

No. 8311

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
CANADA**

Agreement for the avoidance of double taxation with respect to taxes on certain classes of income. Signed at Ottawa, on 6 December 1965

Official texts: English and French.

Registered by the United Kingdom of Great Britain and Northern Ireland on 15 September 1966.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
CANADA**

Convention tendant à éviter les doubles impositions en matière d'impôt sur certaines catégories de revenus. Signée à Ottawa, le 6 décembre 1965

Textes officiels anglais et français.

Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 15 septembre 1966.

No. 8311. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF CANADA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON CERTAIN CLASSES OF INCOME. SIGNED AT OTTAWA, ON 6 DECEMBER 1965

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Canada,

Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on certain classes of income,

Have agreed as follows :

Article I

(1) The taxes which are the subject of this Agreement are—

(a) In Canada :

the income taxes, including the old age security tax on income, which are imposed by the Government of Canada (hereinafter referred to as “ Canadian tax ”).

(b) In the United Kingdom of Great Britain and Northern Ireland :

the income tax, including surtax, the profits tax and the corporation tax (hereinafter referred to as “ United Kingdom tax ”).

(2) This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the taxes referred to in paragraph (1) by either Contracting Government.

Article II

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

(a) the term “ United Kingdom ” means Great Britain and Northern Ireland;

(b) the terms “ one of the territories ” and “ the other territory ” mean the United Kingdom or Canada, as the context requires;

(c) the term “ taxation authorities ” means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorized representative; in the case of Canada, the Minister of National Revenue or his authorized repre-

¹ Came into force on 12 May 1966, in accordance with article X.

sentative; and, in the case of any territory to which this Agreement is extended under Article IX, the competent authority for the administration in such territory of the taxes to which this Agreement applies;

(d) the term "tax" means United Kingdom tax or Canadian tax, as the context requires;

(e) the term "person" includes any body of persons, corporate or not corporate;

(f) the term "company" includes any body corporate;

(g) (i) the terms "resident of the United Kingdom" and "resident of Canada" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and any person who is resident in Canada for the purposes of Canadian tax ;

(ii) where, by reason of the provisions of sub-paragraph (i) above, an individual is a resident of both territories, then this case shall be solved in accordance with the following rules :

(aa) he shall be deemed to be a resident of the territory in which he has a permanent home available to him; if he has a permanent home available to him in both territories, he shall be deemed to be a resident of the territory with which his personal and economic relations are closest (hereinafter referred to as his centre of vital interests);

(bb) if the territory in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either territory, he shall be deemed to be a resident of the territory in which he has an habitual abode;

(cc) if he has an habitual abode in both territories or in neither of them, he shall be deemed to be a resident of the territory of which he is a national;

(dd) if he is a national of both territories or of neither of them, the taxation authorities of the territories shall determine the question by mutual agreement;

(iii) where, by reason of the provisions of sub-paragraph (i) above, a person other than an individual is a resident of both territories, then it shall be deemed to be a resident of the territory in which its place of effective management is situated;

(h) the terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom, or a person who is a resident of Canada, as the context requires;

(i) the terms "United Kingdom enterprise" and "Canadian enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Canada, and the terms "enter-

prise of one of the territories ” and “ enterprise of the other territory ” mean a United Kingdom enterprise or a Canadian enterprise, as the context requires;

(j) (i) the term “ permanent establishment ” means a fixed place of business in which the business of an enterprise is wholly or partly carried on;

(ii) the term “ permanent establishment ” shall include especially—

(aa) a place of management;

(bb) a branch;

(cc) an office;

(dd) a factory;

(ee) a workshop;

(ff) a mine, quarry or other place of extraction of natural resources;

(gg) a building site or construction or assembly project which exists for more than twelve months;

(iii) the term “ permanent establishment ” shall not be deemed to include—

(aa) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(bb) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(cc) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(dd) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;

(ee) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;

(iv) a person acting in one of the territories on behalf of an enterprise of the other territory—other than an agent of an independent status to whom subparagraph (j) (v) applies—shall be deemed to be a permanent establishment in the first-mentioned territory—

(aa) if he has, and habitually exercises in that first-mentioned territory, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise, or

(bb) if he maintains in that first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise;

(v) an enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business;

(vi) the fact that a company which is a resident of one of the territories controls or is controlled by a company which is a resident of the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other;

(k) the term "international traffic" includes traffic between places in one country in the course of a voyage which extends over more than one country;

(l) the term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

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

Article III

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Canadian tax unless the enterprise carries on business in Canada through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, tax may be imposed by Canada on those profits but only on so much of them as is attributable to that permanent establishment.

(2) The industrial or commercial profits of a Canadian enterprise shall not be subject to United Kingdom tax unless the enterprise carries on business in the United Kingdom through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, tax may be imposed by the United Kingdom on those profits but only on so much of them as is attributable to that permanent establishment.

(3) Where an enterprise of one of the territories carries on business in the other territory through a permanent establishment situated therein, there shall in each territory be attributed to that permanent establishment the industrial or commercial profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.