

No. 14179

**CANADA
and
JAMAICA**

**Income Tax Agreement. Signed at Kingston on 4 January
1971**

Authentic texts: English and French.

Registered by Canada on 18 August 1975.

**CANADA
et
JAMAÏQUE**

**Accord en matière d'impôt sur le revenu. Signé à Kingston le
4 janvier 1971**

Textes authentiques : anglais et français.

Enregistré par le Canada le 18 août 1975.

THE CANADA-JAMAICA INCOME TAX AGREEMENT¹

The Government of Canada and the Government of Jamaica, recognizing the desirability of entering into a comprehensive agreement for the avoidance of double taxation with respect to taxes on income but accepting the necessity of postponing the conclusion of any such agreement pending the completion of a tax reform in Canada and Jamaica, have agreed to conclude a limited agreement to avoid double taxation with respect to taxes on certain classes of income as follows:

Article I. TAXES COVERED

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

(a) in Canada:

the income taxes, including the old age security tax on income, which are imposed by Canada (hereinafter referred to as "Canadian tax");

(b) in Jamaica:

the income tax, the company profits tax, the additional company profits tax, the investment company profits tax, and surtax which are imposed by Jamaica (hereinafter referred to as "Jamaican tax").

(2) This Agreement shall also apply to any identical or similar taxes which are imposed in addition to, or in place of, the taxes referred to in paragraph (1) by either Contracting State after the date of signature of this Agreement.

Article II. GENERAL DEFINITIONS

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

(a) The term "Canada" means the territory of Canada including any area outside the territorial waters of Canada which under the laws of Canada is an area within which the rights of Canada with respect to the sea-bed and sub-soil and their natural resources may be exercised;

(b) The term "Jamaica" means the Island of Jamaica, the Morant Cays and the Pedro Cays including any area outside the territorial waters of Jamaica which under the laws of Jamaica is an area within which the rights of Jamaica with respect to the sea-bed and sub-soil and their natural resources may be exercised;

(c) The terms "Contracting State", "one of the Contracting States" and "the other Contracting State" mean Canada or Jamaica as the context requires;

(d) The terms "resident of Canada" and "resident of Jamaica" mean respectively any person who is resident in Canada for the purposes of Canadian tax and any person who is resident in Jamaica for the purposes of Jamaican tax;

(e) The term "person" includes any body of persons corporate or not corporate;

(f) The term "company" means any body corporate;

(g) The term "member country of the Caribbean Free Trade Association" means Anguilla, Antigua, Barbados, Dominica, Grenada, Guyana, Jamaica, Montserrat, Nevis, St. Kitts, St. Lucia, St. Vincent and Trinidad and Tobago and such

¹ Came into force on 19 May 1971, the date when the last of all such things had been done by the Parties as were necessary to give it force of law.

other countries as may be admitted to membership of the Association and as are specified and agreed in letters exchanged between the Contracting Governments.

(2) Where by reason of the provisions of paragraph (1)(d) of this article a company incorporated in one of the Contracting States would be a resident of both Contracting States, it shall be for the purpose of this Agreement be deemed to be a resident of the Contracting State in which it is incorporated.

(3) In the application of the provisions of this Agreement 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 Agreement.

Article III. DIVIDENDS

(1) The tax imposed by Canada on dividends paid by a company which is a resident of Canada and which are beneficially owned by a resident of Jamaica shall not exceed 22½ per cent of the gross amount of the dividends.

(2) The tax imposed by Jamaica on dividends paid by a company which is a resident of Jamaica and which are beneficially owned by a resident of Canada shall not exceed 22½ per cent of the gross amount of the dividends.

(3) The term “dividends” in the case of Canada includes any item which under the tax law of Canada is treated as a dividend and in the case of Jamaica includes any item which under the tax law of Jamaica is treated as a distribution.

(4) Paragraphs (1) and (2) of this article shall not apply if the beneficial owner of the dividends, being a resident of one of the Contracting States, carries on a business in the other Contracting State with which the holding by virtue of which the dividends are paid is effectively connected.

(5) Where a company which is a resident of one of the Contracting States derives profits or income from sources within the other Contracting State, the other Contracting State may not impose any tax on the dividends paid by the company to persons who are not residents of the last-mentioned State.

(6) Paragraphs (1) to (5) of this article shall not limit in any way the right of either Contracting State to tax its residents in accordance with its laws.

(7) If the tax that would otherwise be imposed by Jamaica under paragraph (2) of this article on a dividend beneficially owned by a person who is a resident of Canada exceeds the amount of tax that would be imposed at that time by Jamaica on that dividend if that person were a resident of any jurisdiction other than Canada, Jamaica or a member country of the Caribbean Free Trade Association, the tax imposed by Jamaica on that dividend shall not exceed the greater of (a) that amount, or (b) an amount equal to 15 per cent of the dividend.

Article IV. INTEREST, RENTS, ETC.

(1) The tax imposed by Jamaica on interest, annuities, royalties, rents, other annual payments or other specified amounts paid by a resident of Jamaica to a resident of Canada shall not exceed 12½ per cent of the gross amount of the payment.

For the purpose of this article the term “other specified amounts” means payments for or in respect of the provisions of industrial or commercial information or advice or management or technical services, or similar services, or facilities or hire of plant or equipment.

(2) Paragraph (1) of this article shall not apply if the resident of Canada exercises a trade in Jamaica and the items or amounts referred to in that paragraph are

included in the chargeable income of that trade for the purposes of Jamaican tax.

(3) Subject to the provisions of the law of Canada regarding the deduction from tax payable in Canada of tax paid in a territory outside Canada, tax payable under the law of Jamaica on amounts referred to in paragraph (1) shall be deducted from any Canadian tax otherwise payable in respect of that income. For the purpose of the said provisions of the law of Canada, any amount referred to in paragraph (1) on which Jamaica has imposed tax shall be deemed to be from sources in Jamaica.

(4) Where:

- (a) the tax imposed by Jamaica on amounts referred to in paragraph (1) is greater than
- (b) the amount, if any, by which the deduction from Canadian tax to which the recipient is entitled under the provisions of the law of Canada referred to in paragraph (3) exceeds the amount the deduction would be if no deduction were permitted for the tax paid to Jamaica on amounts referred to in paragraph (1), the recipient shall be entitled, within 12 months from the end of the taxation year in which the payment was received,
- (c) to file a tax return in Jamaica for the year,
- (d) to calculate the Jamaican tax in respect thereof on the basis that the recipient exercised a trade in Jamaica in that year and that his only chargeable income for the year for such trade consisted of the interest or other amounts referred to in this article, and
- (e) to obtain a refund of the excess of the amount of tax paid over the greater of:
 - (i) the amount calculated in sub-paragraph (b), or
 - (ii) the amount calculated in sub-paragraph (d).

In determining chargeable income for the purpose of this paragraph, there shall be allowed as deductions all expenses of the recipient, whether incurred in Jamaica or elsewhere, which would be deductible if the trade were exercised by an independent enterprise, so however, that any expense which consists of interest paid by the recipient to a person resident elsewhere than in Jamaica shall, for the purposes of this paragraph, be treated as if it were paid to a person resident in Jamaica.

(5) If the tax that would otherwise be imposed by Jamaica under paragraph (1) of this article on other specified amounts paid to a person who is a resident of Canada exceeds the amount of tax that would be imposed at that time by Jamaica on those amounts if that person were a resident of any jurisdiction other than Canada, Jamaica or a member country of the Caribbean Free Trade Association, the tax imposed by Jamaica shall not exceed that amount.

Article V. INCOME FROM EMPLOYMENT

(1) Salaries, wages and other similar remuneration derived by a resident of one of the Contracting States in respect of an employment shall be subjected to tax only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, 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 one of the Contracting States in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and

(b) the remuneration earned in the other Contracting State in the calendar year concerned does not exceed two thousand five hundred Canadian dollars (\$2,500) or its equivalent in Jamaican currency.

(3) The provisions of paragraph (2) shall not apply to remuneration derived by musicians, athletes and public entertainers, such as theatre, motion picture, radio or television artistes from their activities as such.

Article VI. PROFESSORS AND TEACHERS

A professor, teacher or instructor who visits Jamaica for the purpose of teaching at a university, college, school or other educational institution in Jamaica and who is, or was, immediately before that visit, a resident of Canada shall be exempt from tax in Jamaica on any remuneration for such teaching received within a period of two years from the date on which he commenced teaching in Jamaica.

Article VII. OPEN COMPANY

(1) In determining for the purpose of Jamaican tax whether a company is an open company, the term "recognized stock exchange" shall include the Calgary Stock Exchange, the Canadian Stock Exchange, the Montreal Stock Exchange, the Toronto Stock Exchange, the Vancouver Stock Exchange and the Winnipeg Stock Exchange.

(2) This article shall not apply to any company which is a resident of Canada and which is controlled, directly or indirectly, by a person or persons resident in Jamaica.

Article VIII. EXCHANGE OF INFORMATION

(1) The taxation authorities of the Contracting States shall, on request, exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Agreement, or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a court or administrative tribunal) concerned with the assessment, collection or enforcement of the taxes, or prosecution for the evasion of the taxes, which are the subject of this Agreement. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) The taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement and for resolving any difficulty or doubt as to the application or interpretation of the Agreement.

Article IX. NON-APPLICATION OF AGREEMENT

This Agreement shall not apply to companies entitled to any special tax benefit under the Jamaica International Business Companies (Exemption from income tax) Law, 1956, as supplemented by the Jamaica International Business Companies (Exemption from income tax) Regulations, 1964 or any substantially similar law subsequently enacted by Jamaica.

Article X. COMING INTO FORCE

(1) This Agreement shall come into force on the date when the last of all such things have been done in Canada and Jamaica as are necessary to give the Agreement force of law in Canada and Jamaica, and shall thereupon have effect:

(a) in Canada:

- (i) in respect of amounts withheld at source on amounts paid or credited to non-residents on or after 1 January, 1970;
- (ii) in respect of other Canadian tax for the 1970 taxation year and subsequent years;

(b) in Jamaica:

- (i) in respect of tax withheld at source on amounts paid or credited to non-residents on or after 1 January, 1970;
- (ii) in respect of other Jamaican tax for any year of assessment ending on or after 1 January, 1970.

(2) The Contracting Governments shall, as soon as possible, inform one another in writing of the date when the last of all such things have been done as are necessary to give the Agreement the force of law in Canada and Jamaica, The date specified by the last Government to fulfil this requirement, being the date on which the Agreement shall come into force in accordance with paragraph (1), shall be confirmed in writing by the Government so notified.

Article XI. EFFECT AND TERMINATION

(1) This Agreement shall continue in effect until terminated in accordance with the provisions of this article. Notice of termination may be given by either Contracting Government to the other Contracting Government on, or before, the 30th day of June in any calendar year and in such event this Agreement shall cease to be effective:

(a) in Canada:

- (i) in respect of tax withheld at source on amounts paid or credited to non-residents on or after 1 January, in the calendar year next following that in which the notice is given;
- (ii) in respect of other tax for any taxation year beginning on or after 1 January in the calendar year next following that in which the notice is given;

(b) in Jamaica:

- (i) in respect of tax withheld at source on amounts paid or credited to non-residents on or after 1 January, in the calendar year next following that in which the notice is given; and
- (ii) in respect of other tax for any year of assessment beginning on or after 1 January in the calendar year next following that in which such notice is given.

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

DONE in two copies at Kingston this 4th day of January of the year One Thousand Nine Hundred and Seventy-One in the English and French languages, each version being equally authentic.

EN FOI DE QUOI, les soussignés, y étant dûment autorisés par leurs Gouvernements respectifs, ont signé le présent Accord.

FAIT en deux exemplaires à Kingston, ce 4^e jour de janvier de l'année mille neuf cent soixante et onze, en anglais et en français, chaque version faisant également foi.

E. J. BENSON
For the Government of Canada
Pour le Gouvernement du Canada

EDWARD SEAGA
For the Government of Jamaica
Pour le Gouvernement de la Jamaïque
