

No. 32037

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**CANADA
and
MEXICO**

**Convention for the exchange of information with respect to
taxes. Signed at Mexico City on 16 March 1990**

Authentic texts: English, French and Spanish.

Registered by Canada on 5 July 1995.

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**Convention sur l'échange de renseignements en matière fis-
cale. Signée à Mexico le 16 mars 1990**

Textes authentiques : anglais, français et espagnol.

Enregistrée par le Canada le 5 juillet 1995.

CONVENTION¹ BETWEEN THE GOVERNMENT OF CANADA AND
THE GOVERNMENT OF THE UNITED MEXICAN STATES FOR
THE EXCHANGE OF INFORMATION WITH RESPECT TO
TAXES

The Government of Canada and the Government of
the United Mexican States, desiring to conclude a
Convention for the exchange of information with respect to
taxes (hereinafter referred to as the "Convention"), have
agreed as follows:

ARTICLE 1

OBJECT AND SCOPE

1. The objective of this Convention is to facilitate the exchange of information between the Contracting States on the assessment and collection of taxes, with a view to better enable them to prevent, within their respective jurisdiction, fiscal evasion and fraud, and develop improved information sources for tax matters.
2. The Contracting States shall cooperate with each other to carry out the objective of this Convention, in conformity with and subject to the limitations of their respective national laws and regulations.
3. Pursuant to the provision of paragraph 2 of this Article, requests for assistance under this Convention will be executed, except to the extent that:

¹ Came into force on 27 April 1992, the date on which the Contracting Parties informed each other of the completion of the constitutional and statutory requirements, in accordance with article 7 (1).

- a) execution of the request would require the requested State to exceed its legal authority or would otherwise be prohibited by legal provisions in force in that State, or when the information requested is not obtainable under the laws or in the normal course of the administration of the requested State or of the other Contracting State, in which case the competent authorities of both Contracting States shall consult with each other to agree upon alternative lawful means for securing assistance;
- b) execution of the request would in the judgement of the requested State be contrary to its national security or public policy;
- c) to supply information would disclose any trade, business, industrial, commercial, or professional secret or trade process;
- d) execution of the request would impose on a Contracting State the obligation to carry out measures at variance with the laws or the administrative practices of that or the other Contracting State; or
- e) the request does not comply with the provisions of this Convention.

4. The Contracting States shall provide assistance through exchanges of information authorized pursuant to Article 4 and such related measures as may be agreed upon by the competent authorities pursuant to Article 5.

ARTICLE 2

TAXES COVERED

1. This Convention shall apply to the following taxes imposed by or on behalf of a Contracting State:

- a) in the case of Canada, the taxes imposed by the Government of Canada under the Income Tax Act;
- b) in the case of the United Mexican States,
 - (1) Federal income taxes,
 - (11) Federal taxes on employment income,
 - (111) Federal taxes on assets.

2. This Convention shall apply also to any identical or substantially similar taxes imposed after the date of signature of the Convention in addition to or in place of the existing taxes. The competent authority of each Contracting State shall notify the other of changes in laws which may affect the obligations of that State pursuant to this Convention.

3. This Convention shall not apply to taxes imposed by states, provinces, municipalities or other political subdivisions of a Contracting State.

ARTICLE 3

DEFINITIONS

1. In this Convention, unless otherwise defined:
 - a) The term "competent authority" means:
 - (i) in the case of Canada, the Minister of National Revenue or his authorized representative, and
 - (ii) in the case of the United Mexican States the Secretary of Finance and Public Credit or his authorized representative.
 - b) The term "person" includes an individual and any legal person, including a partnership, trust, estate, or association.
 - c) The term "tax" means any tax to which the Convention applies.
 - d) The term "information" means any fact or statement, in any form whatever, that may be relevant or material to tax administration and enforcement, including (but not limited to):
 - (i) testimony of an individual, and
 - (ii) documents or records of a person or a Contracting State.

- e) The terms "applicant State" and "requested State" mean, respectively, the Contracting State applying for or receiving information and the Contracting State providing or requested to provide such information.

2. As regards the application of this Convention by a Contracting State at any time, any term not defined in this Convention, unless the context otherwise requires or the competent authorities agree to a common meaning pursuant to the provisions of Article 5, shall have the meaning which it has at that time under the laws of the Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 4

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange information to administer and enforce the domestic laws of the Contracting States concerning taxes covered by this Convention, including (but not restricted to) information to effect the determination, assessment, and collection of tax or the recovery and enforcement of tax claims.

2. For the purposes referred to in paragraph 1, the competent authorities of the Contracting States shall determine the items of information to be automatically

exchanged pursuant to this paragraph and the procedures to be used to exchange such items of information. The competent authorities shall automatically transmit such items of information to each other.

3. The competent authority of a Contracting State shall spontaneously transmit to the competent authority of the other State information which has come to the attention of the first-mentioned State and which, in his opinion, is likely to be relevant to, and bear significantly on, accomplishment of the purposes referred to in paragraph 1. The competent authorities may determine the information to be exchanged pursuant to this paragraph and take such measures and implement such procedures as are necessary to ensure that the information is forwarded to the competent authority of the other State.

4. The competent authority of the requested State shall provide information upon request by the competent authority of the applicant State for the purposes referred to in paragraph 1. If the information available in the tax files of the requested State is not sufficient to enable compliance with the request, that State shall take all relevant measures to provide the applicant State with the information requested.

5. If information is requested by a Contracting State pursuant to paragraph 4, the requested State, notwithstanding that such information may not, at that time, be needed by the requested State for its own tax purposes, shall obtain the information requested in the same manner, and provide it in the same form, as if the

tax of the applicant State were the tax of the requested State and were being imposed by the requested State. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall endeavour to provide information under this Article in the form requested, such as depositions of witnesses and copies of unedited original documents (including books, papers, statements, records, accounts or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

6. Notwithstanding any other provision of this Convention, a Contracting State may only request information relating to a particular person or to the operations of a particular person if that information relates to the tax payable in that State by that person or in relation to the operations of that person.

7. The provisions of the preceding paragraphs shall be construed so as to impose on a Contracting State the obligation to use all legal means available to it and its best efforts to execute a request. A Contracting State may, at its discretion, take measures to obtain and transmit to the other State information which, pursuant to paragraph 3 of Article 1, it has no obligation to transmit.

8. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to individuals or authorities

(including judicial and administrative bodies) involved in the determination, assessment, collection, and administration of, the recovery and collection of claims derived from, the enforcement in respect of, or the determination of appeals in respect of, the taxes which are the subject of this Convention. Such individuals or authorities shall use the information only for tax purposes. These individuals or authorities may disclose the information in public court proceedings or in judicial decisions.

ARTICLE 5

MUTUAL AGREEMENT PROCEDURE

1. The competent authorities of the Contracting States may agree to implement a program to carry out the purposes of this Convention. This program may include, in addition to exchanges specified in Article 4, other measures to improve tax compliance, such as exchanges of technical know-how, development of new audit techniques (including simultaneous examinations and investigations in their respective jurisdictions and by their respective competent authorities), identification of new areas of non-compliance, and joint studies of non-compliance areas.

2. 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. In particular, the competent authorities may agree to a common meaning of a term and may determine when costs are extraordinary for purposes of Article 6.

3. The competent authorities of the Contracting States may communicate with each other directly for the purposes of applying the Convention.

ARTICLE 6

COSTS

Unless the competent authorities of the Contracting States otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested State and extraordinary costs incurred in providing assistance shall be borne by the applicant State.

ARTICLE 7

ENTRY INTO FORCE

1. This Convention shall enter into force upon an exchange of notes by the duly authorized representatives of the Contracting States confirming that each side has met all constitutional and statutory requirements necessary to implement this Convention.
2. The provisions of this Convention shall have effect in respect of taxes that become payable on or after the first day of January in the calendar year next following that in which the exchange of notes takes place.
3. Notwithstanding paragraph 2, the provisions of this Convention shall also have effect in respect of taxes

owed on or after the first day of January in the calendar year next following that in which the exchange of notes takes place provided these taxes were not paid before that date because of fraud or wilful default.

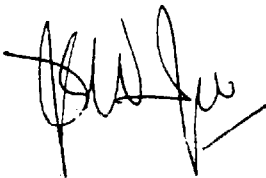
ARTICLE 8

TERMINATION

This Convention shall remain in force until terminated by one the Contracting States. Either Contracting State may terminate the Convention at any time after the Convention enters into force provided that at least 3 months prior notice of termination has been given through diplomatic channels.

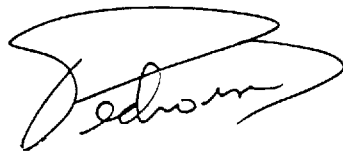
DONE at Mexico City this 16th day of March 1990, in two originals, each in the English, French and Spanish languages, the texts in each of the three languages having equal authenticity.

For the Government
of Canada:



DAVID J. S. WINFIELD

For the Government
of the United Mexican States:



PEDRO ASPE ARMULA