No. 4623

JAPAN
and
SWEDEN

Convention (with Protocol) for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Tokyo, on 12 December 1956

Official text: English.

Registered by Japan on 31 December 1958.

JAPON
et
SUÈDE

Convention (avec Protocole) tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Tokyo, le 12 décembre 1956

Texte officiel anglais.

Enregistrée par le Japon le 31 décembre 1958.

No. 4623. CONVENTION[1] BETWEEN JAPAN AND SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT TOKYO, ON 12 DECEMBER 1956

The Government of Japan and the Government of Sweden,

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

Have appointed for that purpose as their respective Plenipotentiaries,

The Government of Japan :

Mr. Mamoru Shigemitsu, Minister for Foreign Affairs of Japan and

The Government of Sweden :

Mr. Tage Grönwall, Envoy Extraordinary and Minister Plenipotentiary of Sweden to Japan,

Who, having communicated to one another their respective full powers, found in good and due form, have agreed upon the following Articles :

Article I

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

(*a*) In Japan : the income tax and the corporation tax (hereinafter referred to as " Japanese tax ").

(*b*) In Sweden : the State income tax, including the coupon tax, and the tax on public entertainers (hereinafter referred to as "Swedish tax").

2. The present Convention shall also apply to any other tax on income or profit which has a substantially similar character to those referred to in the preceding paragraph and which may be imposed in either contracting State after the date of signature of the present Convention.

Article II

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

[1] Came into force on 1 June 1957, the date of the exchange of the instruments of ratification at Stockholm, in accordance with article XX.

(*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 Sweden, as the context requires.

(*c*) The term "tax" means Japanese tax or Swedish tax, as the context requires.

(*d*) The term "resident of Japan" means any individual who is resident in Japan for the purposes of Japanese tax and not resident in Sweden for the purposes of Swedish tax and the term "resident of Sweden" means any individual who is resident in Sweden for the purposes of Swedish tax and not resident in Japan for the purposes of Japanese tax.

(*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 Sweden, as the context requires.

(*f*) The term "Japanese corporation" means any corporation, including any legal entity, which has its head office in Japan and the term "Swedish corporation" means any coporation, including any legal entity, which is created or organized under the laws of Sweden and which is not a Japanese corporation.

(*g*) The terms "corporation of one of the contracting States" and "corporation of the other contracting State" mean a Japanese corporation or a Swedish corporation, as the context requires.

(*h*) The term "Japanese enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident or corporation of Japan and the term "Swedish enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident or corporation of Sweden.

(*i*) The terms "enterprise of one of the contracting States" and "enterprise of the other contracting State" mean a Japanese enterprise or a Swedish enterprise, as the context requires.

(*j*) The term "permanent establishment" when used with respect to an enterprise of one of the contracting States, means an office, branch, factory, warehouse or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. It may include the constant use of merely storage facilities but does not include the casual and temporary use of such facilities.

In this connection

(1) 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 dealings in that other contracting State through a *bona fide* broker, commission agent, or other independent agent acting in the ordinary course of his business as such ;

(2) The fact that an enterprise of one of the contracting States maintains in the other contracting State a fixed place of business exclusively for the purchase of goods or merchandise for that enterprise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise ; and

(3) The fact that a corporation of one of the contracting States has a subsidiary corporation which is a corporation of the other contracting State or which carries on a trade or business in that other contracting State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(*k*) The term "industrial or commercial profits" includes manufacturing, merchantile, agricultural, fishing, mining and insurance profits as well as profits from banking and security dealings, but does not include income in the form of dividends, interests, rents, or royalties as referred to in Article VI, paragraph 2 or remuneration for personal services.

(*l*) The term "competent authorities" in relation to a contracting State means the Minister of Finance of that contracting State or his authorized representative.

2. In the application of the provisions of the present Convention by either 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 tax.

Article III

1. The industrial or commercial profits of an enterprise of one of the contracting States shall not be subject to tax in the other contracting State unless the enterprise has a permanent establishment situated in that other contracting State. If it has such permanent establishment, tax may be imposed by that other contracting State on all industrial or commercial profits of that enterprise from sources within that other contracting State.

2. Where an enterprise of one of the contracting States has a permanent establishment situated in the other contracting State, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other contracting State if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing on an independent basis with the enterprise of which it is a permanent establishment, and the profits so attributed shall be deemed to be income from sources within that other contracting State.

3. In determining the tax of one of the contracting States, no account shall be taken of the mere purchase of merchandise therein by an enterprise of the other contracting State for that enterprise.

4. Income derived from the sale of goods (excluding the kind of income mentioned in the following paragraph) shall be treated, for the purposes of application of the provisions of paragraph 1 above, as derived from the country in which such goods are sold.

5. Income derived from the sale by an enterprise in one of the contracting States of goods manufactured in the other contracting State in whole or in part by that enterprise shall be treated, for the purposes of application of the provisions of paragraph 1 above, as derived in part from the country in which the goods are manufactured and in part from the country in which the goods are sold.

6. The competent authorities of both contracting States may, consistent with the provisons of the present Convention, arrange details for the apportionment of industrial or commercial profits.

Article IV

Where :

(*a*) an enterprise of one of the contracting States participates directly or indirectly in the managerial or financial control of an enterprise of the other contracting State, or

(*b*) the same individuals or corporations participate directly or indirectly in the managerial or financial control 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

Notwithstanding the provisions of Articles III and IV, profits which an enterprise of one of the contracting States derives from the operation of ships or aircraft registered

(*a*) in that contracting State or in the other contracting State, or

(*b*) in any third country which exempts from its tax profits derived from the operation of ships or aircraft registered in that other contracting State

shall be exempt from the tax of that other contracting State.