

No. 6162

**SWEDEN
and
TUNISIA**

**Agreement (with Protocol) for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to direct taxes.
Signed at Stockholm, on 6 September 1960**

Official text : French.

Registered by Sweden on 8 May 1962.

**SUÈDE
et
TUNISIE**

Convention (avec Protocole) tendant à éviter les doubles impositions et à établir des règles d'assistance administrative réciproque en matière d'impôts directs. Signée à Stockholm, le 6 septembre 1960

Texte officiel français.

Enregistrée par la Suède le 8 mai 1962.

[TRANSLATION — TRADUCTION]

No. 6162. AGREEMENT¹ BETWEEN SWEDEN AND TUNISIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE ESTABLISHMENT OF RULES OF RECIPROCAL
ADMINISTRATIVE ASSISTANCE WITH RESPECT TO
DIRECT TAXES. SIGNED AT STOCKHOLM, ON 6 SEP-
TEMBER 1960

His Majesty the King of Sweden and the President of the Republic of Tunisia, desirous of avoiding double taxation and of establishing rules of reciprocal administrative assistance with respect to direct taxes, have resolved to conclude an Agreement, and have for that purpose appointed as their plenipotentiaries :

His Majesty the King of Sweden :

His Minister for Foreign Affairs, Mr. Östen Undén

The President of the Republic of Tunisia :

His Acting Chargé d'Affaires at Stockholm, Mr. Ridha Klibi,

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

TITLE I

DOUBLE TAXATION

Article 1

1. The present Agreement relates only to direct taxes. Its purpose is the avoidance of double taxation such as might result, in the case of individuals domiciled in Tunisia or Sweden, and of Tunisian or Swedish bodies corporate, from the simultaneous collection of Tunisian and Swedish taxes on the same income or the same fortune.

2. For the purposes of this Agreement, the term "direct taxes" means taxes (including local surtaxes) which, under the laws of the two States, are levied directly on income (gross or net) or fortune, whether on behalf of the Contracting States or on behalf of their regions, provinces and communes. Accordingly, this Agreement does not apply to indirect taxes on turnover and consumption.

¹ Came into force on 1 January 1962, in accordance with article 22, the exchange of the instruments of ratification having taken place on 15 March 1961.

3. The following shall be regarded as direct taxes within the meaning of this Agreement :

(1) In the case of Tunisia :

(a) The proportional tax on business income (*le droit proportionnel de l'Impôt de la Patente*) ;

(b) The proportional tax on income from non-commercial occupations (*le droit proportionnel de l'Impôt sur les bénéfices des professions non commerciales*) ;

(c) The tax on wages, salaries, pensions and annuities (*l'Impôt sur les Traitements, Salaires, Pensions et Rentes Viagères*) ;

(d) The tax on income from movable capital (*l'Impôt sur les Revenus des Capitaux Mobiliers*) ;

(e) The land taxes (*les Impôts Fonciers*) ;

(f) The State tax on personal income (*la Contribution Personnelle d'État*) ;

(g) The communal taxes (*les Impôts Communaux*).

(2) In the case of Sweden :

(a) The State income tax (*den Statliga inkomstkatten*), including the coupon tax (*kupongskatten*) and the seamen's (*sjömansskatten*) ;

(b) The State fortune tax (*den Statliga förmögenhetsskatten*) ;

(c) The general communal tax (*den allmänna kommunalskatten*) ;

(3) Taxes levied in either State in place of or in addition to the taxes listed in subparagraphs (1) and (2) above.

Article 2

Income from immovable property, including profits from agriculture and forestry, shall be taxable only in the State in which the property is situated.

Article 3

1. Industrial, mining, commercial or financial enterprises other than those to which article 5 applies shall be liable to taxation in each State in respect of income derived from permanent establishments situated therein.

2. In default of regular accounts showing such income exactly and separately, the competent authorities of the two Contracting States shall, if necessary, agree on the formulation of rules of apportionment.

3. In this Agreement, the term "permanent establishment" means any permanent installation of the enterprise in which the business of the latter is wholly or partly carried on.

4. Income from a commercial or industrial enterprise shall be understood to mean income derived from participation in an enterprise having the form of a company or partnership, with the exception of income from shares, founder's shares and other securities.

5. Where an enterprise of one of the two States, by virtue of its participation in the management or in the capital of an enterprise of the other State, makes with or imposes upon the latter enterprise, in their commercial or financial relations, conditions differing from those which would be made with other enterprises, all profits which should normally have appeared in the accounts of one of the enterprises but which have in this manner been transferred to the other enterprise may be incorporated in the taxable profits of the former enterprise.

Article 4

A company having its fiscal domicile in Sweden which possesses a permanent establishment in Tunisia and is liable in Tunisia to the tax on income from movable capital shall pay that tax in accordance with Tunisian tax legislation ; however, the income taxes shall not exceed the amount of the profits realized in Tunisia, including any profits or advantages which the company may have derived indirectly from its Tunisian establishment or which may have allotted or granted to third parties, either by raising or lowering purchase or selling prices or by any other means.

Article 5

Income from maritime or air transport enterprises shall be taxable only in the State in whose territory the place of actual management of the enterprise is situated, provided that the ships fly the flag or that the aircraft possess the nationality of that State.

Article 6

1. Income from work, including income derived from the exercise of professions, shall be taxable only in the State in which the personal activity from which the income is derived is exercised.

2. A profession shall be deemed to be exercised in one of the two Contracting States only if the professional activity has a fixed base in that State.

Article 7

1. Income from loans, deposits, deposit accounts and any other form of indebtedness shall be taxable only in the State in which the creditor has his domicile.

2. If the creditor possesses permanent establishments, within the meaning of article 3, paragraph 3, in both States, and one of those establishments makes a loan

or effects a deposit, the tax shall be levied in the State in whose territory the establishment is situated.

Article 8

Income from securities shall be taxable only in the State in whose territory the beneficiary has his domicile.

Nevertheless, dividends paid by a joint-stock company having its fiscal domicile in one of the Contracting States to a joint-stock company having its fiscal domicile in the other State shall be exempt from tax in the latter State, to the extent that and on the terms on which such exemption would have been granted under the laws of that State if both companies had had their fiscal domiciles in the territory of the said State.

Article 9

Directors' percentages, attendance fees and other emoluments received by directors of joint-stock companies shall be taxable in that one of the two States in which the actual head office of the company is situated, subject to the application of article 6 in respect of moneys received by them in any other effective capacity.

Article 10

Taxes on all income other than that mentioned in the preceding articles, including public and private pensions and annuities, shall be levied only in the State in which the beneficiary has his domicile.

Article 11

Taxes on fortune or increase to fortune shall be subject to the following provisions :

(1) In so far as the fortune consists of :

(a) Immovable property and its appurtenances ;

(b) Commercial or industrial enterprises, including maritime and air transport enterprises,

the tax shall be levied in the State to which tax on income derived from such property is due under the preceding articles.

(2) Tax on all other types of fortune shall be levied in the State of domicile.

Article 12

Personal taxes on aggregate income or total fortune established in the State in which the taxpayer has his domicile shall be levied only on income or fortune which

is taxable in that State under the provisions of this Agreement ; but the rate of taxation shall be the rate applicable on the basis of the taxpayer's aggregate income or total fortune.

Article 13

1. For the purposes of this Agreement, the fiscal domicile of an individual shall be his normal place of residence, understood in the sense of his permanent home.

2. Where a taxpayer has no normal residence as thus defined, in either of the two States, he shall be deemed to be domiciled in that one of the two States in which he has his principal residence, or, in default of such a residence, in the State of which he is a national.

3. For the purposes of this Agreement, the fiscal domicile of a body corporate shall be its place of actual management.

Nevertheless, this rule shall be without prejudice to the provisions of Swedish law relating to the place of taxation of undivided estates.

Article 14

Any taxpayer who shows proof that the action of the taxation authorities of the Contracting States has resulted in his case in double taxation in respect of the direct taxes which are the subject of this Agreement may lodge a claim with the State of which he is a national. If his claim is upheld, the chief taxation authority of that State may come to an agreement with the chief taxation authority of the other State with a view to the equitable avoidance of double taxation.

The claim must be lodged within two years following the year in which the tax was assessed. After the expiry of that period, the chief taxation authorities of the two States shall decide whether the claim may nevertheless be entertained.

Article 15

The Contracting States shall delegate to their chief taxation authorities the task of concluding agreements or special arrangements with a view to avoiding double taxation, in respect of direct taxes on income or fortune, contrary to the purposes of this Agreement in cases for which the Agreement does not explicitly provide, and resolving any difficulties which may arise in the application or interpretation of the Agreement.

TITLE II

LEGAL SAFEGUARDS AND RECIPROCAL ASSISTANCE

Article 16

Individuals and bodies corporate having the nationality of either of the two States shall be entitled in the territory of the other State to the same legal safeguards

vis-à-vis the taxation authorities and in proceedings before fiscal, administrative and other courts as individuals and bodies corporate having the nationality of the latter State.

Article 17

With a view to the more effective imposition of the taxes which are the subject of this Agreement the Contracting States undertake, subject to reciprocity, to exchange such fiscal information as the competent authorities of each of the two States possess or can obtain under that State's laws and as may be of use to the other State in the assessment of the taxes in question.

The said information shall be exchanged directly, on application, between the competent authorities.

Article 18

I. The competent Tunisian authority shall be entitled to apply to the competent Swedish authority for particulars of specific cases involving Tunisian individuals or bodies corporate, and in particular, in order to ensure progressivity in the State tax on personal income in accordance with article 12, to request information concerning profits derived from industrial, commercial or agricultural enterprises in Sweden possessed by such individuals or bodies corporate and concerning royalties paid to them in respect of the operation of mines or quarries or for the use of patents, designs, trademarks or industrial processes.

II. Similarly, the competent Swedish authority shall be entitled to apply to the competent Tunisian authority for analogous particulars of specific cases involving Swedish individuals or bodies corporate.

Article 19

I. The Contracting States undertake, on a basis of reciprocity, to lend each other assistance and support in the collection, in accordance with their own laws, of any taxes dealt with in this Agreement which are finally due, including surtaxes, interest, costs, and fines, except those of a penal nature.

II. Documents shall be served, proceedings instituted and enforcement measures carried out on production of copies or official extracts of the writs of execution, accompanied where appropriate by copies or official extracts of the final decisions. Writs shall be rendered enforceable by administrative action in the form required by the laws of the requested State.

III. Tax claims to be recovered shall not be regarded as privileged claims in the requested State and the latter State shall not be bound to carry out any enforcement measure which cannot be carried out under the laws of the requesting State.

IV. Where a tax claim is still subject to appeal, the requesting State may apply to the requested State to take interim measures, which shall be subject *mutatis mutandis* to the foregoing provisions.

Such measures shall be deemed to include the service on the tax debtor of a writ (*contrainte*) for the recovery of taxes levied by the Tunisian taxation department (Administration de l'Enregistrement). Objections to such a writ may be lodged only with the competent Tunisian court.

Article 20

I. Administrative and judicial assistance shall be granted only against taxpayers who are nationals of the requesting State alone. Nevertheless, such assistance may also be granted against other taxpayers in the case of taxes which were finally due at a time when such taxpayers were nationals of the requesting State alone.

II. Assistance may also be refused if the requested State considers that such assistance might endanger its sovereign rights or security or prejudice its general interests.

III. Requests may also be refused :

(a) If they would have the effect of obliging one of the Contracting States to communicate information which is not procurable under its own taxation laws or to take administrative action at variance with its legislation or practice ;

(b) If they would entail obtaining within the territory of the requested State, from persons having no connexion with the case as taxpayers, information, statements or opinions which may lawfully be imparted in that State but which are not procurable under the laws of the requesting State.

(c) If their purpose is the procurement of information concerning facts or legal relations, where such information is procurable only on the basis of an obligation to furnish information, statements or opinions which cannot be procured in the territory of the requesting State ;

(d) If compliance with the request would involve the disclosure of a business, industrial or trade secret.

Article 21

Inquiries, information, opinions and all other communications received by either State in connexion with a request for reciprocal assistance shall be subject to the statutory provisions in force in that State with regard to administrative or professional secrecy.

TITLE III

GENERAL PROVISIONS

Article 22

The Agreement shall enter into force on 1 January of the year following the year of ratification. It shall apply :

- (1) To taxes deducted at the source and finally due in respect of income credited to the beneficiaries on or after 1 January 1961 and not payable before that date.
- (2) To other taxes charged to income accruing in respect of taxable periods ending after 1 January 1961.
- (3) To Swedish fortune tax assessed in 1962 and subsequent years.

Article 23

This Agreement is done in duplicate and shall be ratified for Sweden by His Majesty the King of Sweden, with the consent of the Riksdag, and for Tunisia by His Excellency the President of the Republic of Tunisia. The instruments of ratification shall be exchanged as soon as possible at Tunis.

The Agreement shall continue in effect until denounced by one of the Contracting States. In the event of its denunciation six months before the expiry of a calendar year, it shall cease to have effect on 1 January of the next following year ; otherwise, it shall cease to have effect on 1 January of the second following year.

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

DONE at Stockholm on 6 September 1960.

Östen UNDÉN
[L. S.]

Ridha KLIBI
[L. S.]

PROTOCOL

On signing the present Agreement concluded this day¹ between Tunisia and Sweden for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to direct taxes, the undersigned plenipotentiaries have made the following joint declaration, which forms an integral part of the Agreement itself :

I. This Agreement is concluded in the light of Tunisian and Swedish legislation as at the date of its signature.

¹ See p. 303 of this volume.

It is hereby specified that :

- (1) The direct taxes referred to in article 1, paragraph 3, sub-paragraphs (1) and (2) respectively, are deemed to be equivalent.
- (2) If this situation should be altered appreciably as a result of changes made in the laws of the two States, their chief taxation authorities shall make appropriate arrangements.

II. The rule of taxation laid down in article 2 of this Agreement shall apply both to income derived from the letting, leasing or use in any other form of immovable property and income derived from the direct administration and use of immovable property and to profits from the alienation of immovable property.

It shall also apply to income derived by a person from the exploitation, properly so-called, of forests on his own land or that of third parties.

III. For the purposes of article 3, the income of a permanent establishment situated in one of the two States shall be deemed to include profits derived from the total or partial sale, whether in the current operation of the business or in winding it up, of any of the assets of the establishment, other than immovable property situated within the territory of the other State.

IV. For the purposes of article 3 of this Agreement, the term "permanent establishments" means places of management, branches, factories, workshops, agencies, warehouses, offices, laboratories, sales or purchase offices, depots and all other fixed installations of a productive character, but not subsidiary companies.

Where an enterprise of one of the Contracting States does business in the other State through the intermediary of an agent established there, and such agent has, and habitually exercises, authority to negotiate and conclude contracts, or has a stock of merchandise from which he habitually fills the orders which he receives, the said enterprise shall be deemed to have a permanent establishment in the latter State.

Nevertheless, the fact that an enterprise of one of the two States maintains business relations in the other State through the intermediary of a genuinely independent commission agent or broker shall not be deemed to imply the possession by the said enterprise of a permanent establishment in the latter State.

Building sites for works of a duration exceeding six months shall be deemed to be permanent establishments within the meaning of this Agreement.

V. Income derived from ships which do not fly the flag or aircraft which do not possess the nationality of the State in which the place of actual management of the enterprise operating them is situated shall be taxable in accordance with the rules laid down in article 3.

VI. Where any difficulty or dispute arises in the application of the provisions of articles 3, 4 and 5 of the Agreement, the chief taxation authorities shall come to

an understanding with a view to the equitable apportionment between the two States of taxable income.

VII. Royalties paid as consideration for the use of immovables or for the exploitation of mines, quarries or other natural resources shall be taxable in that one of the two Contracting States in which the said immovables or natural resources are situated.

VIII. The term "professions" as used in article 6 means, in particular, scientific, artistic, literary, or educational activities, as also the activities of doctors, lawyers, architects and engineers.

Copyright dues and proceeds from the sale of, or from the concession of the right to use, patents, trademarks, designs, and manufacturing processes or formulae shall be taxable in accordance with the conditions laid down in article 11. Where, however, such dues or proceeds constitute income from an industrial or commercial enterprise, they shall be taxable in accordance with the provisions of article 3.

Article 6 shall not apply in the case of persons employed in one of the two States who reside in the territory of the other State for a period not exceeding six months in one calendar year in pursuit of their employment and are remunerated exclusively by their employers, such employers being liable to taxation in the former State.

A teacher or temporary assistant from one of the two countries who receives remuneration for services rendered during a period of temporary residence not exceeding one year in a university or other comparable establishment of higher education in the other country shall be exempt from taxation in the latter country in respect of such remuneration.

IX. For the purposes of article 8, paragraph 2, the following shall be treated as equivalent to joint-stock companies :

In Sweden, economic associations (*ekonomiska föreningar*) ;

In Tunisia, private limited companies (*sociétés à responsabilité limitée*).

X. Students, and trainees in manual and commercial occupations who are present in one of the Contracting States for the sole purpose of study or trainings, shall not be liable to taxation by the said State in respect of sums which they receive for their maintenance, studies or training from their parents or relatives domiciled in the other State and liable to taxation there.

A student at a university or other comparable establishment of higher education or a student at a technical school in one of the two Contracting States who takes up employment in the other State for the purpose of receiving practical training required for his studies shall not be liable to taxation in the latter State in respect of his income from such employment, provided that the duration of his employment does not

exceed six months and that the income received during his residence in the State concerned does not exceed 4,000 Swedish kronor or the equivalent in Tunisian dinars.

XI. A taxpayer who shows proof that he has permanently transferred his domicile from one Contracting State to the other shall cease on the date of his departure, in so far as concerns the assessment of the taxes to which this Agreement relates, to be liable within the former State to such taxation as is dependent on domicile.

XII. In case of doubt as to the question which of the two States is an individual's State of fiscal domicile, the matter shall be settled by special agreement between the chief taxation authorities of the two States. For this purpose, the State of fiscal domicile shall be considered to be that in which the person concerned has the centre of his interests ; should it prove impossible to reach a decision on that point, it shall be considered to be the State of which the person concerned is a national.

XIII. The provisions of Swedish law concerning the taxation of the undivided estates of deceased persons shall be inapplicable to the extent that a participant in an estate is liable under this Agreement to direct taxation in Tunisia in respect of the income or property derived from the estate.

XIV. In levying the taxes referred to in article 1, paragraph 3, sub-paragraphs (1) and (2), neither State shall differentiate between its own nationals and nationals of the other State as regards rates.

Nationals of one of the two States shall be entitled within the territory of the other State, under the same conditions as nationals of the latter State, to any exemptions, rebates, deductions or reductions in taxes granted in respect of family responsibilities.

Bodies corporate and partnerships, associations, institutions, foundations and endowments liable as such, although not possessing juridical personality, to taxation if they are domiciled in the territory of one of the two States and exist in accordance with the law of that State shall not be liable in the territory of the other State to any aggregate taxation higher than that to which taxable entities of the latter State in the same category are liable.

XV. With a view to the avoidance of any doubts that might arise, it is hereby specified that the provisions of this Agreement shall not affect the right of diplomatic or consular officials to benefit by such more extensive exemptions as may already be accorded or may in the future be accorded to such officials under the general rules of international law.

Where in virtue of such more extensive exemptions the officials in question are not liable to direct taxation in the receiving State, the right of taxation shall rest with the sending State.

XVI. The expression "taxes finally due" shall be understood to mean :

- (1) In the case of Sweden, taxes which have been regularly assessed, even though they may be open to review by special procedure ;
- (2) In the case of Tunisia, taxes which are no longer open to appeal or the amount of which has been determined by final decision of the competent judicial authority.

DONE at Stockholm on 6 September 1960.

Östen UNDÉN
[L. s.]

Ridha KLIBI
[L. s.]