

**No. 5072**

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**FINLAND  
and  
CANADA**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Ottawa, on 28 March 1959**

*Official texts: Finnish and English.*

*Registered by Finland on 7 April 1960.*

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**FINLANDE  
et  
CANADA**

**Convention pour éviter la double imposition et empêcher la fraude fiscale en matière d'impôt sur les revenus. Signée à Ottawa, le 28 mars 1959**

*Textes officiels finnois et anglais.*

*Enregistrée par la Finlande le 7 avril 1960.*

No. 5072. CONVENTION<sup>1</sup> BETWEEN THE REPUBLIC OF FINLAND AND CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT OTTAWA, ON 28 MARCH 1959

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The Government of the Republic of Finland and the Government of Canada,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows :

*Article I*

1. The taxes which are the subject of this Convention are :

(a) In Finland :

The state income tax (hereinafter referred to as “ Finnish tax ”);

(b) In Canada:

Income taxes, including surtaxes and the old age security tax on income, which are imposed by the Government of Canada (hereinafter referred to as “ Canadian tax ”).

2. This Convention shall also apply to any other taxes of a substantially similar character imposed by either contracting State subsequent to the signing of this Convention.

*Article II*

1. In this Convention, unless the context otherwise requires :

(a) The terms “ one of the territories ” and “ the other territory ” mean Finland or Canada, as the context requires.

(b) The term “ tax ” means Finnish tax or Canadian tax, as the context requires.

(c) The term “ person ” includes any body of persons, corporate or not corporate.

(d) The term “ company ” means any body corporate.

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<sup>1</sup> Came into force on 29 December 1959, the date of the exchange of the instruments of ratification at Helsinki, in accordance with article XX.

(e) The term “resident of Finland” means any person who is resident in Finland for the purposes of Finnish tax and not resident in Canada for the purposes of Canadian tax, and the term “resident of Canada” means any person who is resident in Canada for the purposes of Canadian tax and not resident in Finland for the purposes of Finnish tax; a company shall be regarded as resident in Finland if it is incorporated under the laws of Finland and its business is not managed and controlled in Canada, or if it is not so incorporated but its business is managed and controlled in Finland; and as resident in Canada if its business is managed and controlled in Canada.

(f) The term “dual resident” means any person who is resident in Finland for purposes of Finnish tax and also resident in Canada for purposes of Canadian tax.

(g) The terms “resident of one of the territories” and “resident of the other territory” mean a person who is a resident of Finland or a person who is a resident of Canada, as the context requires.

(h) The term “Finnish enterprise” means an enterprise carried on by a resident of Finland and the term “Canadian enterprise” means an enterprise carried on by a resident of Canada.

(i) The terms “enterprise of one of the territories” and “enterprise of the other territory” mean a Finnish enterprise or a Canadian enterprise, as the context requires.

(j) The term “permanent establishment” when used with respect to an enterprise of one of the territories, means a branch, office, factory, or other fixed place of business, a mine, quarry or any other place of natural resources subject to exploitation. The use of substantial equipment or machinery within one of the territories at any time in any taxation year by an enterprise of the other territory shall constitute a permanent establishment of such enterprise in the former territory for such taxation year. The term 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 territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory 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 territories maintains in the other territory 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 which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(k) The term "pension" means periodic payments made in consideration of past services.

(l) The term "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 return for adequate and full consideration in money or money's worth.

(m) The term "competent authorities" means, in the case of Finland, the Minister of Finance or his authorized representative; and in the case of Canada the Minister of National Revenue or his authorized representative.

2. In the application of the provisions of this 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 its own tax laws.

### *Article III*

1. The industrial and commercial profits of a Finnish enterprise shall not be subject to Canadian tax unless the enterprise is engaged in trade or business in Canada through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Canada, but only on so much of them as is attributable to that permanent establishment.

2. The industrial and commercial profits of a Canadian enterprise shall not be subject to Finnish tax unless the enterprise is engaged in trade or business in Finland through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Finland, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories is engaged in trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial and commercial profits which it might be expected to derive in that other territory 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 to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

5. Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, that other territory shall not impose any form of taxation on dividends paid by the company to persons not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income derived from such sources.

6. Paragraphs 1 and 2 of this Article shall not be construed as preventing one of the contracting States from imposing a tax on income in the form of dividends, interest, rents or royalties, including rents and royalties of motion picture films, derived from sources within its territory by a resident of the territory of the other contracting State.

#### *Article IV*

Where

(a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

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

(c) 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 but for these conditions would have accrued to one of the enterprises but by reason of these conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

#### *Article V*

Notwithstanding the provisions of Articles III and IV, profits gained by a resident of one of the territories from operating ships or aircraft shall be exempt from tax in the other territory.

#### *Article VI*

1. The rate of Canadian tax on dividends, interest, rents or royalties derived from sources within Canada by a resident of Finland shall not exceed 15 per cent unless such income is attributable to a permanent establishment in Canada maintained by such resident of Finland.

2. Notwithstanding paragraph 1, the rate of Canadian tax on dividends paid to a company which is a resident of Finland by a company resident in

Canada, more than 50 per cent of whose shares which have under all circumstances full voting rights are owned by the former company, shall not exceed 5 per cent.

3. The rate of Finnish tax on dividends, interest, rents or royalties derived from sources within Finland by a resident of Canada shall not exceed 15 per cent unless such income is attributable to a permanent establishment in Finland maintained by such resident of Canada.

4. Notwithstanding paragraph 3, the rate of Finnish tax on dividends paid to a company which is a resident of Canada by a company resident in Finland, more than 50 per cent of whose shares which have under all circumstances full voting rights are owned by the former company, shall not exceed 5 per cent.

#### *Article VII*

Copyright royalties and other like payments made in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including rents or royalties in respect of motion picture films) and derived from sources within one of the territories by a resident of the other territory shall be exempt from tax in that first-mentioned territory.

#### *Article VIII*

1. Remuneration (other than pensions) paid by the Government of Finland, any political subdivision of Finland, or any government institution in Finland, to any individual for services rendered to that Government, subdivision or institution in the discharge of government functions shall be exempt from Canadian tax if the individual is not ordinarily resident in Canada or is resident in Canada solely for the purpose of rendering those services.

2. Remuneration (other than pensions) paid by the Government of Canada or of any Province of Canada or any government institution in Canada to any individual for services rendered to that Government, or institution, in the discharge of government functions shall be exempt from Finnish tax if the individual is not a resident of Finland or is resident in Finland solely for the purpose of rendering those services.

3. The provisions of this Article shall not apply to payments in respect of services rendered in connection with a trade or business carried on by a government, any political subdivision or government institution.

#### *Article IX*

1. A resident of Finland shall be exempt from Canadian tax upon compensation for personal (including professional) services performed during the taxation year within Canada if he is present therein for a period or periods not exceed-

ing a total of 183 days during the taxation year and either of the following conditions is met :

(a) his compensation is received for such personal services performed for or on behalf of a resident of Finland, or

(b) his compensation received for such personal services does not exceed \$3,000.

2. The provisions of paragraph 1 of this Article shall apply, *mutatis mutandis*, to a resident of Canada with respect to compensation for such personal services performed in Finland.

3. The provisions of this Article shall not apply to the compensation of public entertainers such as musicians, stage, motion picture, radio or television artists, professional athletes and the organizers of entertainments.

#### *Article X*

1. Any pension or annuity derived from sources within Canada by an individual who is a resident of Finland shall be exempt from Canadian tax.

2. Any pension or annuity derived from sources within Finland by an individual who is a resident of Canada shall be exempt from Finnish tax.

#### *Article XI*

A professor or teacher who temporarily visits one of the territories for the purpose of teaching for a period not exceeding two years at a university, college, school or other educational institution in that territory, and who was resident in the other territory immediately prior to his appointment shall be exempted from tax on his remuneration for such teaching for such period by the territory in which he is visiting.

#### *Article XII*

A student or business apprentice from one of the territories who is receiving full-time education and training in the other territory shall be exempt from tax in that other territory on payments made to him for the purposes of his maintenance, education or training, by persons in the first-mentioned territory or by a political subdivision or the government of the first-mentioned territory or by an inter-governmental organization.

#### *Article XIII*

1. Finland agrees to allow as a deduction from Finnish tax on any income derived from sources within Canada that is subject to tax in Finland the amount of Canadian tax payable in respect of that income, provided that the deduction

shall not exceed the proportion of the Finnish tax that the income from Canada that is subject to Finnish and Canadian tax bears to the total income subject to Finnish tax.

2. Canada agrees to allow as a deduction from Canadian tax on any income derived from sources within Finland that is subject to tax in Canada the amount of Finnish tax payable in respect of that income, provided that the deduction shall not exceed the proportion of the Canadian tax that the income from Finland that is subject to Canadian and Finnish tax bears to the total income subject to Canadian tax.

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

#### *Article XIV*

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt in that other territory from any tax on gains from the sale, transfer or exchange of capital assets.

#### *Article XV*

1. The competent authorities of the contracting States shall, upon request, exchange such information as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or the administration of statutory provisions against tax avoidance in relation to the taxes which are the subject of this Convention.

2. The information so exchanged shall retain its secret nature and shall not be disclosed to persons other than those charged with assessment and collection of the taxes.

3. The provisions of this Article shall not in any case be considered as requiring one of the contracting States to disclose to the other contracting State, either information other than that which its own fiscal legislation permits it to obtain, or information the furnishing of which would involve the disclosure of industrial and trade secrets relating to processes or methods or professional secrets.

4. These provisions shall not be considered as imposing on a contracting State the obligation to perform an administrative act which would be contrary to its regulations or practices.



*Article XVI*

1. Any person who shows proof that the action of the revenue authorities of the two contracting States results 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 competent authority of this contracting State may come to an agreement with the competent authority of the other contracting State with a view to equitable avoidance of the double taxation.

2. The competent authorities of the contracting States may likewise come to an agreement for the purpose of avoiding double taxation in a case where a person is found to be a dual resident.

*Article XVII*

A contracting State shall not impose more burdensome taxes on the citizens of the other contracting State than it imposes on its own citizens under the same conditions.

*Article XVIII*

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 or which may hereafter be granted to such officers.

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

3. Should any difficulty or doubt arise as to the interpretation or application of this Convention, the competent authorities of the contracting States may settle the question by mutual agreement.

*Article XIX*

1. The competent authorities of the contracting States may prescribe regulations necessary to interpret and carry out the provisions of this Convention.

2. The competent authorities of the contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

*Article XX*

1. This Convention is done in the Finnish and English languages, the two texts having equal force.

2. The Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Helsinki.

3. The Convention shall come into force on the date on which the instruments of ratification are exchanged and shall thereupon have effect in respect of taxes for the taxation years beginning on or after the 1st day of January in the calendar year preceding that in which the exchange of instruments of ratification takes place.

*Article XXI*

This Convention shall continue in effect indefinitely, but either of the contracting States may on or before the 30th day of June in any calendar year following the calendar year in which the exchange of instruments of ratification takes place, give to the other contracting State notice of termination and in such event this Convention shall cease to have effect in respect of taxes for the taxation years beginning on or after the 1st day of January on the calendar year next following that in which notice is given.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Convention.

DONE, in duplicate, at Ottawa this twenty-eighth day of March, 1959.

For the Government of the Republic of Finland :  
Sigurd VON NUMERS

For the Government of Canada :  
Donald M. FLEMING