

**No. 4642**

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**DENMARK  
and  
SWEDEN**

**Agreement for the avoidance of double taxation with respect to taxes on income and property. Signed at Copenhagen, on 21 July 1958**

*Official texts: Danish and Swedish.*

*Registered by Denmark on 19 January 1959.*

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**DANEMARK  
et  
SUÈDE**

**Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune. Signée à Copenhague, le 21 juillet 1958**

*Textes officiels danois et suédois.*

*Enregistrée par le Danemark le 19 janvier 1959.*

[TRANSLATION — TRADUCTION]

No. 4642. AGREEMENT<sup>1</sup> BETWEEN THE KINGDOM OF DENMARK AND THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND PROPERTY. SIGNED AT COPENHAGEN, ON 21 JULY 1958

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The Kingdom of Denmark and the Kingdom of Sweden 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. Jens Otto Krag, his Minister of Foreign Economic Affairs;

His Majesty the King of Sweden : Mr. Stig Sahlin, his Ambassador Extraordinary and Plenipotentiary at Copenhagen,

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 Sweden, and to Danish and Swedish bodies corporate.

2. This Agreement shall not apply to the Faroe Islands or Greenland.

*Article 2*

1. This 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 (*indkomst- og formueskat til staten*);

(2) Communal income tax (*kommunal indkomstskat*).

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<sup>1</sup> Came into force on 2 December 1958, upon the exchange of the instruments of ratification at Stockholm, in accordance with article 25.

B. *Under Swedish law:*

- (1) The State income tax (*den statliga inkomstskatten*);
- (2) The coupon tax (*kupongskatten*);
- (3) The special seamen's tax (*den särskilda sjömansskatten*);
- (4) Taxes on special advantages and privileges (*bevillningsavgifterna för särskilda förmåner och rättigheter*), to the extent that they apply to participation in a public entertainment;
- (5) The tax on distributed profits (*utskiftningsskatten*);
- (6) The tax on undistributed profits (*ersättningsskatten*);
- (7) The State property tax (*den statliga förmögenhetsskatten*); and
- (8) The communal income tax (*den kommunala inkomstskatten*).

C. *Under both Danish and Swedish 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 such taxes as 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 domiciled.

2. 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 competent authorities of both States 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.

As regards the taxation of property in the case of a removal from one State to the other, each State shall be entitled to proceed according to its own tax legislation unless the competent authorities of the two States agree to proceed otherwise in particular instances.

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 Swedish nationality if it is registered in Sweden. 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.

A holding company shall be deemed to have the nationality of the State in whose territory its actual management is exercised.

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 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 not only income derived from the direct administration and use of immovable property but also income derived from letting, leasing or any other form of using immovable 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 from a business shall be deemed to include not only income derived from the indirect conduct of a business but also income derived from leasing a business to others and profit derived from the alienation of a business or part thereof, or of objects used in a business.

Income 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, 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, and, as regards the law in force in Sweden, share certificates of Swedish economic associations.

3. Income 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 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, however, any discrepancy between the amount of income as shown in the accounts and the amount of income that would have resulted from the application of the aforementioned principle shall be rectified through an adjustment, for the purposes of the tax assessment, of the income shown in the accounts. 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. Unless the circumstances otherwise require, the said percentage shall 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 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 domiciled.

For the purposes of this paragraph, the term "royalty" means any kind of royalty (or other periodic amount) paid as consideration for the privilege of using or for the exclusive use of any copyright, patent, design, secret process or formula, trade mark or the like.

#### *Article 10*

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

2. Dividends paid by a joint-stock company in Denmark to a joint-stock company in Sweden shall be exempt from taxation in Sweden to such extent as would have been the case under Swedish law if both companies had been domiciled in Sweden.

3. Dividends paid by a joint-stock company in Sweden to a joint-stock company in Denmark 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.

4. The foregoing provisions of this article as they relate to a joint-stock company in Sweden and to the payment of dividends by such a company shall similarly apply to an economic association in Sweden and to the payment of dividends by such an association.

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

#### *Article 11*

1. Except as otherwise provided in this article, income from personal services (but excluding pensions and annuities and income from a profession) shall be taxable only in the State in which the taxpayer performs the services from which the income is derived.

2. Income from services performed wholly or mainly on board a Danish or Swedish vessel shall be taxable only in the State whose nationality the vessel possesses.

3. Income from services shall, however, be taxable in the State in which the taxpayer is domiciled 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 Swedish aircraft;
- (c) In the case of compensation which a joint-stock company domiciled in one State pays to members of its board of directors, committee of representatives, supervisory committee or the like, the said members are domiciled in the other State and receive such compensation solely in the aforementioned capacity;
- (d) An individual domiciled in one State derives income from services performed in the other State or on board a vessel possessing the nationality of that State, but the said income is not taxed by that other State or by a commune thereof;
- (e) A student attending a university or college in one State receives compensation from employment in the other State the purpose of which is to provide the student with practical training required for his studies and the duration of which is not more than 100 days in a single calendar year.

#### *Article 12*

Notwithstanding any other provision of this Agreement except the provision of article 11, paragraph 3, item (d), stage, motion picture, radio and television artists, musicians, athletes and other persons who similarly participate in a public entertainment shall be subject to tax on income from such activity only in the State in which the activity is carried on.

#### *Article 13*

A student or an industrial or business apprentice 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 14*

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 a 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 15*

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 beneficiary in the other State.



*Article 16*

Each State shall be entitled, in accordance with its domestic legislation, to effect an adjustment 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 17*

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; and 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 shall not apply to individuals domiciled in Sweden.

2. Bodies corporate which are 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 domiciled in the latter State are or may be subjected there.

Consequently, bodies corporate which are domiciled in one of the States shall not be liable for property tax in the other State so long as bodies corporate of the same or similar character domiciled in the latter State are not so liable. Bodies corporate which are domiciled in Sweden but have a restricted liability to tax in Denmark shall likewise not be subject to the minimum rate of State tax on income prescribed for companies not domiciled in Denmark.

The provisions of the first sub-paragraph of this paragraph shall not in any way restrict the right of Denmark to subject bodies corporate not domiciled in Denmark but having a restricted liability to tax there to income tax in conformity with the tax scale applicable to individuals.

*Article 18*

The State in which a taxpayer is 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 19*

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 20*

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 domiciled. If the claim is considered to be valid, the competent authorities of that State may come to an agreement with the competent authorities of the other State with a view to avoiding double taxation.

*Article 21*

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 22*

The Contracting States undertake to leave it to their competent authorities to arrive at an equitable settlement of any other question concerning direct taxes 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 23*

The term "competent authorities" as used in this Agreement means the Minister of Finance in the case of Denmark and the Ministry of Finance in the case of Sweden, or that authority in each State which has been commissioned to deal with questions under this Agreement on behalf of the Danish Minister of Finance or the Swedish Ministry of Finance, as the case may be.

*Article 24*

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 27 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 25*

This Agreement shall be ratified, in the case of Denmark, by His Majesty the King of Denmark, and, in the case of Sweden, by His Majesty the King of Sweden, with the consent of the Riksdag. 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 26*

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 1959/60 or any subsequent tax year.

*(b)* In Sweden :

In respect of State income tax, communal income tax and State property tax levied on the basis of the assessment for the year 1959 or any subsequent year;

In respect of coupon tax on dividends falling due for payment on or after 1 January 1958;

In respect of special seamen's tax levied as from 1 January 1958;

In respect of taxes on special advantages and privileges accruing as from 1 January 1958;

In respect of other taxes assessed in the course of 1959 or any subsequent year.

On the entry into force of the present Agreement, the Agreement of 27 October 1953<sup>1</sup> between the Kingdom of Sweden and the Kingdom of Denmark for the avoidance of double taxation with respect to taxes on income and property shall cease to apply; provided that it shall continue to be applicable with respect to tax based on assessments or reassessments for years preceding those specified above.

*Article 27*

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 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 Sweden :

In respect of State income tax, communal income tax and State property tax 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;

In respect of special seamen's tax levied in the year in which the notice of termination is given;

In respect of taxes on special advantages and privileges accruing in the year in which the notice of termination is given;

In respect of other taxes assessed in the year next following that in which the notice of termination is given.

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

DONE at Copenhagen, on 21 July 1958, in duplicate, in the Danish and Swedish languages, both texts being equally authentic.

*(Signed)* J. O. KRAG

*(Signed)* Stig SAHLIN

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<sup>1</sup> United Nations, *Treaty Series*, Vol. 198, p. 71.