 1957

The Kingdom of Denmark and the Kingdom of Norway have decided to conclude an agreement for the avoidance of double taxation with respect to taxes on income and property.

They have for that purpose appointed as their plenipotentiaries :

His Majesty the King of Denmark :

Mr. Hans Jacob Hansen, Ambassador of Denmark at Oslo,

His Majesty the King of Norway :

Mr. Halvard Lange, Minister of Foreign Affairs of Norway ;

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

Article 1

1. This Agreement shall apply to individuals domiciled in the Kingdom of Denmark or in the Kingdom of Norway and to Danish and Norwegian bodies corporate.

2. This Agreement shall not apply, in respect of Denmark, to the Faroe Islands or Greenland, nor in respect of Norway, to Spitsbergen, Jan Mayen or the Norwegian dependencies outside Europe.

Article 2

1. The Agreement shall apply to taxes on income and property, whether levied on behalf of the State or of a commune.

The following shall be regarded as taxes on income and property :

A. Under Danish law :

- (1) State tax on income and property ;
- (2) Communal income tax

¹ Came into force on 26 August 1957, upon the exchange of the instruments of ratification at Copenhagen, in accordance with article 24.

- B. Under Norwegian law :
- (1) State tax on income and property ;
 - (2) Communal tax on income and property, including surtax on higher incomes ;
 - (3) Old age pension tax and war pension tax (*alderstrygd- og krigspensjoneringsavgift*) ; and
 - (4) Seamen's tax (*sømandsskat*),
- C. Under both Danish and Norwegian law : taxes levied according to the same principles as any of the taxes specified above in sub-paragraphs A and B.

2. For the purposes of this Agreement, taxes on income and property shall not include special taxes on winnings from lotteries and betting, death duties and taxes on gifts.

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

Article 3

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

2. For 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 stronger personal and economic ties. 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 competent authorities shall come to an agreement on each particular case.

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

In the case of a taxpayer who removes from Denmark for the purpose of taking up residence in Norway and who resumes his residence in Denmark before

the expiry of the tax year in which the removal took place, the tax liability in Denmark shall be deemed to have been interrupted only for the period during which he resided in Norway.

4. For the purposes of this Agreement, a body corporate shall be deemed to be domiciled in the State of which it is a national.

A body corporate shall be deemed to have Danish nationality if it is registered in Denmark and Norwegian nationality if it is registered in Norway. A body corporate which is not registered shall be deemed to have the nationality of the State in which its management or head administration has its seat.

5. The undivided estate of a deceased person shall be deemed to be domiciled in that State in which, in accordance with paragraph 2 of this article, the deceased is deemed to have been domiciled at the time of his death.

Article 4

1. Income derived from immovable property situated in one of the two States shall be taxable only in that State.

2. Income from immovable property shall be deemed to include income derived from the direct administration and use of immovable property; income from letting, leasing or any other form of using such property; and profit derived from the alienation of immovable property. Immovable property shall include appurtenances thereto, the latter term, in the case of agriculture and forestry, comprising livestock, equipment and other property.

For the purposes of this Agreement, income from immovable property shall also 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, through the sale of the timber in the State in which the immovable property is situated, or through the processing of the timber in that State elsewhere than at a permanent establishment.

Article 5

1. Unless otherwise provided in this Agreement, income derived from a business or profession and attributable to a permanent establishment in one of the States shall 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 a permanent establishment in its territory.

2. Income derived from a business shall be deemed to include income derived from the direct conduct of a business; income derived from placing the conduct

of a business in the hands of others ; and profit from the alienation of a business or part thereof, or of objects used in the business.

Income derived from a business shall also be deemed to include income derived from participation in an undertaking other than income from shares or similar securities. The expression "similar securities" means share certificates held by partners, shareholders or other participants in companies with divided or otherwise limited liability, with the exception of ordinary limited partnerships.

3. Income derived from a profession shall specifically include income derived from the independent exercise of a scientific, artistic, pedagogic or educational activity or of the profession of physician, lawyer, architect or engineer.

Article 6

1. The term "permanent establishment" means any place where special plant of a permanent character has been installed or special arrangements of a permanent character have been made for the purpose of carrying on a business or profession, such as a place where an undertaking has its management, office, branch, factory, workshop or the like, sales premises, warehouse (including a permanent warehouse for goods on consignment) or a mine or deposit subject to exploitation.

2. The term "permanent establishment" shall be deemed to include a building site on which work has proceeded or is expected to proceed for a period exceeding twelve months.

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

Nevertheless, a permanent establishment shall not be deemed to exist merely because an undertaking domiciled in one State has a subsidiary company in the other State or maintains business relations there solely through a completely independent representative or a representative (agent) who although permanently working for the account of the undertaking merely negotiates business as an intermediary without being empowered to conclude transactions on behalf of the undertaking.

Article 7

Where an undertaking of one State carries on business in the other State through a permanent establishment situated there, the following principles shall be applied in apportioning the right to impose tax. The permanent establishment shall be deemed to have derived from the business such income as it might be expected

to earn if it were a completely independent undertaking dealing at arm's length with the undertaking of which it is a permanent establishment. If the permanent establishment keeps separate accounts, the income shall, if possible, be determined by reference to those accounts, in which event the income of the establishment as determined by reference to the accounts shall, if necessary, be adjusted for the purposes of the tax assessment in accordance with the foregoing provision. If it appears that the income cannot be determined by reference to the accounts, it shall be fixed at an equitable percentage of the turnover of the permanent establishment, and in such event, the percentage shall, unless special circumstances otherwise require, be fixed by reference to corresponding particulars of similar undertakings in the same State. Where necessary, the competent authorities shall in individual cases come to a special agreement concerning the apportionment of the right to impose tax.

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

Article 8

1. Income derived from the operation of a sea or air navigation undertaking having its centre of actual management in one of the States shall be taxable only in that State.

2. In the case of air navigation carried on by a syndicate having members in both States, the income derived therefrom shall, if the syndicate is not a body corporate, be taxable only in respect of the members and in such a manner that each State taxes only the share accruing to members in that State.

Article 9

1. Royalties paid in respect of the use of immovable property or in respect of the operation of mines or deposits shall be taxable only in the State in which the immovable property, mine or deposit is situated.

2. Royalties, except as referred to in paragraph 1, shall be taxable in the State in which the recipient of the income is deemed to be domiciled, provided that the right to tax any such royalty shall be reserved to the State in which the royalty originates if the recipient of the royalty exerts such influence on the management of the undertaking that he may reasonably be assumed to participate directly in the business.

For the purposes of this paragraph, the term "royalty" means any kind of royalty (or other periodic amount) paid as consideration for the privileges of using

or for the exclusive use of any copyright, patent, design, secret process or formula, trade mark or other similar right.

Article 10

1. Dividends shall be taxable only in the State in which the recipient of the dividends is deemed to be domiciled.

2. Where a dividend paid by a joint-stock company in Norway is received by a joint-stock company in Denmark 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 Denmark to such extent as would have been the case under Danish law if both companies had been domiciled in Denmark.

3. Where a dividend paid by a joint-stock company in Denmark is received by a joint-stock company in Norway 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 in Norway from the State tax on income to such extent as would have been the case under Norwegian law if both companies had been domiciled in Norway.

4. The foregoing provisions of this article as they relate to a joint-stock company and to the payment of dividends by such a company shall similarly apply to other types of companies and associations with divided or otherwise limited liability (with the exception of ordinary limited partnerships) and to the payment of dividends by such a company or association.

Article 11

1. Except as otherwise provided in this article, income from personal services rendered on behalf of the government or a private employer (but excluding pensions and annuities) shall be taxable only in the State in which the taxpayer performs the services from which the income is derived.

2. Income as referred to in paragraph 1 shall, however, be taxable as provided in article 3, paragraph 1, where :

- (a) A person domiciled in one State and employed there is, for reasons connected with his employment, temporarily present in the territory of the other State for one or more periods during the calendar year which in the aggregate do not exceed 183 days, on condition that he receives his remuneration exclusively from his employer domiciled in the former State ;
- (b) The services are performed wholly or mainly on board a Danish or Norwegian vessel or aircraft ; and
- (c) The taxpayer is domiciled in one State and his income is not taxable in the other State.

3. Where a joint-stock company is deemed to be domiciled in one State but members of its board of directors, committee of representatives, supervisory committee or the like are domiciled in the other State, compensation paid by the company to such members acting in the aforementioned capacity shall be taxable only in the latter State.

4. A student attending a university or college in one State who is employed in the other State for not more than 100 days in the calendar year in order to acquire practical training required for his studies shall be subject to tax on the income from such employment only in the State in which he is deemed to be domiciled.

Article 12

A student, apprentice or the like who is present in one of the States solely for purposes of education or training shall be exempt in that State from tax on amounts received by him from abroad for the purposes of his maintenance, education or training.

Article 13

Immovable property or appurtenances thereto—which, in the case of agriculture and forestry, shall include livestock, equipment and other property—shall be taxable only in the State in which the property is situated.

Property connected with a business or profession shall be taxable only in the State which is entitled under the provisions of this Agreement to tax the income from such property.

Article 14

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

Article 15

Each State shall be entitled, in accordance with its domestic legislation, to recompute the apportionment of income and property in cases where :

- (a) An undertaking in one of the States participates directly or indirectly in the management, control or capital of an undertaking in the other State ; or
- (b) The same persons participate directly or indirectly in the management, control or capital of an undertaking in one of the States and an undertaking in the other State.

When a question of this kind arises in one of the States, the competent authorities of the other State shall be so informed in order that any necessary adjustment

may be made in the computation of the income and property of the undertaking situated there. The competent authorities shall, if there is a reason for doing so, come to an equitable settlement with regard to the computation of the income or property.

Article 16

1. Nationals of one of the States shall not be subjected in the other State to any taxation which is other, higher or more burdensome than the taxation to which the nationals of the latter State are or may be subjected there.

2. Bodies corporate which are deemed to be domiciled in one of the States shall not be subjected in the other State to any taxation which is other, higher or more burdensome than the taxation to which bodies corporate deemed to be domiciled in the latter State are or may be subjected there.

Article 17

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 or property which under this Agreement is taxable only in the other State had also been taxable in the State of domicile.

Article 18

This Agreement shall not affect the right of diplomatic and consular officers to such additional exemptions as have been or may hereafter be granted 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 19

If a taxpayer can show proof that the action of the tax authorities of the contracting States has resulted or will result in his being subjected to double taxation, he may lodge a claim with the State in which he is deemed to be domiciled. If the claim is considered to be valid, the competent authority of that State may come to an agreement with the competent authority of the other State with a view to avoiding double taxation.

Article 20

Difficulties or doubts arising in connexion with the interpretation or application of this Agreement may be dealt with by special agreements between the competent authorities of the two contracting States.

Article 21

The contracting States undertake to leave it to their competent authorities to arrive at an equitable settlement of any other question concerning the taxes covered by the Agreement which may arise owing to differences in the principles governing taxation in either State or otherwise and for which no specific provision is made in this Agreement.

Article 22

The term "competent authorities" as used in this Agreement means the Ministers of Finance of the two contracting States or that authority in each State which has been commissioned to deal with questions under this Agreement on behalf of the Minister of Finance.

Article 23

1. This Agreement may be extended, either in its entirety or with such modifications as may be agreed upon, to the Faroe Islands and Greenland if the taxes levied there are substantially similar in character to those enumerated in article 2 of this Agreement. An agreement concerning such extension shall be made by the two States in the form of an exchange of notes. They shall specify in the notes the date from which the extension shall take effect and the modifications and conditions (including conditions as to termination) to which the Agreement shall be subject.

2. The termination of the present Agreement under article 26 shall, unless otherwise expressly agreed by both States, terminate the application of the present Agreement to the Territories to which the Agreement may have been extended under this article.

Article 24

This Agreement shall be ratified, and the instruments of ratification shall be exchanged at Copenhagen as soon as possible.

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

Article 25

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

(a) In Denmark :

In respect of such taxes on income or property as are levied on the basis of the assessment for the tax year 1958-59 or any subsequent tax year.

(b) In Norway :

In respect of such taxes on income or property as are levied on the basis of the assessment for the year 1958 or any subsequent year ;

On the entry into force of this Agreement, the Agreement of 30 December 1946¹ between the Kingdom of Denmark and the Kingdom of Norway for avoidance of double taxation with respect to taxes on income and property shall cease to apply but shall continue to be applicable with respect to tax which is based on assessments or reassessments for years preceding those specified above.

Article 26

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

(a) 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.

(b) In Norway :

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

DONE at Oslo, on 22 February 1957, in duplicate, in the Danish and Norwegian languages, both texts being equally authentic.

(Signed) Halvard LANGE
(Signed) Hans Jacob HANSEN

FINAL PROTOCOL

On signing the Agreement concluded this day between the Kingdom of Denmark and the Kingdom of Norway for the avoidance of double taxation with respect to taxes on income and property², the undersigned plenipotentiaries have made the following declarations, which shall constitute an integral part of the Agreement :

¹ United Nations, *Treaty Series*, Vol. 8, p. 21.

² See p. 148 of this volume.

With respect to the following articles of the Agreement, it is agreed as follows :

Article 3, paragraph 3

The Agreement shall not prevent a person who has removed from Norway to Denmark from being assessed for property tax in conformity with the domestic regulations of Denmark, irrespective of whether the property on the basis of which the property tax is calculated may have been subject to property tax in Norway.

Article 16

1. Those provisions of the Danish legislation on State tax under which minimum rates are prescribed for the taxation of the income and property of individuals who are not domiciled in Denmark but have a restricted liability to tax there shall not apply to individuals domiciled in Norway.

Similarly, companies domiciled in Norway and having a restricted liability to tax in Denmark shall not be subject to the minimum rate of State tax on income prescribed for companies not domiciled in Denmark. Such companies shall not be liable to property tax in Denmark so long as companies domiciled in Denmark are not liable to property tax.

The provisions of article 16 shall not affect those provisions of the Danish legislation on State tax under which companies not domiciled in Denmark but having a restricted liability to tax there are liable to income tax in conformity with the tax scale applicable to individuals.

2. The provisions of the Norwegian Rural Tax Act, article 22, second paragraph, and of the Norwegian Urban Tax Act, article 17, second paragraph—in the form in which those provisions stand at the time of the signing of this Final Protocol—may not be appealed to by Danish nationals who are not at the same time Norwegian nationals by naturalization or birth.

Article 25

With respect to Denmark, the provisions of article 3, paragraph 3, and of article 11, paragraph 1, shall also apply to the tax years 1956-57 and 1957-58.

DONE at Oslo, on 22 February 1957, in duplicate, in the Danish and Norwegian languages, both texts being equally authentic.

(Signed) Hans Jacob HANSEN
(Signed) Halvard LANGE