

No. 7537

**THAILAND
and
NORWAY**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital. Signed at Bangkok, on 9 January 1964

Official text: English.

Registered by Thailand on 11 January 1965.

**THAÏLANDE
et
NORVÈGE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur la fortune. Signée à Bangkok, le 9 janvier 1964

Texte officiel anglais.

Enregistrée par la Thaïlande le 11 janvier 1965.

No. 7537. CONVENTION¹ BETWEEN THE ROYAL GOVERNMENT OF THAILAND AND THE ROYAL GOVERNMENT OF NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL. SIGNED AT BANGKOK, ON 9 JANUARY 1964

The Royal Government of Thailand and the Royal Government of Norway,
Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital,

Have agreed as follows :

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on all elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

¹ Came into force on 31 December 1964, thirty days after the exchange of the instruments of ratification which took place at Bangkok on 1 December 1964, in accordance with article 28.

3. The existing taxes to which the Convention shall apply are in particular :

(a) In the case of Norway :

(1) National income and capital taxes, including tax-equalization dues ;

(2) Municipal income and capital taxes ;

(3) Seamen's tax ;

(b) In the case of Thailand :

(1) The income tax ;

(2) The local development tax.

4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in the place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws.

CHAPTER II DEFINITIONS

Article 3

GENERAL DEFINITIONS

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

(a) The term "Norway" means the Kingdom of Norway, excluding Svalbard (Spitsbergen), Jan Mayen and the Norwegian dependencies outside Europe ;

(b) The term "Thailand" means the Kingdom of Thailand ;

(c) The terms "a Contracting State" and "the other Contracting State" mean Norway or Thailand, as the context requires ;

(d) The term "tax" means any tax covered by Article 2 ;

(e) The term "person" includes individuals, companies and all other entities which are treated as taxable units under the tax laws in force in either Contracting State ;

(f) The term "company" means any entity which is treated as a body corporate for tax purposes under the relevant laws of either Contracting State including any group or body of persons which is taxed in substantially same manner as a body corporate ;

(g) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident

of a Contracting State and an enterprise carried on by a resident of the other Contracting State ;

- (h) The term “competent authorities” means in the case of Norway, the Minister of Finance and Customs or his authorised representative ; and in the case of Thailand, the Minister of Finance or his authorised representative.

2. As regards the application of the provisions of the present Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the present Convention.

Article 4

FISCAL DOMICILE

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules :

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests) ;
- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode ;
- (c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national ;
- (d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. A company shall be regarded as a resident of a Contracting State if it is incorporated or else derives its status as such under the law of that State.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
2. The term “permanent establishment” shall include especially :
 - (a) a place of management ;
 - (b) a branch ;
 - (c) an office ;
 - (d) a factory ;
 - (e) a workshop ;
 - (f) a warehouse ;
 - (g) a mine, quarry or other place of extraction of natural resources.
3. The term “permanent establishment” shall not be deemed to include :
 - (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise ;
 - (b) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise and not for any processing of such goods or merchandise, or for collecting information, for the enterprise ;
 - (c) the maintenance of a fixed place of business solely for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State, if
 - (a) it carries on in that other State a construction, installation or assembly project or the like ;
 - (b) it carries on in that other State a business which consists of providing the services of public entertainers referred to in Article 16.
5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than a broker of an independent status to whom paragraph 6 applies — shall be deemed to be a permanent establishment in the first-mentioned State, but only if
 - (a) he has and habitually exercises in the first-mentioned State an authority to negotiate and conclude contracts for or on behalf of the enterprise, unless

his activities are limited to the purchase of goods or merchandise for the enterprise ; or

- (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise for or on behalf of the enterprise ; or
- (c) he habitually secures orders in the first-mentioned State 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.

6. A broker of a genuinely independent status who merely acts as an intermediary between an enterprise of a Contracting State and a prospective customer in the other Contracting State shall not be deemed to be a permanent establishment in that other State.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III

TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources ; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment 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 purpose of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State 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 shall preclude such Contracting State 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.

7. Where profits includes items of income which are dealt with separately in other Articles of this Convention, then the provisions of these Articles shall not be affected by the provisions of the present Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits from the operations of ships or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. Profits from the operation of ships in international traffic may be taxed also in the other Contracting State, but the tax imposed in that State shall be reduced by an amount equal to 50 per cent thereof.

2. The provisions of paragraph 1 shall likewise apply in respect of participations in pools of any kind by Norwegian or Thai enterprises engaged in air transport.

Article 9

ASSOCIATED ENTERPRISES

Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in the first-mentioned State; provided, however, that the tax levied on dividends paid to a company which is a resident of a Contracting State by a company, being a resident of the other Contracting State, 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 a Contracting State derives profits or income from sources within the other Contracting State, there shall not be imposed

in that other State any form of taxation on dividends paid by the company to persons not resident in that other State, 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.

3. The term "dividends" as used in this Article means income from shares or capital holdings in a company, not including debt claims.

Article 11

INTEREST

Interest on bonds, securities, debentures or any other form of indebtedness, derived by a resident of a Contracting State from sources within the other Contracting State may be taxed in that other State.

Article 12

ROYALTIES.

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, the Contracting State in which a royalty arises has the right to tax such royalty according to its own law, but the rate of the tax which it charges may not exceed 15 per cent of the amount of the royalty.
3. The term "royalties" as used in this Article means payments of any kind received as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use information concerning industrial, commercial or scientific experience.
4. Benefits proceeding from the sale of rights or property mentioned in paragraph 3 shall be taxable only in the Contracting State in which the alienator is a resident.
5. A royalty shall be deemed to arise in a Contracting State if the payer is that State itself, a political subdivision or local authority thereof or a resident of that State. Where, however, the person paying the royalty whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment by which the royalty is paid, then such royalty shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. The provisions of paragraphs 1, 2 and 4 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, Article 7 shall apply.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property employed in a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 22, shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

3. Gains from the alienation of any property or assets other than those mentioned in paragraphs 1 and 2, shall be taxable only in the State of which the alienator is a resident.

Article 14

PERSONAL SERVICES

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of personal (including professional) services shall be taxable only in that State unless the services are rendered in the other Contracting State. If the services are so rendered, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of services rendered in the other Contracting State shall be taxable only in the first-mentioned State if :

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
- (b) the services are rendered for or on behalf of a person who is a resident of the first-mentioned State, and
- (c) the remuneration is not deducted from any profits taxable in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15

DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16

ARTISTES AND ATHLETES

Notwithstanding anything contained in Article 14, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 17

PENSIONS

1. Income in the nature of pensions or other remuneration for past employment arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned State.

2. Income in the nature of pensions or other remuneration for past employment shall be deemed to arise in a Contracting State if the payer is that State itself, a political subdivision or local authority thereof or a resident of that State. Where, however, the person paying such income, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment and such income

is deducted from profits attributable to the permanent establishment, then the income shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

Article 18

GOVERNMENTAL FUNCTIONS

1. Remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

2. The provisions of Articles 14 and 15 shall apply to remuneration in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or local authority thereof.

Article 19

STUDENTS

A resident of a Contracting State, who temporarily visits the other Contracting State solely

- (a) as a student at a university, college or school in that other State,

- (b) as a business or technical apprentice, or

- (c) as the recipient of a grant, allowance or award for the primary purpose or study or research from a religious, charitable, scientific or educational organisation,

shall not be taxed in that other State in respect of money and benefits received for the purpose of his maintenance, education or training, or in respect of a scholarship grant. The same shall apply to any amount representing remuneration for services rendered in that other State, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance. However, this clause shall not apply to such cases in which the studies or practices have a secondary character in respect of services rendered that are producing the said remuneration.

Article 20

PROFESSORS, TEACHERS AND RESEARCHERS

A resident of a Contracting State who, at the invitation of a university, college or other establishment for higher education or scientific research in the other Contracting State, visits that other State 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 State on his remuneration for such teaching or research.

Article 21

INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of the Convention may be taxed in the State where the income arises.

CHAPTER IV

TAXATION OF CAPITAL

Article 22

CAPITAL

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Subject to the provisions of paragraph 1, capital represented by assets forming part of the business property employed in a permanent establishment of an enterprise may be taxed in the Contracting State in which the permanent establishment is situated.
3. Ships and aircraft operated in international traffic and assets other than immovable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

CHAPTER V

METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 23

EXEMPTION AND CREDIT METHODS

1. Where a person being a resident of a Contracting State derives income from or owns capital in the other Contracting State and that income or capital, in accordance with the provisions of this Convention, may be taxed in that other State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

2. Where a person being a resident of a Contracting State derives income from the other Contracting State and that income, in accordance with the provisions of Articles 8 and 12, may be taxed in that other State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other State.

CHAPTER VI

SPECIAL PROVISIONS

Article 24

NON-DISCRIMINATION

1. The nationals of a Contracting State 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" means :

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

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
5. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
6. In this Article the term "taxation" means taxes of every kind and description.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic

laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, including judicial determination, or collection of the taxes which are the subject of this Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation :

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State ;
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State ;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 27

DIPLOMATIC AND CONSULAR PRIVILEGES

Nothing in the present Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

CHAPTER VII

FINAL PROVISIONS

Article 28

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Bangkok as soon as possible.
2. This Convention shall enter into force thirty days after the exchange of the instruments of ratification and shall for the first time have effect :
 - (a) In respect of taxes on income, for the income of the taxable years or accounting periods beginning on or after the first day of January of the calendar year in which the instruments of ratification are exchanged.

- (b) In respect of taxes on capital, for the tax the payment of which is required on or after the first day of January of the calendar year in which the instruments of ratification are exchanged.

Article 29

TERMINATION

The present Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1969. In such event, the Convention shall cease to have effect :

- (a) In respect of taxes on income, for the income of the taxable years or accounting periods beginning on or after the first day of January of the calendar year next following that in which the notice is given.
- (b) In respect of taxes on capital, for the tax the payment of which is required on or after the first day of January of the calendar year next following that in which the notice is given.

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

DONE at Bangkok, this ninth day of January, one thousand nine hundred and sixty-four, in duplicate, in the English language.

For the Royal Government
of Thailand :

(Signed) Th. KHOMAN
Minister of Foreign Affairs
[SEAL]

For the Royal Government
of Norway :

(Signed) Ivar MELHUUS
Ambassador
[SEAL]