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**FINLAND
and
UNITED STATES OF AMERICA**

Exchange of notes constituting an agreement on the exemption from income tax of income derived from international transport. Helsinki, 8 and 22 April 1988

Authentic text: English.

Registered by Finland on 22 June 1988.

**FINLANDE
et
ÉTATS-UNIS D'AMÉRIQUE**

Échange de notes constituant un accord relatif à l'exemption fiscale des revenus provenant du transport international. Helsinki, 8 et 22 avril 1988

Texte authentique : anglais.

Enregistré par la Finlande le 22 juin 1988.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN FINLAND AND THE UNITED STATES OF AMERICA ON THE EXEMPTION FROM INCOME TAX OF INCOME DERIVED FROM INTERNATIONAL TRANSPORT

I

Helsinki, April 8, 1988

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of Finland and has the honor to propose that the two governments conclude an agreement to exempt from income tax, on a reciprocal basis, income derived by residents of the other country from the international operation of ships and aircraft. The terms of the agreement are as follows:

The Government of the United States of America, in accordance with Sections 872(B) and 883(A) of the Internal Revenue Code, agrees to exempt from tax gross income derived by an enterprise of Finland from the international operation of ships or aircraft. For this purpose, an "enterprise of Finland" means an enterprise carried on by individuals who are residents of Finland (other than United States citizens) or by corporations organized in Finland. This exemption is granted on the basis of equivalent exemptions granted by Finland to enterprises of the United States.

In the case of a Finnish corporation, the exemption shall apply only if the corporation meets either of the following conditions:

(1) More than 50 percent of the value of the corporation's stock is owned, directly or indirectly, by individuals who are residents of Finland or of another country which grants a reciprocal exemption to United States citizens and corporations; or

(2) The corporation's stock is primarily and regularly traded on an established securities market in Finland, or is wholly owned by a corporation whose stock is so traded and which is also organized in Finland.

For purposes of subparagraph (1), the Government of Finland will be treated as an individual resident of Finland. For purposes of applying the 50 percent test to a foreign corporation, if the foreign corporation is a United States controlled foreign corporation, as defined in Section 957(A) of the Internal Revenue Code, the United States shareholders of the foreign corporation are treated as residents of the foreign country in which the corporation is organized. For purposes of subparagraph (1), stock of a corporation owned by another corporation, partnership, trust or estate shall be treated as owned proportionately by the beneficial owners.

Gross income includes all income derived from the international operation of ships or aircraft, including income from the rental of ships or aircraft on a full (time or voyage) basis and income from the rental of containers and related equipment which is incidental to the international operation of ships or aircraft. It also includes

¹ Came into force on 22 April 1988, the date of the note in reply, in accordance with the provisions of the said notes.

income from the rental on a bareboat basis of ships and aircraft used for international transport.

The Embassy of the United States of America considers that this note, together with the Ministry's reply note confirming that the Government of Finland agrees to these terms, constitutes an agreement between two governments. An enterprise of Finland which derives income from the international operation of ships or aircraft may choose to apply to such income either the provisions of this agreement or of the convention between the United States of America and the Republic of Finland with respect to taxes on income and property, signed on March 6, 1970,¹ or of any similar convention subsequently entered into between the two countries. This agreement shall enter into force on the date of the Ministry's reply note and shall have effect with respect to taxable years beginning on or after January 1, 1987.

Either government may terminate this agreement by giving written notice of termination through diplomatic channels.

The Embassy of the United States of America takes this opportunity to renew to the Ministry of Foreign Affairs of Finland the assurances of its highest consideration.

II

Helsinki, April 22, 1988

The Ministry for Foreign Affairs present their compliments to the Embassy of the United States of America and has the honor to acknowledge receipt of the Embassy's note of 8 April 1988 containing a proposal for the terms of a reciprocal exemption from income tax of income derived from the international operation of ships and aircraft.

The Government of Finland agrees to exempt from tax gross income derived from the international operation of ships or aircraft by an enterprise of the United States. For this purpose, the term "enterprise of the United States" means an enterprise carried on by U.S. citizens (who are not residents of Finland) or by corporations organized in the United States.

In the case of a U.S. corporation, the exemption shall apply only if the corporation meets either of the following conditions:

(1) More than 50 percent of the value of the corporation's stock is owned, directly or indirectly, by individuals who are citizens of the United States or are residents of another country which grants a reciprocal exemption to Finnish residents and corporations; or

(2) The corporation's stock is primarily and regularly traded on an established securities market in the United States, or is wholly owned by a corporation whose stock is so traded and which is also organized in the United States.

Gross income includes all income derived from the international operation of ships or aircraft, including income from the rental of ships or aircraft on a full (time or voyage) basis and income from the rental of containers and related equipment

¹ United Nations, *Treaty Series*, vol. 769, p. 251.

which is incidental to the international operation of ships or aircraft. It also includes income from the rental on a bareboat basis of ships and aircraft used for international transport.

The Ministry for Foreign Affairs is pleased to confirm that the Embassy's Note and this Reply Note constitute an agreement between the two governments. An enterprise of the United States which derives income from the international operation of ships or aircraft may choose to apply to such income either the provisions of this agreement or of the Convention between the United States of America and the Republic of Finland with respect to taxes on income and property, signed on 6 March 1970, or of any similar convention subsequently entered into between the two countries. This agreement shall enter into force on today's date and shall have effect with respect to taxable years beginning on or after 1 January 1987.

Either Government may terminate this agreement by giving written notice of termination through diplomatic channels.

The Ministry for Foreign Affairs take this opportunity to renew to the Embassy of the United States of America the assurance of their highest consideration.
