No. 7160

FINLAND
and
AUSTRIA

Agreement for the avoidance of double taxation with respect to taxes on income and fortune. Signed at Vienna, on 8 October 1963

Official texts: Finnish and German.

Registered by Finland on 6 March 1964.

FINLANDE
et
AUTRICHE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune. Signée à Vienne, le 8 octobre 1963

Textes officiels finnois et allemand.

Enregistrée par la Finlande le 6 mars 1964.

[TRANSLATION — TRADUCTION]

No. 7160. AGREEMENT[1] BETWEEN THE REPUBLIC OF FINLAND AND THE REPUBLIC OF AUSTRIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE. SIGNED AT VIENNA, ON 8 OCTOBER 1963

The President of the Republic of Finland and the Federal President of the Republic of Austria, desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and fortune, have for that purpose appointed as their plenipotentiaries :

The President of the Republic of Finland :

Mr. Otso Wartiovaara, Ambassador Extraordinary and Plenipotentiary of the Republic of Finland at Vienna ;

The Federal President of the Republic of Austria :

Dr. Josef Stangelberger, Chief of Section in the Federal Ministry of Finance ;

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

Article 1

This Agreement shall apply to persons domiciled in one or both of the Contracting States.

Article 2

1. This Agreement shall apply to taxes on income and fortune levied on behalf of either of the two Contracting States or of their municipal corporations (including parishes in the case of Finland), regardless of the manner in which they are levied.

2. The expression "taxes on income and fortune" shall be deemed to mean all taxes levied on total income or total fortune or on elements of income or fortune, including taxes on profits derived from the alienation of movable or immovable property.

[1] Came into force on 29 January 1964, by the exchange of the instruments of ratification at Helsinki, in accordance with the provisions of article 29.

3. The taxes to which this Agreement applies are at present :

(*a*) In Finland :

The tax on income and fortune (*tulo- ja omaisuusvero*),
The communal tax (*kunnallisvero*),
The seamen's tax (*merimiesvero*) and
The church tax (*kirkollisvero*),
(hereinafter referred to as "Finnish tax") ;

(*b*) In Austria :

The income tax (*Einkommensteuer*),
The corporation tax (*Körperschaftsteuer*),
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*),
The tax on director's fees (*Aufsichtsratsabgabe*),
The business tax (*Gewerbesteuer*), including the pay-roll tax (*Lohnsummensteuer*),

The tax on fortune (*Vermögensteuer*),
The land tax (*Grundsteuer*),
The tax on agricultural and forestry enterprises (*Abgabe von land- und forstwirtschaftlichen Betrieben*),
The tax on the land value of undeveloped real estate (*Abgabe vom Bodenwert bei unbebauten Grundstücken*) and
The tax on property exempt from the inheritance tax (*Abgabe von Vermögen, die der Erbschaftssteuer entzogen sind*),
(hereinafter referred to as "Austrian tax").

4. This Agreement shall also apply to any taxes of the same or of like nature which may be levied in the future in addition to or in place of the existing taxes. The competent authorities of the Contracting States shall at the end of each year inform each other of any changes which have been made in their taxation laws.

Article 3

1. In this Agreement, unless the context otherwise requires :

(*a*) The expressions "one of the Contracting States" and "the other Contracting State" mean the Republic of Finland or the Republic of Austria, as the context requires ;

(*b*) The term "person" includes individuals, companies, unincorporated associations, and undivided estates under Finnish law ;

(*c*) The term "company" means bodies corporate and any legal entities which are treated as bodies corporate for tax purposes ;

(*d*) The expressions "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean an enterprise carried on by a person domiciled in one of the Contracting States and an enterprise carried on by a person domiciled in the other Contracting State, as the context requires ;

(*e*) The term "competent authority" means :

(1) In the case of Finland : the Ministry of Finance ;

(2) In the case of Austria : the Federal Ministry of Finance.

2. In the application of this Agreement by one of the Contracting States any expression not otherwise defined shall unless the context otherwise requires have the meaning which it has under the laws of that State relating to the taxes which are the subject of this Agreement.

Article 4

1. In this Agreement the expression "a person domiciled in one of the Contracting States" means a person liable under the laws of that State to taxation therein by reason of domicile, permanent residence or place of management or of any other criterion of a similar nature.

2. Where, under the provisions of paragraph 1, an individual is domiciled in both Contracting States, the following shall apply :

(*a*) He shall be deemed to be domiciled in the Contracting State in which he has a permanent residence available to him. If he has a permanent residence available to him in both Contracting States, he shall be deemed to be domiciled in the Contracting State with which he has the closer personal and economic relations (centre of vital interests).

(*b*) If it cannot be determined with which Contracting State he has the closer personal and economic relations or if he has no permanent residence available to him in either Contracting State, he shall be deemed to be domiciled in the Contracting State in which he habitually resides.

(*c*) If he habitually resides in both Contracting States or in neither of them, he shall be deemed to be domiciled in the Contracting State of which he is a national.

3. Where, under the provisions of paragraph 1, a body corporate is domiciled in both Contracting States, it shall be deemed to be domiciled in the Contracting State in which its place of actual management is situated. The same shall apply to partnerships and other associations which are not bodies corporate under the national laws by which they are governed.

Article 5

1. The term "permanent establishment" means a fixed place of business in which an enterprise carries on all or part of its activities.

2. The following shall, in particular, be deemed to be permanent establishments:

(*a*) A place of management,

(*b*) A branch,

(*c*) A business office,

(*d*) A factory,

(*e*) A workshop,

(*f*) A mine, a quarry or any other place where natural resources are worked,

(*g*) A construction or assembly project the duration of which exceeds twelve months.

3. The following shall not be deemed to constitute a permanent establishment:

(*a*) The use of facilities exclusively for the storage, display or delivery of goods or merchandise belonging to the enterprise ;

(*b*) The maintenance, exclusively for storage, display or delivery, of a stock of goods or merchandise belonging to the enterprise ;

(*c*) The maintenance, exclusively for processing or finishing by some other enterprise, of a stock of goods or merchandise belonging to the enterprise ;

(*d*) The maintenance of a fixed place of business exclusively for the purpose of purchasing goods or merchandise or procuring information for the enterprise ;

(*e*) The maintenance of a fixed place of business exclusively for advertising, for the supply of information, for scientific research or for similar activities which are in the nature of preparatory or auxiliary activities for the benefit of the enterprise.

4. A person—other than an independent representative within the meaning of paragraph 5—acting in one of the Contracting States on behalf of an enterprise of the other Contracting State shall be deemed to constitute a permanent establishment in the first-mentioned State if he has and habitually exercises a general authority to conclude contracts in that State on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. 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 maintains business relations there through a broker, commission agent or other independent representative acting in the ordinary course of his business as such.