

No. 6180

**SWEDEN
and
THAILAND**

**Agreement for the avoidance of double taxation with respect
to taxes on income and capital. Signed at Bangkok, on
20 October 1961**

Official text: English.

Registered by Sweden on 8 May 1962.

**SUÈDE
et
THAÏLANDE**

**Convention tendant à éviter la double imposition en matière
d'impôts sur le revenu et sur la fortune. Signée à
Bangkok, le 20 octobre 1961**

Texte officiel anglais.

Enregistrée par la Suède le 8 mai 1962.

No. 6180. AGREEMENT¹ BETWEEN SWEDEN AND THAILAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL. SIGNED AT BANGKOK, ON 20 OCTOBER 1961

The Royal Government of Sweden and the Royal Government of Thailand desiring to conclude an agreement for the avoidance of double taxation with respect to taxes on income and capital have agreed as follows :

Article I

(1) The taxes which are the subject of the present Agreement are :

(a) In Sweden :

(i) the State income tax, including sailors tax and coupon tax ;

(ii) the tax on public entertainers ;

(iii) the communal income tax ; and

(iv) the State capital tax
hereinafter referred to as "Swedish tax").

(b) In Thailand :

(i) the income tax ; and

(ii) the local development tax
(hereinafter referred to as "Thai tax").

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed by either Contracting Government subsequently to the date of signature of the present Agreement.

Article II

(1) In the present Agreement, unless the context otherwise requires :

(a) The terms "territory of one of the Contracting Governments" and "territory of the other Contracting Government" mean Sweden or Thailand, as the context requires.

¹ Came into force on 18 January 1962 by the exchange of the instruments of ratification at Bangkok, in accordance with article XXI.

- (b) The term "tax" means Swedish tax or Thai 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.
- (e) The terms "resident of Sweden" and "resident of Thailand" mean respectively any person who is resident in Sweden for the purposes of Swedish tax and not resident in Thailand for the purposes of Thai tax and any person who is resident in Thailand for the purposes of Thai tax and not resident in Sweden for the purposes of Swedish tax ; a company shall be regarded as a resident in Sweden if it is incorporated under or else a legal person deriving its status as such from the laws of Sweden and as a resident in Thailand if it is incorporated under or else a legal person deriving its status as such from the laws of Thailand.
- (f) The terms "Swedish enterprise" and "Thai enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Sweden and an industrial or commercial enterprise or undertaking carried on by a resident of Thailand, and the terms "enterprise of one of the Contracting Governments" and "enterprise of the other Contracting Government" mean a Swedish enterprise or a Thai enterprise, as the context requires.
- (g) The term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
- (i) The term "fixed place of business" shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources.
- (ii) An enterprise of one of the Contracting Governments shall be deemed to have a fixed place of business in the territory of the other Contracting Government if it carries on in that other territory a construction, installation or assembly project or the like.
- (iii) The use of mere storage facilities or the maintenance of a place of business exclusively for the purchase of goods or merchandise and not for any processing of such goods or merchandise in the territory of purchase, shall not constitute a permanent establishment.
- (iv) A person acting in the territory of one of the Contracting Governments for or on behalf of an enterprise of the other Contracting Government shall be deemed to be a permanent establishment of that enterprise in the first-mentioned territory, but only if
1. he has and habitually exercises in the first-mentioned territory a general authority to negotiate and enter into contracts for or on behalf of the

- enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for the enterprise, or
2. he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or
 3. he habitually secures orders in the first-mentioned territory wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.
- (v) A broker of a genuinely independent status who merely acts as an intermediary between an enterprise of one of the Contracting Governments and a prospective customer in the territory of the other Contracting Government shall not be deemed to be a permanent establishment of the enterprise in the last-mentioned territory.
- (vi) The fact that a company, which is a resident of the territory of one of the Contracting Governments has a subsidiary company which either is a resident of the territory of the other Contracting Government or 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.
- (h) The term "competent authority" means, in the case of Sweden, the Minister of Finance or his authorized representative, and, in the case of Thailand, the Minister of Finance or his authorized representative.

(2) In the application of the provisions of the present Agreement by one of the Contracting Governments any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Government relating to the taxes which are the subject of the present Agreement.

Article III

(1) The profits of an enterprise of one of the Contracting Governments may be taxed only in the territory of that Contracting Government unless the enterprise carries on business in the territory of the other Contracting Government through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, tax may be imposed in the territory of the other Contracting Government on the profits of the enterprise but only on so much of them as is attributable to that permanent establishment. Accordingly such profits shall be exempt from tax in the first-mentioned territory.

(2) Where an enterprise of one of the Contracting Governments carries on business in the territory of the other Contracting Government through a permanent establishment situated therein, there shall be attributed to that permanent establish-

ment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing quite independently with the enterprise of which it is a permanent establishment.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the territory of the Contracting Government in which the permanent establishment is situated or elsewhere.

(4) In so far as it has been customary in the territory of a Contracting Government to determine the profits to be attributed to a permanent establishment on the basis of a certain reasonable percentage of the gross receipts of the enterprise or on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) of this Article shall preclude such Contracting Government from determining the profits to be taxed by such a method, the method adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

Article IV

Where

(a) an enterprise of one of the Contracting Governments participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Government, or

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

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

Article V

Income from the operation of aircraft in international traffic may be taxed only in the territory of the Contracting Government in which the place of effective management of the enterprise is situated.

Article VI

(1) Dividends paid by a company which is a resident of the territory of one of the Contracting Governments to a resident of the territory of the other Contracting Government may be taxed only in the first-mentioned territory ; provided, however, that the tax levied on dividends paid to a company which is a resident of the territory of one of the Contracting Governments by a company, being a resident of the territory of the other Contracting Government, more than 25 per cent of whose shares which have under all circumstances full voting rights are owned by the former company, shall not exceed 20 per cent.

(2) Where a company which is a resident of the territory of one of the Contracting Governments derives profits or income from sources within the territory of the other Contracting Government, there shall not be imposed in that other territory 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, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

Article VII

Interest on bonds, securities, notes, debentures or any other form of indebtedness, derived by a resident of the territory of one of the Contracting Governments from sources within the territory of the other Contracting Government may be taxed only in that other territory.

Article VIII

(1) Any royalty derived from sources within the territory of one of the Contracting Governments by a resident of the territory of the other Contracting Government who does not carry on a trade or business in the first-mentioned territory through a permanent establishment situated therein, may be taxed in the territory of either Contracting Government ; provided, however, that the tax levied on the royalty in the territory of the Contracting Government from which the royalty is derived shall not exceed 15 per cent of the amount of such royalty.

(2) In this Article, the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright or cinematograph films, patent, design, secret process or formula, trade-mark, or other

like property, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

(3) Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the provisions of the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

(4) The Contracting Government in the territory of which the recipient is a resident may charge to tax the amount of the royalty (without deduction of the tax levied in the territory of the other Contracting Government), but the amount of tax chargeable on the royalty shall be reduced by a sum equal to the tax levied in the territory of that other Contracting Government.

In the application of this provision in Sweden, when Thai tax appropriate to such royalty has been relieved or reduced for a limited period of time, the credit against Swedish tax shall be allowed in an amount equal to the Thai tax which would have been appropriate to the royalty concerned if no such relief had been given or no such reduction had been allowed.

Article IX

(1) Income of whatever nature derived from immovable property within the territory of one of the Contracting Governments by a resident of the territory of the other Contracting Government shall be exempt from tax in the last-mentioned territory.

(2) Any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources within the territory of one of the Contracting Governments to a resident of the territory of the other Contracting Government shall be exempt from tax in the last-mentioned territory.

Article X

A resident of the territory of one of the Contracting Governments shall be exempt in the territory of the other Contracting Government from any tax on gains from the sale, transfer, or exchange of capital assets (other than immovable property), unless such a resident has a permanent establishment in that other territory and the gains are directly associated with the business carried on through such permanent establishment.

Article XI

Where under the provisions of this Agreement a resident of the territory of one of the Contracting Governments is exempt or entitled to relief from tax in the

territory of the other Contracting Government, similar exemption or relief shall be applied to the undivided estate of a deceased person who at the time of death was a resident of that other territory, in so far as one or more of the beneficiaries is a resident of the first-mentioned territory.

Article XII

(1) Salaries, wages and similar compensation and pensions paid by Sweden to a citizen of Sweden who is not a citizen of Thailand, for services rendered to Sweden in the discharge of governmental functions, shall be exempt from Thai tax.

(2) Salaries, wages and similar compensation and pensions paid by Thailand to a citizen of Thailand who is not a citizen of Sweden, for services rendered to Thailand in the discharge of governmental functions, shall be exempt from Swedish tax.

(3) The provisions of this Article shall not apply to wages or similar compensation paid in respect of services rendered in connection with any trade or business carried on by either of the Contracting Governments for purposes of profit.

Article XIII

(1) An individual who is a resident of Sweden shall be exempt from Thai tax on profits or remuneration in respect of personal (including professional) services performed within Thailand in any tax year if—

- (a) he is present within Thailand for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a person resident in Sweden, and
- (c) the remuneration is not deducted from any profits taxable in Thailand.

(2) An individual who is a resident of Thailand shall be exempt from Swedish tax on profits or remuneration in respect of personal (including professional) services performed within Sweden in any tax year if—

- (a) he is present within Sweden for a period or periods not exceeding in the aggregate 183 days during that year, and
- (b) the services are performed for or on behalf of a person resident in Thailand, and
- (c) the remuneration is not deducted from any profits taxable in Sweden.

(3) The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture, radio or television artists, musicians and athletes.

Article XIV

A resident of the territory of one of the Contracting Governments who, at the invitation of a university, college or other establishment for higher education or scientific research in the territory of the other Contracting Government, visits that other territory solely for the purpose of teaching or scientific research at such institution for a period not exceeding two years shall not be taxed in that other territory on his remuneration for such teaching or research.

Article XV

(1) An individual from the territory of one of the Contracting Governments who is temporarily present in the territory of the other Contracting Government solely

- (a) as a student at a university, college or school in that other territory,
- (b) as a business apprentice, or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organization

shall not be taxed in that other territory in respect of remittances from abroad for the purposes of his maintenance, education or training.

(2) An individual from the territory of one of the Contracting Governments who is present in the territory of the other Contracting Government solely as a student at a university, college or school in that other territory or as a business apprentice, shall not be taxed in that other territory for a period not exceeding three consecutive tax years in respect of remuneration from employment in such other territory provided that

- (a) the remuneration constitutes earnings necessary for his maintenance and education, and
- (b) the said remuneration does not exceed in the tax year 4 000 Swedish crowns or 16 000 Baht as the case may be.

Article XVI

Where taxes on capital are imposed by one or other or both of the Contracting Governments the following provisions shall apply :

- (a) Capital represented by immovable property may be taxed only in the territory of the Contracting Government in which such property is situated.
- (b) Subject to the provisions of paragraph (a) above, capital represented by assets forming part of the business property employed in a permanent establishment of an enterprise, may be taxed only in the territory of the Contracting Government in which the permanent establishment is situated.
- (c) Ships and aircraft operated in international traffic and assets, other than immovable property, pertaining to the operation of such ships and aircraft, may be taxed only in the territory of the Contracting Government of which the enterprise is a resident.
- (d) All other elements of capital of a resident of the territory of one of the Contracting Governments may be taxed only in that territory.

Article XVII

(1) Subject to the provisions of Article VIII, income from sources within Sweden which under the laws of Sweden and in accordance with this Agreement is subject to tax in Sweden either directly or by deduction shall be exempt from Thai tax.

(2) Subject to the provisions of Article VIII, income from sources within Thailand which under the laws of Thailand and in accordance with this Agreement is subject to tax in Thailand either directly or by deduction shall be exempt from Swedish tax.

(3) The graduated rate of Swedish tax to be imposed on residents of Sweden may be calculated as though income or capital exempted under this Agreement were included in the amount of the total income or capital.

(4) The graduated rate of Thai tax to be imposed on residents of Thailand may be calculated as though income or capital exempted under this Agreement were included in the amount of the total income or capital.

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

Article XVIII

(1) The nationals of one of the Contracting Governments shall not, while resident in the territory of the other Contracting Government, be subject therein to other

or more burdensome taxes than are the nationals of such other Contracting Government resident in its territory.

(2) In this Article the term "nationals" means—

- (a) in relation to Sweden, all Swedish citizens and all legal persons, partnerships and associations deriving their status as such from the laws in force in Sweden ;
- (b) in relation to Thailand, all Thai citizens and all legal persons, partnerships and associations deriving their status as such from the laws in force in Thailand.

(3) A company being a resident of the territory of one of the Contracting Governments shall not be subject to any tax on capital in the territory of the other Contracting Government which is other or more burdensome than the tax on capital to which a company being a resident of that other territory is or may be subjected.

(4) In paragraph (1) of this Article the word "taxes" means taxes of every kind or description.

Article XIX

(1) The competent authorities of the Contracting Governments may exchange such information (being information which is available under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Agreement or for the prevention of fraud or for the administration of statutory provisions in relation to the taxes which are the subject of the present Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those, including a court, concerned with the assessment and collection of the taxes, or the determination of appeals in relation thereto. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) The competent authorities of the two Contracting Governments may prescribe regulations necessary to carry into effect the present Agreement within the respective territories.

(3) The competent authorities of the two Contracting Governments may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement.

(4) The competent authorities of the two Contracting Governments shall keep each other informed of significant changes in the tax laws of their respective territories, and in the event of appreciable modifications in such laws, shall consult together to determine whether amendments to this Agreement are desirable.

Article XX

(1) Where a taxpayer shows proof that the action of the tax authorities of either Contracting Government has resulted, or will result, in taxation contrary to the provisions of the present Agreement, he shall be entitled to present the facts to the competent authority of the Contracting Government in the territory of which he is a resident. Should the claim be upheld, the competent authority to which the facts are so presented shall undertake to come to an agreement with the competent authority of the other Contracting Government with a view to avoidance of the taxation in question.

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Agreement, the competent authorities of the Contracting Governments shall settle the question by mutual agreement.

Article XXI

(1) The present Agreement shall be ratified by the Contracting Governments in accordance with their respective constitutional and legal requirements.

(2) The instruments of ratification shall be exchanged at Bangkok as soon as possible.

(3) Upon the exchange of ratification the present Agreement shall have effect

(a) In Sweden :

(i) in respect of the State income tax and the communal income tax on income which is assessed in or after the calendar year beginning on 1st January, 1962, being income for which preliminary tax is payable during the period 1st March, 1961 to 28th February, 1962, or any succeeding period ;

(ii) in respect of coupon tax on dividends payable on or after 1st January, 1961 ;

(iii) in respect of the tax on public entertainers which is levied on or after 1st January, 1961 ;

(iv) in respect of sailors tax on income payable on or after 1st January, 1961 ; and

(v) in respect of the State capital tax which is assessed in or after the calendar year beginning on 1st January, 1962.

(b) In Thailand :

(i) in respect of the income tax on income the return of which is required to be filed on or after 1st January, 1962 ; and

(ii) in respect of the local development tax for the tax the payment of which is required on or after 1st January, 1962.

Article XXII

The present Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before 30th June in any calendar year not earlier than the year 1965, give to the other Contracting Government, through diplomatic channels, written notice of termination and, in such event, the present Agreement shall cease to be effective

(a) In Sweden :

- (i) in respect of the State income tax and the communal income tax on income for which preliminary tax is payable after the last day of February in the calendar year next following that in which such notice is given ;
- (ii) in respect of coupon tax on dividends payable on or after 1st January in the calendar year next following that in which such notice is given ;
- (iii) in respect of the tax on public entertainers which is levied on or after 1st January in the calendar year next following that in which such notice is given ;
- (iv) in respect of sailors tax on income payable on or after 1st January in the calendar year next following that in which such notice is given ; and
- (v) in respect of the State capital tax assessed in or after the second calendar year following that in which such notice is given.

b) In Thailand :

- (i) in respect of the income tax on income the return of which is required to be filed on or after 1st January in the second calendar year following that in which such notice is given ; and
- (ii) in respect of the local development tax the payment of which is required on or after 1st January in the second calendar year following that in which such notice is given.

IN WITNESS WHEREOF the undersigned being duly authorized thereto have signed the present Agreement and have affixed thereto their seals.

DONE at Bangkok, this twentieth day of October 1961 in duplicate in the English language.

For the Royal Government of Sweden :
Tord HAGEN
Ambassador

For the Royal Government of Thailand :
Th. KHOMAN
Minister for Foreign Affairs