No. 6167

SWEDEN
and
AUSTRIA

Agreement for the avoidance of double taxation with respect to taxes on income and fortune. Signed at Stockholm, on 14 May 1959

Official texts: Swedish and German.

Registered by Sweden on 8 May 1962.

SUÈDE
et
AUTRICHE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune. Signée à Stockholm, le 14 mai 1959

Textes officiels suédois et allemand.

Enregistrée par la Suède le 8 mai 1962.

[TRANSLATION — TRADUCTION]

No. 6167. AGREEMENT[1] BETWEEN THE KINGDOM OF SWEDEN AND THE REPUBLIC OF AUSTRIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE. SIGNED AT STOCKHOLM, ON 14 MAY 1959

His Majesty the King of Sweden and the Federal President of the Republic of Austria, desiring to avoid so far as possible double taxation with respect to taxes on income and fortune, have agreed to conclude an Agreement.

For that purpose they have appointed as their plenipotentiaries :

His Majesty the King of Sweden :

Mr. Östen Undén, Minister of Foreign Affairs ;

The Federal President of the Republic of Austria :

Dr. Rudolf Krippl-Redlich-Redensbruck, His Ambassador Extraordinary and Plenipotentiary.

The plenipotentiaries, having exchanged their full powers, found in good and due form, have agreed as follows :

Article 1

(1) This Agreement shall apply to individuals and bodies corporate domiciled, within the meaning of article 2, in the Kingdom of Sweden, in the Republic of Austria, or in both States.

(2) This Agreement shall apply to taxes on income and fortune (including those levied as surtaxes) levied on behalf of the two States or their *Länder*, communes or associations of communes, irrespective of the manner in which such taxes are levied.

(3) The following shall be regarded as taxes on income and fortune : all taxes levied on total income and total fortune or parts thereof, including taxes on profits derived from the alienation of movable or immovable property and taxes on capital gains.

(4) The taxes to which this Agreement applies are, at the present time, the following :

[1] Came into force on 29 December 1959, upon the exchange of the instruments of ratification at Vienna, in accordance with article 25.

1. In the Kingdom of Sweden :
   (*a*) The State income tax (*den statliga inkomstskatten*) ;
   (*b*) The coupon tax (*kuponskatten*) ;
   (*c*) The seamen's tax (*sjömansskatten*) ;
   (*d*) The tax on distributed profits and the tax on undistributed profits (*utskiftningsskatten och ersättningsskatten*) ;
   (*e*) The State fortune tax (*den statliga förmögenhetsskatten*) ;
   (*f*) The forestry tax (*skogsvårdsavgiften*) ;
   (*g*) The general communal tax (*den allmänna kommunalskatten*) ;
   (*h*) Taxes on special advantages and privileges (*bevillningsavgifterna för särskilda förmåner och rättigheter*).
2. In the Republic of Austria :
   (*a*) The income tax (*Einkommensteuer*) (including the wages tax (*Lohnsteuer*) and the tax on income from capital (*Kapitalertragsteuer*)) ;
   (*b*) The corporation tax (*Körperschaftsteuer*) (including the tax on income from capital) ;
   (*c*) The Fortune tax (*Vermögensteuer*) ;
   (*d*) The contribution from income for the promotion of residential building and for the equalization of family burdens (*Beitrag vom Einkommen zur Förderung des Wohnbaues und für Zwecke des Familienlastenausgleiches*) ;
   (*e*) The tax on directors' fees (*Aufsichtsratsabgabe*) ;
   (*f*) The business tax (*Gewerbesteuer*) (including the pay-roll tax (*Lohnsummensteuer*)) ;
   (*g*) The land tax (*Grundsteuer*).

(5) This Agreement shall also apply to any taxes of the same or of like nature which may in the future be levied in addition to or instead of the taxes now in effect. The chief financial authorities of the two States shall inform each other at the end of each year of any changes in their fiscal laws.

(6) The chief financial authorities of the two States shall settle by agreement any doubts which may arise as to the question which taxes are covered by this Agreement.

(7) The chief financial authorities referred to in this Agreement are, in the case of the Republic of Austria, the Federal Ministry of Finance, and in the case of the Kingdom of Sweden, the Ministry of Finance or the authority delegated to deal in its stead with questions relating to this Agreement.

Article 2

(1) Where a person domiciled in one of the two States receives income in respect of which no provision is made in this Agreement, the said income shall be taxable by that State.

(2) In this Agreement, the expression "a person domiciled in one of the two States" means an individual who or a body corporate which, under the law of that State, is liable to taxation there on the basis of domicile, habitual residence or place of actual business management or of any other criterion of a similar nature.

(3) Where, under the provisions of paragraph (2), an individual is domiciled in both States, his domicile for the purposes of this Agreement shall be determined as follows :

(*a*) The individual shall be deemed to be domiciled in the State in which he has a permanent place of abode. If he has a permanent place of abode in both States, he shall be deemed to be domiciled in the State with which he has the closer personal and economic ties (centre of vital interests) ;

(*b*) If it cannot be determined in which of the two States the individual has the centre of his vital interests, or if he has no permanent place of abode in either State, he shall be deemed to be domiciled in the State in which he regularly resides ;

(*c*) If the individual regularly resides in both or in neither of the two States, he shall be deemed to be domiciled in the State of which he is a national ;

(*d*) If the individual is a national of both or of neither of the States, the chief financial authorities of the two States shall settle the question by agreement.

(4) Where, under the provisions of paragraph (2), a body corporate is domiciled in both States, it shall be deemed to be domiciled for the purposes of this Agreement in the State in which its place of actual management is situated. The same shall apply to partnerships (*handelsbolag, kommanditbolag, enkla bolag, partrederi, gruvbolag*) and other associations which do not constitute bodies corporate under the relevant national legislation.

Article 3

(1) Where a person domiciled in one of the two States derives income from immovable property (including accessories thereto and livestock and equipment used in agricultural or forestry undertakings) situated in the other State, the said income shall be taxable by the latter State. Rights which are subject to the provisions of private law relating to real property shall be deemed to be equivalent to immovable property.

(2) The provisions of paragraph (1) shall apply both to income derived from the direct use of immovable property and to income derived from the lease or use in any other form of such property, in particular fixed or variable compensation for the use of natural resources; they shall also apply to income derived from the alienation of immovable property.

(3) The provisions of paragraphs (1) and (2) shall also apply where the property referred to belongs to a business enterprise (articles 4 and 7).

(4) The question what shall be deemed to constitute immovable property or accessories thereto and what shall be deemed to constitute a right equivalent to immovable property or a right of usufruct shall be decided in accordance with the law of the State in which the property concerned or the property to which the right in question relates is situated.

Article 4

(1) Where a person domiciled in one of the two States derives income from a business enterprise whose activities extend to the territory of the other State, the said income shall be taxable by the latter State only in so far as it is attributable to a permanent establishment of the enterprise which is situated in its territory.

(2) The provisions of paragraph (1) shall also apply to income derived from active or inactive participation in an enterprise other than participation in the form of shares, mining shares (*Kuxe*), profit-participation certificates (*Genusscheine*), participating debentures, other securities, and shares in co-operative societies (*Genossenschaften*) and private limited companies (*Gesellschaften mit beschränkter Haftung*).

(3) The provisions of paragraphs (1) and (2) shall apply both to income derived from the direct use of the business enterprise and to income derived from the lease or use in any other form thereof; they shall also apply to income derived from the alienation of an enterprise as a whole, of a share in the enterprise, of a part of the business, or of objects used in the enterprise.

(4) The income to be attributed to the permanent establishment shall be that which would have accrued to it if it had been an independent enterprise engaged in the same or similar activities under the same or similar conditions and had carried on its activities as an independent enterprise.

(5) The income derived from the activities of a permanent establishment shall as a general rule be determined from the balance-sheet of the permanent establishment. In this connexion, account shall be taken of all expenditure that is attributable to the permanent establishment, including a share in the general administrative expenses of the enterprise, but excluding artificial transfers of profits