No. 8734

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and FEDERAL REPUBLIC OF GERMANY

Convention for the avoidance of double taxation and the prevention of fiscal evasion. Signed at Bonn, on 26 November 1964

Official texts: English and German.

Registered by the United Kingdom of Great Britain and Northern Ireland on 22 August 1967.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD et RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

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 Bonn, le 26 novembre 1964

Textes officiels anglais et allemand.

Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 22 août 1967.

No. 8734. CONVENTION[1] BETWEEN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION. SIGNED AT BONN, ON 26 NOVEMBER 1964

The United Kingdom of Great Britain and Northern Ireland and the Federal Republic of Germany,

Desiring to conclude a new Convention for the avoidance of double taxation and the prevention of fiscal evasion,

Have agreed as follows:

Article I

(1) The taxes which are the subject of the present Convention are:

(*a*) In the Federal Republic of Germany:
the *Einkommensteuer* (income tax),
the *Körperschaftsteuer* (corporation tax),
the *Vermögensteuer* (capital tax), and
the *Gewerbesteuer* (trade tax)
(hereinafter referred to as "Federal Republic tax");

(*b*) In the United Kingdom of Great Britain and Northern Ireland:
income tax (including surtax), and
profits tax
(hereinafter referred to as "United Kingdom tax").

(2) This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

Article II

(1) In the present Convention, unless the context otherwise requires:

(*a*) the term "United Kingdom" means Great Britain and Northern Ireland excluding the Channel Islands and the Isle of Man;

[1] Came into force on 30 January 1967, after the expiration of one month following the date of the exchange of the instruments of ratification which took place at London on 30 December 1966, in accordance with article XXIII.

(*b*) the term "the Federal Republic" means the territory in which the Basic Law for the Federal Republic of Germany is in force;

(*c*) the terms "one of the territories" and "the other territory" mean the United Kingdom or the Federal Republic, as the context requires;

(*d*) the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representatives, in the case of the Federal Republic, the Federal Minister of Finance, and, in the case of any territory to which the present Convention is extended under Article XXI, the competent authority for the administration in such territory of the taxes to which the present Convention applies;

(*e*) the term "tax" means United Kingdom tax or Federal Republic tax, as the context requires;

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

(*g*) the term "company" means any body corporate and any entity which is treated as a body corporate for tax purposes;

(*h*) (i) the terms "resident of the United Kingdom" and "resident of the Federal Republic" 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 the Federal Republic (subject to unlimited tax liability) for the purposes of Federal Republic tax; but

(ii) where by reason of the provisions of sub-paragraph (*h*) (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 the Contracting State of which he is a national;

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

(iii) where by reason of the provisions of sub-paragraph (*h*) (i) above a legal person 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. The same provision shall apply to partnerships and associations which under the national laws by which they are governed are not legal persons;

(*i*) 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 the Federal Republic, as the context requires;

(*j*) the terms "United Kingdom enterprise" and "Federal Republic 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 the Federal Republic, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Federal Republic enterprise, as the context requires;

(*k*) the term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;

(*l*) (i) the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on;

(ii) a 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 a territory on behalf of an enterprise of the other territory—other than an agent of an independent status to whom sub-paragraph (*l*) (v) below applies—shall be deemed to be a permanent establishment in the first-mentioned territory if he has, and habitually exercises in that 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;

(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;

(*m*) the term "international traffic" includes traffic between places in any territory in the course of a voyage which extends over two or more territories.

(2) Where the present Convention provides (with or without other conditions) that income from a source in one of the territories shall be exempt from tax in that territory if it is subject to tax in the other territory, and, under the law in force in that other territory, the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other territory and not by reference to the full amount thereof, then the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to so much of the income as is remitted to or received in the other territory.

(3) In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined in the present Convention shall, unless the context otherwise requires, have the meaning which it has under the laws in force in the territory of that Party relating to the taxes which are the subject of the present Convention.

Article III

(1) The industrial or commercial profits of an enterprise of one of the territories shall be subjected to tax only in that territory unless the enterprise carries on a trade or business in the other territory through a permanent establish-