

No. 8282

**JAPAN
and
CANADA**

**Convention for the avoidance of double taxation and the
prevention of fiscal evasion with respect to taxes on
income. Signed at Tokyo, on 5 September 1964**

Official texts: Japanese and English.

Registered by Japan on 28 July 1966.

**JAPON
et
CANADA**

**Convention tendant à éviter les doubles impositions et à
prévenir l'évasion fiscale en matière d'impôts sur le
revenu. Signée à Tokyo, le 5 septembre 1964**

Textes officiels japonais et anglais.

Enregistrée par le Japon le 28 juillet 1966.

No. 8282. CONVENTION¹ BETWEEN JAPAN AND CANADA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RE-
SPECT TO TAXES ON INCOME. SIGNED AT TOKYO,
ON 5 SEPTEMBER 1964

The Government of Japan and the Government of Canada,

Desiring to conclude a convention for the avoidance of double taxation and
the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows :

Article I

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

(a) in Japan :

the income tax and the corporation tax (hereinafter referred to as
“ Japanese tax ”);

(b) in Canada :

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

2. This Convention shall also apply to any other taxes of a character substan-
tially similar to those referred to in paragraph 1 imposed by the Government of
Japan or the Government of Canada after the date of signature of this Conven-
tion.

Article II

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

(a) the term “ Japan ”, when used in a geographical sense, means all the
territory in which the laws relating to Japanese tax are enforced;

(b) the terms “ one of the Contracting States ” and “ the other Contracting
State ” mean Japan or Canada, as the context requires;

(c) the term “ tax ” means Japanese tax or Canadian tax, as the context
requires;

¹ Came into force on 30 April 1965, the date of the exchange of the instruments of ratification
at Ottawa, in accordance with article XIX.

(d) the term “resident of Japan” means any individual who is resident in Japan for the purposes of Japanese tax and not resident in Canada for the purposes of Canadian tax and any Japanese corporation; and the term “resident of Canada” means any individual who is resident in Canada for the purposes of Canadian tax and not resident in Japan for the purposes of Japanese tax and any Canadian corporation;

(e) the terms “resident of one of the Contracting States” and “resident of the other Contracting State” mean a resident of Japan or a resident of Canada, as the context requires;

(f) the term “Japanese corporation” means

- (i) any company,
 - (ii) any other kind of juridical person, or
 - (iii) any organization without juridical personality treated for the purposes of Japanese tax as a juridical person
- which has its head or main office in Japan and which is not managed and controlled in Canada;

(g) the term “Canadian corporation” means any corporation which is managed and controlled in Canada and which has not its head or main office in Japan;

(h) the terms “corporation of one of the Contracting States” and “corporation of the other Contracting State” mean a Japanese corporation or a Canadian corporation, as the context requires;

(i) the term “Japanese enterprise” means an industrial or commercial enterprise or undertaking carried on by a resident of Japan; and the term “Canadian enterprise” means an industrial or commercial enterprise or undertaking carried on by a resident of Canada;

(j) the terms “enterprise of one of the Contracting States” and “enterprise of the other Contracting State” mean a Japanese enterprise or a Canadian enterprise, as the context requires;

(k) (i) the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on;

(ii) the term “permanent establishment” shall include especially :

- (aa) a place of management;
- (bb) a branch;
- (cc) an office;
- (dd) a factory;
- (ee) a workshop;
- (ff) a mine, quarry or other place of extraction of natural resources;

(gg) a building site or construction or assembly project which exists for more than twelve months;

- (iii) the term “ permanent establishment ” shall not be deemed to include :
- (aa) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (bb) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (cc) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (dd) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
 - (ee) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;
- (iv) a person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom subparagraph (v) applies—shall be deemed to be a permanent establishment in the first-mentioned Contracting State if
- (aa) he has, and habitually exercises in that first-mentioned Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise, or
 - (bb) he maintains in that first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise;
- (v) an enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, where such person is acting in the ordinary course of his business;

(vi) the fact that a corporation of one of the Contracting States controls or is controlled by a corporation which is a corporation of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either corporation a permanent establishment of the other;

(vii) an enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if

- (aa) it carries on supervisory activities in that other Contracting State for more than twelve months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State, or
 - (bb) it carries on a business which consists in whole or in part of providing in that other Contracting State the services of public entertainers referred to in paragraph 3 of Article X;
- (l) the term “competent authority” means, in the case of Japan, the Minister of Finance or his authorized representative; and in the case of Canada, the Minister of National Revenue or his authorized representative.

2. In the application of this Convention by one of the Contracting States, 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 this Convention.

Article III

1. The profits of an enterprise of one of the Contracting States shall not be subject to the tax of the other Contracting State unless the enterprise carries on business in that 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 that other Contracting State, but only so much of them as is attributable to that permanent establishment.
2. Where an enterprise of one of the Contracting States carries on business in the other Contracting State through a permanent establishment situated therein, there shall 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 wholly 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 Contracting State in which the permanent establishment is situated or elsewhere.
4. 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.
5. Paragraph 1 shall not be construed as preventing one of the Contracting States from imposing, in accordance with this Convention, tax on income, such

as dividends, interest, rents or royalties arising in that Contracting State, of a resident of the other Contracting State, notwithstanding that such income is not attributable to a permanent establishment situated in the first-mentioned Contracting State.

Article IV

Where

- (a) an enterprise of one of the Contracting States 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 one of the Contracting States 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 V

1. Notwithstanding Articles III and IV, profits of an enterprise of one of the Contracting States from the operation of ships or aircraft shall be exempt from the tax of the other Contracting State, unless the ships or aircraft are operated wholly or mainly between places within that other Contracting State.
2. The Agreement between the Government of Japan and the Government of Canada constituted by the Notes exchanged at Ottawa on September 21, 1929,¹ concerning reciprocal exemption from income tax on profits accruing from the operation of ships, shall not have effect in respect of any taxable year or taxation year for which this Convention has effect.

Article VI

1. The rate of tax imposed by one of the Contracting States on dividends paid by a corporation of that Contracting State to a resident of the other Contracting State shall not exceed 15 per cent, unless such dividends are attributable to a permanent establishment situated in the first-mentioned Contracting State.

¹ League of Nations, *Treaty Series*, Vol. XCVI, p. 143.

2. Where a corporation of one of the Contracting States derives profits or income from within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the corporation unless such dividends are paid to a resident of that other Contracting State, or any tax in the nature of an undistributed profits tax on undistributed profits of the corporation, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

Article VII

1. The rate of tax imposed by one of the Contracting States on interest arising in that Contracting State and paid to a resident of the other Contracting State shall not exceed 15 per cent, unless such interest is attributable to a permanent establishment situated in the first-mentioned Contracting State.

2. Interest shall be deemed to arise in one of the Contracting States when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of one of the Contracting States or not, has in one of the Contracting States a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

3. In this Article the term "interest" means interest on bonds, securities, notes, debentures or any other form of indebtedness as well as any excess of the amount repaid in respect of any form of indebtedness over the amount lent.

Article VIII

1. The rate of tax imposed by one of the Contracting States on royalties arising in that Contracting State and paid to a resident of the other Contracting State shall not exceed 15 per cent, unless such royalties are attributable to a permanent establishment situated in the first-mentioned Contracting State.

2. In this Article the term "royalties" 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 motion picture films and films or video tapes for use in connection with television, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

3. Royalties shall be deemed to arise in the Contracting State in which the property referred to in paragraph 2 is to be used.
4. The rate of tax imposed by one of the Contracting States in respect of income arising in that Contracting State from the sale of any copyright of literary, artistic or scientific work including motion picture films and films or video tapes for use in connection with television, any patent, trade mark, design or model, plan, secret formula or process by a resident of the other Contracting State shall not exceed 15 per cent of the gross amount paid therefor, unless such income is attributable to a permanent establishment situated in the first-mentioned Contracting State.
5. Income from the sale of property referred to in paragraph 4 shall be deemed to arise in the Contracting State in which such property is to be used.

Article IX

1. Salaries, wages or similar remuneration paid by the Government of Japan or by any local authority of Japan to any individual for services rendered to that Government or local authority in the discharge of governmental functions shall be exempt from Canadian tax if the individual is a national of Japan and has not been admitted to Canada for permanent residence therein.
2. Salaries, wages or similar remuneration paid by the Government of Canada or by any political subdivision of Canada to any individual for services rendered to that Government or political subdivision in the discharge of governmental functions shall be exempt from Japanese tax if the individual is a citizen of Canada and has not been admitted to Japan for permanent residence therein.
3. This Article shall not apply to payments in respect of services rendered in connection with a trade or business.

Article X

1. Subject to Articles IX, XI and XII, remuneration for personal (including professional) services received by a resident of one of the Contracting States shall not be subject to the tax of the other Contracting State unless the services are performed in that other Contracting State. If the services are so performed, such remuneration as is derived therefrom may be taxed in that other Contracting State. The services performed aboard a ship or aircraft operated by an enterprise of one of the Contracting States shall be deemed to be performed in that Contracting State.

2. Notwithstanding paragraph 1, remuneration received by a resident of one of the Contracting States for personal (including professional) services performed in the other Contracting State shall be exempt from the tax of that other Contracting State in any calendar year, if

- (a) he is present within that other Contracting State for a period or periods not exceeding in the aggregate 183 days during that year,
- (b) the services are performed for or on behalf of a resident of the first-mentioned Contracting State, and
- (c) the remuneration is not borne by a permanent establishment which the payer of the remuneration has in that other Contracting State.

3. Paragraph 2 shall not apply to the remuneration received by public entertainers such as theatre, motion picture, radio or television artists, musicians and professional athletes.

Article XI

A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that Contracting State and who is or was immediately before visiting that Contracting State a resident of the other Contracting State shall not be taxed by the first-mentioned Contracting State on the remuneration received for that teaching.

Article XII

Payments which a student or business apprentice who is or was formerly a resident of one of the Contracting States and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed by that other Contracting State, provided that such payments are made to him from outside that other Contracting State.

Article XIII

1. Subject to the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, Canadian tax payable, whether directly or by withholding at the source, under the laws of Canada and in accordance with this Convention, shall be allowed as a credit against Japanese tax.

2. Subject to the laws of Canada regarding the allowance as a credit against Canadian tax of tax payable in any country other than Canada, Japanese tax payable, whether directly or by withholding at the source, under the laws of

Japan and in accordance with this Convention, shall be allowed as a credit against Canadian tax.

Article XIV

1. The competent authorities of the Contracting States shall upon request exchange such information as is necessary for the carrying out of this Convention and of the laws of the Contracting States concerning taxes covered by this Convention insofar 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 or collection of the taxes which are the subject of this Convention.

2. In no case shall 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.

Article XV

1. Where a resident of one of the Contracting States 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 laws of those Contracting 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 be justified and if the competent authority cannot 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 this 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 this Convention. They may also consult together for the purpose of endeavouring to eliminate double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate directly with each other for the purposes of this Article.

Article XVI

Nothing in this 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.

Article XVII

This Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of one of the Contracting States in determining the tax of that Contracting State.

Article XVIII

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 Contracting State in the same circumstances are or may be subjected.
2. In this Article the term "nationals" means all individuals possessing the nationality of either of the Contracting States and all corporations and other associations (with or without juridical personality) deriving their status as such from the laws in force in either of the Contracting States.
3. This Article shall not be construed as preventing one of the Contracting States from taxing non-residents of that Contracting State on a different basis from that on which it taxes residents of that Contracting State.

Article XIX

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Ottawa as soon as possible.
2. This Convention shall enter into force on the date of exchange of instruments of ratification and shall have effect—

(a) in Japan :

in respect of tax for the taxable years beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place;

(b) in Canada :

- (i) in respect of tax withheld at the source on amounts paid to non-residents on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place; and
- (ii) in respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year in which the exchange of instruments of ratification takes place.

3. Either of the Contracting States may terminate this Convention at any time after a period of three years from the date on which this Convention enters into force, by giving to the other Contracting State notice of termination, provided that such notice shall be given on or before the 30th day of June, and, in such event, this Convention shall cease to be effective—

(a) in Japan :

in respect of tax for the taxable years beginning on or after the first day of January in the calendar year next following that in which the notice is given;

(b) in Canada :

- (i) in respect of tax withheld at the source on amounts paid to non-residents on or after the first day of January in the calendar year next following that in which the notice is given; and
- (ii) in respect of other Canadian tax for taxation years beginning on or after the first day of January in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE at Tokyo, in duplicate, in the Japanese and English languages, each text having equal authenticity, this fifth day of September, 1964.

For Japan :

Etsusaburo SHIINA

For Canada :

W. L. GORDON