No. 9184

SOUTH AFRICA
and
SWITZERLAND

Convention for the avoidance of double taxation with respect to taxes on income. Signed at Pretoria, on 3 July 1967

Official texts: English, Afrikaans and German.

Registered by South Africa on 14 August 1968.

AFRIQUE DU SUD
et
SUISSE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu. Signée à Pretoria, le 3 juillet 1967

Textes officiels anglais, afrikaans et allemand.

Enregistrée par l'Afrique du Sud le 14 août 1968.

No. 9184. CONVENTION[1] BETWEEN THE REPUBLIC OF SOUTH AFRICA AND THE SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME. SIGNED AT PRETORIA, ON 3 JULY 1967

The Government of the Republic of South Africa and the Swiss Federal Council,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,

Have appointed for that purpose as their respective Plenipotentiaries :

The Government of the Republic of South Africa :

Dr. Nicolaas Diederichs, Minister of Finance of the Republic of South Africa

The Swiss Federal Council :

Dr. Roy Hunziker, Ambassador Extraordinary and Plenipotentiary of the Swiss Confederation in South Africa

Who, having communicated to one another their full powers, found in good and due form, have agreed as follows :

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

PERSONAL SCOPE

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

[1] Came into force on 11 July 1968 by the exchange of the instruments of ratification, which took place at Berne, in accordance with article 27.

2. There shall be regarded as taxes on income all ordinary and extraordinary taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are, in particular :

(*a*) in the case of South Africa :
(1) the normal tax;
(3) the non-resident shareholders' tax;
(3) the undistributed profits tax;
(4) the provincial income tax; and
(5) the provincial personal taxes
(hereinafter referred to as " South African Tax ");

(*b*) in the case of Switzerland :
the federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, etc.)

(hereinafter referred to as " Swiss Tax ").

4. The 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. At the end of each year, the competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

5. The Convention shall not apply to Federal anticipatory tax withheld at the source on prizes in a lottery.

CHAPTER II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires :

(*a*) the term " South Africa " means the Republic of South Africa;

(*b*) the term " Switzerland " means the Swiss Confederation;

(*c*) the terms " a Contracting State " and " the other Contacting State " mean South Africa or Switzerland, as the context requires;

(*d*) the term " person " comprises an individual, a company and any other body of persons;

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

(*f*) the terms " enterprise of a Contracting State " and " enterprise of the other Contracting State " mean respectively an enterprise carried on by a resident of a Contracting State (including that State itself, its political subdivisions and local authorities) and an enterprise carried on by a resident of the other Contracting State (including that State itself, its political subdivisions and local authorities);

(*g*) the term " competent authority " means :

(1) in South Africa : the Secretary for Inland Revenue or his authorised representative,

(2) in Switzerland : the Director of the Federal Tax Administration or his authorised representative.

2. South Africa reserves the right to tax the income which members of a Swiss partnership who are ordinarily resident in South Africa derive from or through such partnership.

3. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article 4

FISCAL DOMICILE

1. For the purpose of this Convention, the term " resident of a Contracting State " means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules :

(*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 has not 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, he shall be deemed to be a resident of the Contracting State of which he is a national;

(*d*) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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 include especially :

(*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 building site or construction or assembly project which exists for more than twelve months.

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

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

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