

No. 6549

**DENMARK
and
PAKISTAN**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Copenhagen, on 4 September 1961

Official texts: Danish and English.

Registered by Denmark on 27 February 1963.

**DANEMARK
et
PAKISTAN**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Copenhague, le 4 septembre 1961

Textes officiels danois et anglais.

Enregistrée par le Danemark le 27 février 1963.

No. 6549. CONVENTION¹ BETWEEN PAKISTAN AND DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT COPENHAGEN, ON 4 SEPTEMBER 1961

The Government of Pakistan and The Government of the Kingdom of Denmark, 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 the present Convention are :

(a) in Pakistan :

the income-tax,
the super-tax, and
the business profits tax
(hereinafter referred to as "Pakistan tax") ; and

(b) in Denmark :

national income taxes and
communal income taxes
(hereinafter referred to as "Danish tax").

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Government subsequently to the date of signature of this Convention or by the Government of any territory to which the present Convention is extended under Article XIX.

Article II

(1) In the present Convention, unless the context otherwise requires

(a) The term "Pakistan" means the provinces of Pakistan and the Federal Capital ;

(b) The term "Denmark" means the Kingdom of Denmark, excluding the Farøe Islands and Greenland ;

¹ Came into force on 28 December 1962, the date of the exchange of the instruments of ratification which took place at Karachi, in accordance with article XX.

- (c) The terms "one of the territories" and "the other territory" mean Pakistan and Denmark, as the context requires ;
- (d) The term "tax" means Pakistan tax or Danish tax as the context requires ;
- (e) The term "person" includes any body of persons, corporate or not corporate ;
- (f) The term "company" means any body, corporate or not corporate, assessed as a company under the relevant laws of either Contracting Government ;
- (g) The terms "resident of Pakistan" and "resident of Denmark" mean respectively any person who is resident in Pakistan for the purposes of Pakistan tax and not resident in Denmark for the purposes of Danish tax, and any person who is resident in Denmark for the purposes of Danish tax and not resident in Pakistan for the purposes of Pakistan tax ; a company shall be regarded as resident in Pakistan if its business is managed and controlled in Pakistan and as resident in Denmark if its business is managed and controlled in Denmark ;
- (h) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of Pakistan or a person who is a resident of Denmark, as the context requires ;
- (i) The terms "Pakistan enterprise" and "Danish enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on in Pakistan by a resident of Pakistan and an industrial or commercial enterprise or undertaking carried on in Denmark by a resident of Denmark ; and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Pakistan enterprise or a Danish enterprise, as the context requires ;
- (j) The term "industrial or commercial profits" does not include rents and royalties in respect of motion picture films or income in the form of dividends, interest, rents, or royalties, or a fee or other remuneration derived from the management, control or supervision of the trade, business, or other activity of an enterprise or concern, or remuneration for labour or personal (including professional) services, or income from the operation of ships or aircraft ;
- (k) The term "permanent establishment", when used with respect to an enterprise of one of the territories, means a branch, management, factory, or other fixed place of business, a mine, quarry or any other place of natural resources, subject to exploitation.

In this connection—

- (i) A person acting in one of the territories for or on behalf of an enterprise of the other territory shall be deemed to be a permanent establishment in the first-mentioned territory, if—
 - (aa) 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, or
 - (bb) he habitually maintains in the first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which that person regularly delivers goods or merchandise for or on behalf of the enterprise, or
 - (cc) 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 ;
- (ii) A broker of a genuinely independent status, who merely acts as an intermediary between an enterprise of one of the territories and a prospective customer in the other territory, shall not be deemed to be a permanent establishment in that other territory where such activities do not involve securing of orders within the meaning of clause (i) above ; and
- (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 ;
- (Z) The term “competent authorities” means, in the case of Pakistan, the Central Board of Revenue or their authorised representative, and, in the case of Denmark, the Minister of Finance or his authorised representative ; and in the case of any territory to which the present Convention is extended under Article XIX, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

(2) In the application of the provisions of the present Convention 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 Convention.

Article III

(1) The industrial or commercial profits of a Pakistan enterprise shall not be subject to Danish tax unless the enterprise is engaged in trade or business in Denmark through a permanent establishment situated therein. If it is so engaged, tax may be

imposed on those profits by Denmark, but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Danish enterprise shall not be subject to Pakistan tax unless the enterprise is engaged in trade or business in Pakistan through a permanent establishment situated therein. If it is so engaged, tax may be imposed on those profits by Pakistan, 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 or 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.

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

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, 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

(1) Income derived from the operation of aircraft by an enterprise of one of the territories shall be exempt from tax in the other territory unless the aircraft is operated wholly or mainly between places within that other territory.

(2) Paragraph 1 shall likewise apply in respect of participations in pools of any kind by enterprises engaged in air transport.

Article VI

(1) The rate of Pakistan super-tax on dividends paid to a company, which is a resident of Denmark and does not have a permanent establishment in Pakistan by a

company which is resident in Pakistan and is engaged in an industrial undertaking approved by the Government of Pakistan for the purpose of this paragraph shall be reduced by 6.25 per cent provided the first-mentioned company is a public company as defined in paragraph 5 of this Article and owns not less than one-third voting shares of the latter company.

(2) The provisions of section 23 A of the Pakistan Income-tax Act, 1922 (XI of 1922)—relating to the distribution of company profits—shall not apply to the income of a Pakistan company not less than one-third voting shares of which are owned by a Danish company, being a public company as defined in paragraph 5 of this Article, if the Pakistan company is engaged in an industrial undertaking and its profits are retained for purposes of its industrial development and expansion in Pakistan.

(3) The rate of Danish tax on dividends paid to a Pakistan company not having a permanent establishment in Denmark by a Danish company not less than one-third of the voting shares of which are owned by the former company shall not exceed 15 per cent.

(4) Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to a person not resident in that other territory, unless such dividend is attributable to a permanent establishment maintained in that other territory by a person not resident in that other territory, or any tax in the nature of an undistributed profits tax on undistributed profits of the company.

(5) In paragraphs 1 and 2 of this Article, the term “public company” means in relation to any year of assessment—

- (a) a company which does not restrict the right to transfer its shares, which does not prohibit the issue of its shares to the public or the sale of its shares on a stock exchange and of which shares carrying more than 50 per cent of the voting power were held at any time during the previous year by not less than six persons ;
or
- (b) a company all of whose shares were held at the end of the previous year by one or more public companies as defined in clause (a) of this paragraph.

Article VII

(1) The State Bank of Pakistan shall be exempt from Danish tax with respect to interest from sources within Denmark.

(2) The National Bank of Denmark (Danmarks Nationalbank) shall be exempt from Pakistan tax with respect to interest from sources within Pakistan.

Article VIII

(1) Any royalty derived from sources within one of the territories by a resident of the other territory, who is not engaged in trade or business in the first-mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first-mentioned territory.

(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, 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 exemption provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

Article IX

(1) Remuneration, including pensions, paid out of public funds of one of the Contracting States or political sub-divisions thereof to any individual for present or past services to that State or political sub-division thereof shall be exempt from tax in the territory of the other State if the individual is a national of the first-mentioned State.

(2) The provisions of this Article shall not apply to payments in respect of services in connection with any trade or business carried on by either of the Contracting States or political sub-divisions thereof for purposes of profit.

(3) The term "political sub-division", as used in this Article, includes local authorities.

Article X

(1) Profit or remuneration from a profession (including services as a director) or employment derived by an individual who is a resident of one of the territories may be subjected to tax in the other territory if the activities are performed in that other territory.

(2) An individual who is a resident of Pakistan shall be exempt from Danish tax on profits or remuneration referred to in paragraph 1, if

(a) he is temporarily present in Denmark for a period or periods not exceeding a total of 183 days during a taxable year,

(b) the services are performed for or on behalf of a resident of Pakistan, and

(c) the profits or remuneration are borne by a resident of Pakistan.

(3) An individual who is a resident of Denmark shall be exempt from Pakistan tax on profits or remuneration referred to in paragraph 1, if

(a) he is temporarily present in Pakistan for a period or periods not exceeding a total of 183 days during a taxable year,

(b) the services are performed for or on behalf of a resident of Denmark, and

(c) the profits or remuneration are borne by a resident of Denmark.

(4) Where an individual permanently or predominantly performs services on ships or aircraft operated by an enterprise managed or controlled in one of the territories, (other than ships or aircraft operated wholly or mainly between places in the other territory), such services shall be deemed to be performed in that territory.

(5) The provisions of paragraphs 2 and 3 of this Article shall not apply to the profits or remuneration of public entertainers such as stage, motion picture, television and radio artists, musicians and athletes.

Article XI

(1) Any pension or annuity (other than a pension or annuity of the kind referred to in paragraph 1 of Article IX) derived from sources within one of the territories by an individual who is a resident of the other territory shall be exempt from tax in the first-mentioned territory.

(2) In this Article 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.

Article XII

A professor or teacher from one of the territories who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

Article XIII

An individual from one of the territories who is temporarily present in the other territory solely

(a) as a student at a university, college or school in such 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 organisation

shall not be taxed in the other territory in respect of remittances from abroad for the purpose of his maintenance, education or training, in respect of a scholarship (including a grant, allowance or award) and in respect of any amount representing remuneration for services rendered in that other territory, provided such services are in connection with his studies or training or are necessary for the purpose of his maintenance.

Article XIV

(1) Subject to the provisions of Pakistan income-tax law (as in force on the date of signature of the present Convention), Danish tax payable, whether directly or by deduction, by a person resident in Pakistan, in respect of income from sources within Denmark shall be allowed as a credit against any Pakistan tax payable in respect of that income.

(2) Denmark agrees to allow as a deduction from Danish tax on any income derived from sources within Pakistan that is subject to tax in Denmark the amount of Pakistan tax payable, whether directly or by deduction, in respect to that income, provided that the amount of deduction shall not exceed the proportion of the Danish tax that the income from Pakistan that is subject to Pakistan tax bears to the total income subject to Danish tax.

Article XV

(1) The nationals of one of the Contracting States shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) The term "nationals", as used in this Article, means

- (a) all individuals possessing the nationality of one of the Contracting States ;
- (b) all legal persons, partnerships and associations deriving their status as such from the law in force in one of the Contracting States.

(3) Nothing contained in this Article shall be construed as obliging either of the Contracting States to grant to persons not resident in its territory those personal allowances and reliefs for tax purposes which are by law available only to persons who are so resident.

Article XVI

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 which may be granted to such officers.

Article XVII

The competent authorities of the Contracting States, shall, upon request, exchange such information (being information available under the respective taxation laws of the Contracting States) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or the like in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

Article XVIII

(1) Where a resident of one of the territories shows proof that the action of the tax authorities of the Contracting States has resulted or will result in double taxation contrary to the provisions of this Convention, he shall be entitled to present his case to the State of which he is a resident. Should his claim be deemed worthy of consideration, the competent authorities of the State to which the claim is made shall endeavour to come to an agreement with the competent authority of the other State with a view to avoidance of double taxation.

(2) The competent authorities of the two Contracting States may consult together as may be necessary and communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

(3) The competent authorities of the two Contracting States may likewise come to an agreement for the purpose of overcoming double taxation in cases not otherwise provided for by this Convention as well as in cases where the interpretation or the application of this Convention gives rise to difficulties or doubts.

Article XIX

(1) The present Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations either Contracting State is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention and any such extension shall take effect from such date and subject to such modifications and conditions (including

conditions as to termination) as may be specified and agreed between the Contracting States in notes to be exchanged for this purpose.

(2) The termination in respect of Pakistan or Denmark of the present Convention under Article XXI shall, unless otherwise expressly agreed by both Contracting States, terminate the application of the present Convention to any territory to which the Convention has been extended under this Article.

Article XX

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible in Karachi.

(2) This Convention shall come into force on the date on which the instruments of ratification are exchanged and shall thereupon have effect—

- (a) in Pakistan, as respects income-tax and super-tax, for the assessment years beginning on or after the first day of April, 1959, and as respects business profits tax, for the corresponding chargeable accounting periods ;
and
- (b) in Denmark, for the assessment years beginning on or after the first day of April, 1959.

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 after 1963, give to the other Contracting State notice of termination ; and in such event this Convention shall cease to be effective—

- (a) in Pakistan, as respects income-tax and super-tax, for the assessment years beginning on or after the first day of January next following such written notice of termination, and as respects business profits tax, for the corresponding chargeable accounting periods ; and
- (b) in Denmark, for the assessment years beginning on or after the first day of April in the calendar years next following such written notice of termination.

IN WITNESS WHEREOF the undersigned duly authorised thereto have signed this Convention and have affixed thereto their seals.

DONE in duplicate at Copenhagen on September 4, 1961, in the English and Danish languages, both texts being equally authoritative.

For Pakistan :

M. A. HUSAIN

For the Kingdom of Denmark :

J. O. KRAG