No. 9091

ARGENTINA
and
FEDERAL REPUBLIC OF GERMANY

Agreement for the Avoidance of Double Taxation with respect to Taxes on Income and Fortune (with exchange of notes). Signed at Buenos Aires, on 13 July 1966

Official texts : Spanish and German.

Registered by Argentina on 6 May 1968.

ARGENTINE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et d'impôts sur la fortune (avec échange de notes). Signée à Buenos Aires, le 13 juillet 1966

Textes officiels espagnol et allemand.

Enregistrée par l'Argentine le 6 mai 1968.

[TRANSLATION — TRADUCTION]

No. 9091. AGREEMENT[1] BETWEEN THE ARGENTINE REPUBLIC AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE. SIGNED AT BUENOS AIRES, ON 13 JULY 1966

The Federal Republic of Germany and the Argentine Republic, desiring to conclude an Agreement for the Avoidance of Double Taxation with respect to Taxes on Income and Fortune, have agreed as follows:

Article 1

This Agreement shall apply to persons who are resident in one or both of the Contracting States.

Article 2

(1) The taxes to which this Agreement applies are:

1. In the case of the Federal Republic of Germany:
   (*a*) The income tax *(Einkommensteuer);*
   (*b*) The corporation tax *(Körperschaftsteuer);*
   (*c*) The tax on fortune *(Vermögensteuer);*
   (*d*) The business tax *(Gewerbesteuer);*
   (hereinafter referred to as "German tax");
2. In the case of the Argentine Republic:
   (*a*) The income tax *(impuesto a los réditos);*
   (*b*) The capital gains tax *(impuesto a las ganancias eventuales);*
   (*c*) The emergency tax *(impuesto de emergencia);*
   (hereinafter referred to as "Argentine tax").

(2) The Agreement shall also apply to any taxes of the same or a substantially similar nature which are in the future levied in addition to or in place of the existing taxes.

[1] Came into force on 19 October 1967, one month after the exchange of the instruments of ratification, which took place at Bonn on 19 September 1967, in accordance with article 27 (2).

(3) The provisions of this Agreement concerning the taxation of income or profits shall apply, *mutatis mutandis,* to the German business tax, which is not computed on the basis of income or fortune.

Article 3

(1) For the purposes of this Agreement, unless the context otherwise requires:

(*a*) The term "Federal Republic" means the Federal Republic of Germany and, when used in a geographical sense, means the territory in which the Basic Law for the Federal Republic of Germany is in force;

(*b*) The term "Argentina" means the Argentine Republic;

(*c*) The terms "one of the Contracting States" and "the other Contracting State" mean the Federal Republic or Argentina, as the context requires;

(*d*) The term "person" includes individuals and companies;

(*e*) The term "company" means anybody corporate or any legal entity which is treated as a body corporate for purposes of taxation;

(*f*) The terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean, respectively, an enterprise operated by a resident of one of the Contracting States and an enterprise operated by a resident of the other Contracting State;

(*g*) The term "competent authority" means, in the case of the Federal Republic, the Federal Minister of Finance and, in the case of Argentina, the Secretary of State for Finance.

(2) In the application of this Agreement by one of the Contracting States, any term not otherwise defined in the Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws of that State relating to the taxes to which the Agreement applies.

Article 4

(1) For the purposes of this Agreement the term "resident of one of the Contracting States" means a person having his domicile, permanent residence, place of habitual abode, place of management or head office in that State.

(2) Where, under the provisions of paragraph 1, an individual is a resident of both Contracting States, the following shall apply:

(*a*) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. 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 (centre of vital interests);

(*b*) If the Contracting State in which he has his centre of vital interests cannot be determined or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(*c*) If he has an habitual abode in both Contracting States or in neither of them, the competent authorities of the Contracting States shall settle the matter by agreement between them.

(3) Where, under the provisions of paragraph 1, a company is a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which its place of actual management is situated.

Article 5

(1) For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall, in particular, be deemed to include:

(*a*) A place of management;

(*b*) A branch;

(*c*) An office;

(*d*) A factory;

(*e*) A workshop;

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

(*g*) A construction or assembly project the duration of which exceeds six months.

(3) The term "permanent establishment" shall not be deemed to include :

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

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

(*c*) The maintenance, solely for the purpose of processing or manufacture by another enterprise, of a stock of goods or marchandise belonging to the enterprise;

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

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

(4) An enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if it concludes contracts in that State more than occasionally through one or more persons — other than independent representatives within the meaning of paragraph 5 — who are authorized to conclude such contracts on behalf of the enterprise, unless the purpose of the contracts is the purchase of goods or merchandise for the enterprise.

(5) An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other 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.

(6) The fact that a company which is a resident of one of the Contracting States controls or is controlled by a company which is a resident of the other Contracting State or which carries on business there (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

(7) Without prejudice to the provisions of paragraphs 3 (*d*) and 4, an enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if the enterprise maintains in the latter State, for the purchase of agricultural products, a fixed place of business or a representative within the meaning of paragraph 4.