No. 8127

BELGIUM
and
FRANCE

Convention for the avoidance of double taxation and the establishment of rules of reciprocal administrative and legal assistance with respect to taxes on income (with Final Protocol and exchange of letters). Signed at Brussels, on 10 March 1964

Official text: French.

Registered by Belgium on 23 February 1966.

BELGIQUE
et
FRANCE

Convention tendant à éviter les doubles impositions et à établir des règles d'assistance administrative et juridique réciproque en matière d'impôts sur les revenus (avec Protocole final et échange de lettres). Signée à Bruxelles, le 10 mars 1964

Texte officiel français.

Enregistrée par la Belgique le 23 février 1966.

[TRANSLATION — TRADUCTION]

No. 8127. CONVENTION[1] BETWEEN BELGIUM AND FRANCE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE ESTABLISHMENT OF RULES OF RECIPROCAL ADMINISTRATIVE AND LEGAL ASSISTANCE WITH RESPECT TO TAXES ON INCOME. SIGNED AT BRUSSELS, ON 10 MARCH 1964

His Majesty the King of the Belgians and the President of the French Republic,

Desiring to revise and supplement, with due regard for the experience acquired, the changes made in the taxation laws of the two States and the requirements of an equitable distribution of tax burdens, the Convention between Belgium and France for the prevention of double taxation and the settlement of various other questions connected with fiscal matters, signed on 16 May 1931,[2]

Have accordingly decided to conclude a new convention to replace the earlier one and have for that purpose appointed as their plenipotentiaries :

His Majesty the King of the Belgians :

His Excellency Mr. P.-H. Spaak, Minister for Foreign Affairs;

The President of the French Republic :

His Excellency Mr. Henry Spitzmuller, French Ambassador Extraordinary and Plenipotentiary at Brussels,

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

Article 1

1. The purpose of this Convention is to protect residents of each of the Contracting States against double taxation which might result from the simultaneous application of the taxation laws of the said States.

2. An individual shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him.

(*a*) 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 his personal and economic relations are closest, i.e., the Contracting State in which he has the centre of his vital interests.

[1] Came into force on 17 June 1965, through the exchange of the instruments of ratification in Paris, in accordance with article 26.

[2] League of Nations, *Treaty Series*, Vol. CXLI, p. 333.

(*b*) If the Contracting State in which he has the centre of his vital interests cannot be determined, he shall be deemed to be a resident of 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 a resident of the Contracting State of which he is a national.

(*d*) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by agreement.

3. Individuals whose permanent home is on board a ship operated in international traffic shall be deemed to be residents of the Contracting State in which the place of actual management of the enterprise is situated. The same shall apply to individuals whose permanent home is on board a boat engaged in inland waterways transport in the territory of both Contracting States.

If the place of actual management of a shipping or inland waterways transport enterprise is on board a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home port is situated or, in the absence of a home port, in the Contracting State of which the operator is a national.

4. A body corporate shall be deemed to be a resident of the Contracting State in which its place of actual management is situated.

The same shall apply to partnerships (*Sociétés de personnes*) and associations which, under the national laws to which they are subject, do not possess corporate personality.

Article 2

1. This Convention shall apply to taxes on income levied on behalf of the State, of provinces and of local government authorities, irrespective of the manner in which they are levied.

2. The expression « taxes on income » shall be deemed to mean taxes levied on total income, on elements of income or on profits derived from the alienation of movable or immovable property.

3. The existing taxes to which the Convention shall apply are :

A. *In the case of Belgium:*

(1) The tax on individuals (*l'impôt des personnes physiques*);
(2) The tax on companies (*l'impôt des sociétés*);
(3) The tax on bodies corporate (*l'impôt des personnes morales*);
(4) The tax on non-residents (*l'impôt des non-résidents*), including such portion thereof as is collected by means of deductions (*précomptes*) or supplementary deductions (*compléments de précomptes*);

(5) Local surtaxes and related taxes (*les centimes additionnels et taxes annexes*) assessed on the base or the amount of the aforementioned taxes.

B. *In the case of France:*

(1) The tax on the income of individuals (*l'impôt sur le revenu des personnes physiques*);

(2) The complementary tax (*la taxe complémentaire*);

(3) The tax on the profits of companies and other bodies corporate (*l'impôt sur les bénéfices des sociétés et autres personnes morales*);

(4) The real estate tax (land tax or buildings tax) (*la contribution foncière des propriétés bâties et des propriétés non bâties*) and taxes related thereto.

4. The Convention shall also apply to any identical or similar taxes, including local surtaxes and related taxes assessed on the base or the amount of such taxes, which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of any changes which have been made in their taxation laws.

5. If it is deemed advisable to modify certain of the rules governing the application of the Convention, either in the event of an extension of the latter's scope in accordance with the preceding paragraph or by reason of changes in the taxation laws of either Contracting State which do not affect the general principles of those laws as they were taken into consideration in the preparation of this Convention, the necessary adjustments shall be made in supplementary agreements concluded in the spirit of the Convention by way of an exchange of diplomatic notes.

Article 3

1. Income from immovable property, including property accessory thereto and livestock and equipment of agricultural and forestry enterprises, shall be taxable only in the Contracting State in which the property is situated.

2. The term " immovable property " shall be defined in accordance with the law of the Contracting State in which the property in question is situated.

3. For the purposes of this article, rights to which the provisions of private law concerning real property apply, rights of usufruct in immovable property and rights to variable or fixed payments as consideration for the working of mineral deposits, springs and other natural resources shall be deemed to constitute immovable property.

4. The provisions of paragraphs 1 to 3 shall apply to income derived from the direct use or the letting or leasing of immovable property or from the use in any other form of such property, including income from agricultural or forestry enterprises. They shall also apply to profits derived from the alienation of immovable property.

5. The provisions of paragraphs 1 to 4 shall also apply to income from the immovable property of enterprises other than agricultural and forestry enterprises and to income from immovable property used in the exercise of a profession.

Article 4

1. Industrial and commercial profits shall be taxable only in the Contracting State in which the permanent establishment from which they are derived is situated.

The term " industrial and commercial profits " shall not include the income referred to in articles 3, 7, 8, 9, 11, 15 and 16. The said income shall, subject to the provisions of this Convention, be taxed separately or together with industrial and commercial profits in accordance with the laws of each Contracting State.

2. Shares of the commercial profits of an enterprise operated as a civil or other partnership accruing to a partner therein and shares of the commercial profits of companies and associations having no legal status shall be taxable only in the Contracting State in which the enterprise has a permanent establishment and to the extent of the partner's share of the profits of the permanent establishment; the same shall apply to shares of the profits of a *commandite* partnership accruing to an active partner therein.

3. The term " permanent establishment " means a fixed place of business in which the business of an enterprise is wholly or partly carried on.

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

(*a*) A place of management;

(*b*) A branch;

(*c*) An office;

(*d*) A factory;

(*e*) A workshop;

(*f*) A mine, a quarry or any other place of extraction of natural resources;

(*g*) A building site or construction or assembly project which exists for more than six months;

(*h*) Facilities available in either State to the organizers or producers of theatrical presentations, entertainment or games of any kind or to circus or fairground personnel, itinerant vendors, artisans or other persons carrying on an activity which falls within the scope of this article, provided that such facilities are available to them in that State for a total of at least thirty days in the course of a given calendar year.