No. 8576

NETHERLANDS
and
FEDERAL REPUBLIC OF GERMANY

Agreement for the avoidance of double taxation with respect to taxes on income and fortune and various other taxes, and for the regulation of other questions relating to taxation (with Supplementary Protocol, Final Protocol and exchange of letters). Signed at The Hague, on 16 June 1959

Official texts: Dutch and German.

Registered by the Netherlands on 22 March 1967.

PAYS-BAS
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention tendant à éviter la double imposition en ce qui concerne les impôts sur le revenu, les impôts sur la fortune et divers autre impôts, et à réglementer d'autres questions d'ordre fiscal (avec Protocole additionnel, Protocole final et échange de lettres). Signée à La Haye, le 16 juin 1959

Textes officiels néerlandais et allemand.

Enregistrée par les Pays-Bas le 22 mars 1967.

[TRANSLATION — TRADUCTION]

No. 8576. AGREEMENT[1] BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE AND VARIOUS OTHER TAXES, AND FOR THE REGULATION OF OTHER QUESTIONS RELATING TO TAXATION. SIGNED AT THE HAGUE, ON 16 JUNE 1959

The Kingdom of the Netherlands and the Federal Republic of Germany, desiring to avoid double taxation with respect to taxes on income and fortune and various other taxes, and to regulate other questions relating to taxation, have agreed to conclude the following Agreement. For that purpose they have appointed as their plenipotentiaries :

Her Majesty the Queen of the Netherlands :

Dr. J. M. A. H. Luns, Minister for Foreign Affairs,

The President of the Federal Republic of Germany :

Dr. J. Löns, Ambassador Extraordinary and Plenipotentiary at The Hague,

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

Article 1

(1) This Agreement shall apply to taxes which, under the legislation of each of the Contracting States, are levied either directly on income or fortune or on various other tax bases on behalf of the States or of *Länder*, municipalities or associations of municipalities.

(2) The taxes which are the subject of this Agreement are :

1. In the Federal Republic of Germany :

(*a*) The income tax (*Einkommensteuer*) (including the wages tax (*Lohnsteuer*), the tax on income from capital (*Kapitalertragsteuer*) and the tax on directors'fees (*Aufsichtsratsteuer*)),

(*b*) The corporation tax (*Körperschaftsteuer*),

[1] Came into force on 18 September 1960, one month after the exchange of the instruments of ratification, which took place at Bonn on 18 August 1960, in accordance with article 29.

(*c*) The Berlin emergency contribution (*Abgabe Notopfer Berlin*),
(*d*) The fortune tax (*Vermögensteuer*),
(*e*) The business tax (*Gewerbesteuer*),
(*f*) The land tax (*Grundsteuer*);

2. In the Kingdom of the Netherlands :
(*a*) The income tax (*inkomstenbelasting*),
(*b*) The wages tax (*loonbelasting*),
(*c*) The corporation tax (*vennootschapsbelasting*),
(*d*) The dividends tax (*dividendbelasting*),
(*e*) The tax on directors' fees (*commissarissenbelasting*),
(*f*) The fortune tax (*vermogensbelasting*),
(*g*) The land tax (*grondbelasting*),
(*h*) The local profits tax (local taxes on the increase in value of certain plots of land) (*gemeentelijke baatbelastingen*),
(*i*) The local building plot tax (*gemeentelijke bouwterreinbelastingen*),
(*j*) The road, street and waterway tax (*wegen-*, *straat- en vaartbelastingen*),
(*k*) The mine tax (*het recht op de mijnen*).

(3) This Agreement shall apply to any other tax of the same or substantially similar character which may be imposed by either Contracting State after the date of signature of this Agreement.

(4) The chief financial authorities of the Contracting States shall inform each other of new taxes introduced, of any material changes made in existing taxes covered by this Agreement, or of the abolition of any such taxes.

Article 2

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

1. The term " person " means both individuals and bodies corporate, bodies corporate being deemed to include associations and assets liable as such to taxation as bodies corporate, as also the Netherlands *commanditaire vennootschappen op aandelen* (limited partnerships with share capital);

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

(*a*) The following, in particular, shall be deemed to be permanent establishments :

(*aa*) A place of management,

(*bb*) A branch,

(*cc*) A business office,

(*dd*) A factory,

(*ee*) A workshop,

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

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

(*b*) The following shall not be deemed to constitute a permanent establishment :

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

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

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

(*dd*) The maintenance of a fixed place of business exclusively for the purchase of goods and merchandise or for procuring information for the enterprise;

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

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

(*d*) 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 there through a broker, commission agent or other independent representative acting in the ordinary course of his business as such.

(*e*) The fact that a company which is domiciled in one of the Contracting States controls, or is controlled by, a company which is domiciled in the other State or carries on business dealings there (either through a permanent establishment or otherwise) shall not of itself constitute one of the two companies a permanent establishment of the other.

3. The term " chief financial authority " means, in the case of the Federal Republic of Germany, the Federal Minister of Finance, and, in the case of the Kingdom of the Netherlands, the Minister of Finance or his authorized representative.

4. The term " national " means :

(*a*) In relation to the Federal Republic of Germany :

All German nationals within the meaning of article 116, paragraph 1, of the Basic Law for the Federal Republic of Germany;

(*b*) In relation to the Kingdom of the Netherlands :

All Netherlands nationals and, in addition, all Netherlands subjects living in the Netherlands.

A body corporate constituted under the laws in force in either Contracting State shall also be deemed to be a national of that State.

5. The term " enterprise of one of the Contracting States " or " enterprise of the other State " means, as the context requires, a business enterprise carried on by a person domiciled in the Netherlands or a business enterprise carried on by a person domiciled in the Federal Republic of Germany.

(2) In the application of this Agreement by either Contracting State, any term not defined in this 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 this Agreement.

Article 3

(1) An individual shall be deemed for the purposes of this Agreement to be domiciled in the Contracting State in which he has a dwelling under circumstances justifying the assumption that he will retain and use it.

(2) Where an individual does not possess a dwelling under the circumstances referred to in paragraph (1) in either Contracting State but regularly resides in one of the States, he shall be deemed for the purposes of this Agreement to be domiciled in the State in which he has his regular residence. A person has his regular residence in a State if he resides there under circumstances justifying the assumption that his stay in that State is not merely temporary.

(3) Where an individual may be deemed under the preceding paragraphs to be domiciled in both Contracting States, he shall be deemed for the purposes of articles 4-19 of this Agreement to be domiciled in the State with which he has the closer personal and economic ties (centre of vital interests). If the centre of