No. 8968

ISRAEL
and
FEDERAL REPUBLIC OF GERMANY

Convention for the avoidance of double taxation with respect to taxes on income and to the *Gewerbesteuer* (trade tax) (with exchange of letters). Signed at Bad Godesberg, on 9 July 1962

Official texts: Hebrew, German and English.

Registered by Israel on 13 February 1968.

ISRAËL
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et de contribution des patentes (avec échange de lettres). Signée à Bad Godesberg, le 9 juillet 1962

Textes officiels hébreu, allemand et anglais.

Enregistré par Israël le 13 février 1968.

No. 8968. CONVENTION[1] BETWEEN THE GOVERNMENT OF THE STATE OF ISRAEL AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND TO THE *GEWERBESTEUER* (TRADE TAX). SIGNED AT BAD GODESBERG, ON 9 JULY 1962

The Government of the State of Israel and the Government of the Federal Republic of Germany,

Desiring to avoid double taxation with respect to taxes on income have agreed as follows:

Article 1

(1) This Convention shall apply to taxes on income imposed on behalf of the State of Israel or the Federal Republic of Germany, a Land or a political subdivision or local authority thereof, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income all taxes imposed on total income or on the elements of income, including taxes on profits derived from the alienation of movable or immovable property, as well as taxes on capital appreciation and the *Gewerbesteuer* imposed by the Federal Republic of Germany.

(3) The existing taxes to which this Convention shall apply are, in particular:

(*a*) in the Federal Republic of Germany:

- (*aa*) the *Einkommensteuer* (income tax) including the *Lohnsteuer*, the *Kapitalertragsteuer* and the *Aufsichtsratsteuer*.
- (*bb*) the *Koerperschaftsteuer* (corporation tax),
- (*cc*) the *Gewerbesteuer* (trade tax),

(hereinafter referred to as "Federal Republic tax";

(*b*) in the State of Israel:

- (*aa*) the income tax including the company tax,
- (*bb*) the land betterment tax,

(hereinafter referred to as "Israeli tax".

[1] Came into force on 21 August 1966, one month after the exchange, which took place at Bonn on 21 July 1966, of the instruments certifying that the constitutional requirements had been fulfilled, in accordance with article 25.

(4) 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. The competent authorities of the State of Israel and the Federal Republic of Germany shall, if necessary, notify to each other any changes which have been made in their respective taxation laws.

(5) The competent authorities of the State of Israel and the Federal Republic of Germany shall by mutual agreement resolve any doubts which arise as to taxes to which this Convention ought to apply.

(6) This Convention applies to persons who are residents of the territories of either or both of the Contracting Parties.

Article 2

(1) For the purposes of this Convention:

1. The term "Federal Republic" means the Federal Republic of Germany; the term "Israel" means the State of Israel.

2. The terms "one of the territories" and "the other territory" mean the Federal Republic or Israel, as the context requires.

3. The term "person" means natural persons and companies.

4. The term "company" means any body corporate and any entity which is treated as a body corporate for tax purposes.

5. (*a*) The term "resident of one of the territories" means a resident of the Federal Republic or a resident of Israel, as the context requires. The terms "resident of the Federal Republic" and "resident of Israel" mean respectively any person who is resident in the Federal Republic for the purposes of Federal Republic tax (subject to unlimited tax liability) and any person who is resident in Israel for the purposes of Israeli income tax.

(*b*) Where by reason of the provisions of sub-paragraph (*a*) 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 (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. If he has an habitual abode in both territories or in neither of them, the competent authorities of the territories shall determine the question by mutual agreement.

(*c*) Where by reason of the provisions of sub-paragraph (*a*) above a company 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 are not companies within the meaning of paragraph (1), sub-paragraph 4 above.

6. The terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Federal Republic enterprise or an Israeli enterprise, as the context requires; the terms "Federal Republic enterprise" and "Israeli enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the Federal Republic and an industrial or commercial enterprise or undertaking carried on by a resident of Israel.

7. (*a*) The term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(*b*) 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.

(*c*) 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.

(*d*) 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 sub-paragraph (*e*) below applies—shall be deemed to be a permanent establishment in the first-mentioned territory if he has, and habitually exercices 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.

(*e*) 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.

(*f*) 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.

8. The term "dividends" means income arising from shares, participations in a limited liability company (*Gesellschaft mit beschraenkter Haftung*), mining shares (*Kuxen*) and "jouissance" shares (*Genussscheine*), and income derived by a sleeping partner, who does not participate in the capital of the undertaking, from his participation as such. The term shall also include distributions on investment trust certificates.

9. The term "national" means:

(*a*) in respect of the Federal Republic:
all Germans in the meaning of Article 116 paragraph 1 of the Basic Law for the Federal Republic of Germany;

(*b*) in respect of Israel:
all Israeli citizens;

(*c*) all companies, partnerships and associations deriving their status as such from the law in force in one of the territories.

10. The term "competent authorities" means in the case of the Federal Republic, the Federal Minister of Finance, and, in the case of Israel, the Minister of Finance or his authorized representative.

(2) Where according to this Convention income from sources within one of the territories shall not be taxable or shall be taxable only at a reduced rate in this territory, and, under the law in force in the other territory, the said income is subject to tax by reference to the amount thereof which is remitted to or received in that