No. 7586

FINLAND
and
DENMARK

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital. Signed at Helsinki, on 7 April 1964

Official texts: Finnish and Danish.

Registered by Finland on 8 February 1965.

FINLANDE
et
DANEMARK

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur la fortune. Signée à Helsinki, le 7 avril 1964

Textes officiels finnois et danois.

Enregistrée par la Finlande le 8 février 1965.

[TRANSLATION — TRADUCTION]

No. 7586. AGREEMENT[1] BETWEEN THE REPUBLIC OF FINLAND AND THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL. SIGNED AT HELSINKI, ON 7 APRIL 1964

The Republic of Finland and the Kingdom of Denmark have decided to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital.

For this purpose, plenipotentiaries have been appointed as follows by:

The President of the Republic of Finland:

Mr. Sigurd von Numers, Minister, Chief of the Legal Department of the Finnish Ministry of Foreign Affairs;

His Majesty the King of Denmark:

Mr. Holger Bech, Ambassador Extraordinary and Plenipotentiary of Denmark at Helsinki,

who, having examined each other's full powers, found in good and due form, have agreed on the following provisions:

Article 1

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

(1) This Agreement shall apply to taxes on income and capital levied by either Contracting State or a subdivision thereof or by a commune or parish, irrespective of the manner in which they are levied.

(2) The term "taxes on income and capital" means all taxes levied on total income or total capital or on a portion of income or capital, including taxes on profits derived from the alienation of movable or immovable property.

[1] Came into force on 13 January 1965, the date of the exchange of the instruments of ratification at Helsinki, in accordance with article 31.

(3) The taxes now in force to which the Agreement shall apply are, in particular :

(*a*) In the case of Finland :
The tax on income and capital (*tulo- ja omaisuusvero*) ;
The communal tax (*kunnallisvero*) ;
The seaman's tax and the church tax (*merimiesvero ja kirkollisvero*).
These taxes shall hereinafter be referred to as "Finnish tax".

(*b*) In the case of Denmark :
The national income and capital tax and the communal income tax (*indkomst- og formueskat til staten, samt kommunal indkomstskat*).
These taxes shall hereinafter be referred to as "Danish tax".

(4) This Agreement shall also apply to all taxes of the same or substantially the same kind which are subsequently levied in addition to, or in place of, the taxes now in force. At the end of each year, the competent authorities of the Contracting States shall inform each other of any changes which have been made in their respective tax laws.

Article 3

(1) In this Agreement, unless the context otherwise requires :

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

(*b*) The term "Denmark" means the Kingdom of Denmark, excluding the Faroe Islands and Greenland ;

(*c*) The term "person" includes individuals, companies and other associations of persons ;

(*d*) The term "company" means a body corporate or any association which is treated as a body corporate for tax purposes ;

(*e*) The terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of one of the Contracting States and an enterprise carried on by a resident of the other Contracting State ;

(*f*) The term "competent authorities" means, in the case of Finland, the Ministry of Finance and, in the case of Denmark, the Minister of Finance or his authorized representative.

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

Article 4

(1) In this Agreement, the term "resident of one of the Contracting States" means any person who, under the law of that State, is liable to taxation there by reason of his domicile, residence, place of management or any similar criterion.

(2) Where, under the provisions of paragraph (1), an individual is a resident of both Contracting States, the following rules shall apply:

(*a*) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which he has the closest personal and economic ties;

(*b*) If the Contracting State with which he has the closest personal and economic ties cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he is customarily present;

(*c*) If he is customarily present in both Contracting States or is not customarily present in either of them, he shall be deemed to be a resident of the State of which he is a national;

(*d*) If he is a national of both Contracting States or is not a national of either of them, the competent authorities of the Contracting States shall decide the question by agreement between them.

(3) Where a person liable to taxation removes from one of the Contracting States in order to take up residence in the other Contracting State, his liability for income tax in the first-mentioned State shall, in so far as it is dependent on his residence status, cease at the end of the day on which the removal is completed.

In so far as taxes on capital are concerned, each Contracting State shall, where a person removes from one State to the other, be entitled to proceed in accordance with its own tax law, except where the competent authorities of the two States agree on exceptions in special cases.

(4) Where, under the provisions of paragraph (1), a person other than an individual is a resident of both Contracting States, the said person shall be deemed to be a resident of the Contracting State in which the place of actual management of such person is situated.

Article 5

(1) The term "permanent establishment" means a fixed place of business in which the activities of an enterprise are wholly or partly carried on.

(2) The term "permanent establishment" specifically includes :

(*a*) A place of management ;

(*b*) A branch ;

(*c*) A business office ;

(*d*) A factory ;

(*e*) A workshop ;

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

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

(3) The term "permanent establishment" does not include :

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

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

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

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

(*e*) The maintenance of a fixed place of business exclusively for advertising purposes, for the collection of information, for scientific research or for similar activities 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 an authority to conclude contracts in that State on behalf of the enterprise, except where his activities are limited to the purchase of goods 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 carries on business dealings in the latter State through a broker, commission agent or other independent representative acting in the ordinary course of his business.

(6) The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in the latter State (either through a permanent