No. 7047

NETHERLANDS
and
ITALY

Agreement for the avoidance of double taxation with respect to taxes on income and fortune (with exchange of notes). Signed at The Hague, on 24 January 1957

Official texts: Dutch and Italian.

Registered by the Netherlands on 9 January 1964.

PAYS-BAS
et
ITALIE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune (avec échange de notes). Signée à La Haye, le 24 janvier 1957

Textes officiels néerlandais et italien.

Enregistrée par les Pays-Bas le 9 janvier 1964.

[TRANSLATION — TRADUCTION]

No. 7047. AGREEMENT[1] BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE ITALIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE. SIGNED AT THE HAGUE, ON 24 JANUARY 1957

Her Majesty the Queen of the Netherlands and

The President of the Italian Republic,

Desiring to prevent double taxation with respect to taxes on income and fortune, have decided to conclude an Agreement and have appointed for that purpose as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

Mr. J. M. A. H. Luns, Minister of Foreign Affairs ;

The President of the Italian Republic :

Mr. Giorgio Benzoni, Ambassador of Italy ;

Who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

Article I

1. The provisions of this Agreement shall apply to the following taxes, surtaxes and supplementary taxes payable to the State, to provinces and communes and to other public institutions :

A. In the case of the Netherlands :

(1) Real estate tax (on income from land and buildings) (*grondbelasting, van de opbrengst van gebouwde en ongebouwde eigendommen*) ;
(2) The tax on wages and salaries (*loonbelasting*) ;
(3) The tax on directors' emoluments (*commissarissenbelasting*) ;

(4) The dividends tax (*dividendbelasting*) ;
(5) The company tax (*vennootschapsbelasting*) ;
(6) The personal income tax (*inkomstenbelasting van natuurlijke personen*) ;

(7) The fortune tax (*vermogensbelasting*).

[1] Came into force on 18 November 1960, the date of the exchange of the instruments of ratification at Rome, in accordance with article XXV.

B. In the case of Italy :

(1) The tax on income from land (*l'imposta sui redditi dei terreni*) ;

(2) The tax on income from buildings (*l'imposta sui redditi dei fabbricati*) ;

(3) The tax on movable capital (*l'imposta sulla richezza mobile*) :

(*a*) Category A : income from capital ;

(*b*) Category B : income from capital and work ;

(*c*) Category C/1 : income from self-employment ;

(*d*) Category C/2 : income from employment ;

(*e*) Agricultural income ;

(4) The supplementary income tax (*l'imposta complementare progressiva sul reddito globale*).

2. The provisions of this Agreement shall also apply to all other ordinary or extraordinary taxes on income or fortune which are at present levied or may hereafter be introduced in either State.

3. If the tax legislation of either State is amended in any important respect, the competent authorities of the two States shall consult together.

Article II

1. For the purposes of this Agreement :

(*a*) The term "Netherlands" means only the Kingdom of the Netherlands in Europe ;

(*b*) The term "Italy" means only the territory of the Italian Republic in Europe ;

(*c*) The term "person" means :

1. Any individual ;
2. Any body corporate ;
3. Any unincorporated group of individuals.

(*d*) The terms "person having his fiscal domicile in the Netherlands" and "person having his fical domicile in Italy" mean : in the case of individuals, any individual domiciled in the Netherlands for the purposes of Netherlands taxation and any individual domiciled in Italy for the purposes of Italian taxation ; in the case of other persons, any body corporate or unincorporated group of individuals having its head office, that is, its centre of actual management, in the Netherlands or in Italy.

Where an individual may be deemed to have a fiscal domicile in both States, he shall be deemed for the purposes of this Agreement to have his fiscal domicile in the State with which he has the closer personal and economic ties. Where the fiscal domicile of an indidual cannot be determined under this rule, he shall be deemed to have his fiscal domicile in the State of which he is a citizen. If he is a citizen of both States or of neither, the competent authorities shall come to an agreement in each particular case.

(*e*) The term "permanent establishment" means a branch, workshop or other fixed installation in which an enterprise conducts all or part of its business. Where there is no fixed installation in one of the two States, works under execution in that State shall be regarded as a permanent establishment if the actual centre of management of the operations is in that State. In particular, an agency shall be regarded as a permanent establishment if the agent has a general authority to negotiate and conclude contracts on behalf of an entreprise, or has a stock of merchandise from which he regularly fills orders on its behalf, or represents one enterprise exclusively. A goods warehouse intended merely for facilitating deliveries and not for advertising purposes shall not be regarded as a permanent establishment. An enterprise of one of the two States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in that other State through a commission agent or broker acting in the ordinary course of his business as such. The fact that an enterprise of one of the two States maintains in the other State a fixed installation whose business is limited to the purchase of goods or merchandise intended for the supply of its own sales or processing establishments in the first-mentioned State shall not of itself constitute such fixed installation a permanent establishment of the enterprise. The fact that a company having its fiscal domicile in one of the two States maintains a subsidiary company which has its fiscal domicile in the other State or which. having no fiscal domicile in that other State, carries on any commercial, industrial or other similar activity therein, shall not of itself constitute that subsidiary company a permanent establishment of the parent company.

(*f*) The term "competent authority" means, in the case of the Netherlands, the Minister of Finance or the Director-General of the Department of Taxation duly authorized to act on his behalf, and in the case of Italy, the Ministry of Finance.

2. In the application of the provisions of this Agreement by either of the two States, any term not defined in this Agreement shall, unless the context otherwise requires, have the meaning attributed to it in the laws of the State concerned relating to the taxes which are the subject of this Agreement.

Article III

Income from immovable property shall be taxable in the State in which such property is situated. For the purposes of this article, income from immovable property includes royalties paid in consideration of the right to exploit mines or quarries or to extract natural resources in any other form.

Article IV

1. Profits derived by a person having his fiscal domicile in one of the two States from the exercise of any industrial, agricultural, commercial or other like activity shall not be taxable in the other State unless the person concerned carries on his activity in such other State through a permanent establishment situated therein. In the latter case, the other State may impose tax only on the profits attributable to that permanent establishment.

2. The amount of the profits mentioned in paragraph 1 of this article shall be determined by reference to the amount of the profits which the permanent establishment might have earned if it had been an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

3. In determining the profits mentioned in paragraph 2 of this article, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the State in which the permanent establishment is situated if such purchases are intended for supply of sales or processing establishments of the enterprise in the other State.

4. The competent authorities of the two States may lay down rules by agreement for the apportionment of the above-mentioned profits.

Article V

Where :

(*a*) An enterprise of one of the two States participates directly or indirectly in the management, operation or capital of an enterprise in the other State, or

(*b*) The same persons participate directly or indirectly in the management, operation or capital of an enterprise in one of the two States and an enterprise in the other State,

and where in either case the conditions made or imposed between the two enterprise in their commercial or financial relations are different from those which would exist between two independent enterprises, any profits which would have normally accrued to one of the enterprises but by reason of those conditions have not so accrued shall be regarded as income of that enterprise and taxed accordingly.