No. 9445

FRANCE
and
ITALY

Convention for the avoidance of double taxation and to settle certain other questions with respect to direct taxes on income and fortune (with exchange of letters). Signed at Paris on 29 October 1958

Additional Agreement amending and supplementing the above-mentioned Convention (with protocol). Signed at Paris on 6 December 1965

Authentic texts of the Convention and the Additional Agreement : French and Italian.

Authentic text of the exchange of letters: French.

Registered by France on 3 March 1969.

[TRANSLATION - TRADUCTION]

CONVENTION[1] BETWEEN FRANCE AND ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION AND TO SETTLE CERTAIN OTHER QUESTIONS WITH RESPECT TO DIRECT TAXES ON INCOME AND FORTUNE

The President of the French Republic and

the President of the Italian Republic,

desirous of avoiding double taxation and of settling certain other questions relating to direct taxes on income and fortune, have decided to conclude a Convention and have for that purpose appointed as their plenipotentiaries:

The President of the French Republic:

His Excellency Mr. Louis Joxe, Ambassador of France, General Secretary of the Ministry of Foreign Affairs

The President of the Italian Republic:

His Excellency Mr. Alberto Rossi Longhi, Ambassador Extraordinary and Plenipotentiary of Italy

who, having communicated to each other their full powers, found in good and due form, have agreed on the following provisions:

Article 1

This Convention shall apply to individuals domiciled in France or in Italy and to French and Italian bodies corporate.

Article 2

Paragraph 1. This Convention shall determine the rules applicable to the following taxes:

A. In France:

(1) The tax on the income of individuals (proportional tax and progressive surtax) *(l'impôt sur le revenu des personnes physiques [taxe proportionnelle et surtaxe progressive]);*

[1] Came into force on 15 December 1967 by the exchange of the instruments of ratification, which took place at Rome, in accordance with article 29.

(2) The presumptive tax on certain profits from non-commercial professions *(le versement forfaitaire applicable à certains bénéfices des professions non commerciales)*;

(3) The tax on the profits of companies and other bodies corporate *(l'impôt sur les bénéfices des sociétés et autres personnes morales)*.

B. In Italy:

(1) The tax on income from land *(imposta sui redditi dei terreni)*;

(2) The tax on income from buildings *(imposta sui redditi dei fabbricati)*;

(3) The tax on income from movable wealth *(imposta sui redditi di ricchezza mobile)*;

(4) The tax on agricultural income *(imposta sui redditi agrari)*;

(5) The progressive supplementary income tax *(imposta complementare progressiva sul reddito)*;

(6) The company tax *(imposta sulle società)*;

(7) The tax on bonds *(imposta sulle obbligazioni)*.

Paragraph 2. This Convention shall also apply to taxes on income levied by provinces, departments, municipalities, chambers of commerce and all other local authorities.

It shall also apply to any other similar taxes imposed after its signature in the territory of either of the Contracting States on income, fortune, or increase to fortune.

Paragraph 3. It is agreed that if the taxation laws of either State are amended in a manner substantially affecting the nature or the character of the taxes referred to in paragraph 1 of this article, the competent authorities of the two States shall agree on such action as may be necessary.

Article 3

In this Convention:

Paragraph 1. The terme " France ", used in a geographical sense, means only metropolitan France and the overseas departments (Guadeloupe, Martinique, Guiana and Réunion);

The term " Italy ", used in the same sense, means the territory of the Italian Republic.

Paragraph 2. (*a*) The fiscal domicile of an individual shall be the place in which he has his " permanent home ", the latter expression being understood to mean the centre of vital interests, i.e. the place with which his personal relations are closest.

Where the domicile of an individual cannot be determined on the basis of the foregoing sub-paragraph, he shall be deemed to be domiciled in that one of the two States in which he principally resides. If he resides for equal periods in each of the two States, he shall be deemed to have his domicile in the Contracting State of which he is a national; if he is a national of both States, or of neither of them, the chief administrative authorities of the two States shall determine the question by agreement.

(*b*) The fiscal domicile of a body corporate shall be the place in which it has its centre of actual management.

Paragraph 3. Where a taxpayer permanently transfers his domicile from one State to the other, he shall cease to be liable in the first-mentioned State to any taxes applied on the basis of domicile from the date on which the transfer took place. Liability in the other State to such taxation shall begin on that date.

Paragraph 4. 1. The following shall be deemed to be permanent establishments: centres of actual management, factories or workshops, places for the working of mines, mineral deposits or other natural resources, branches, stores, offices, laboratories, and any other fixed places of business in which the business of the enterprise is wholly or partly carried on.

2. The following shall in particular be deemed to be permanent establishments:

(*a*) Sites established by an enterprise in one of the two States for the execution of public or private works in that State, where the duration of such works exceeds a total of three months in a period of twelve consecutive months;

(*b*) Representations or agencies, where the representative or agent habitually exercises a general authority enabling him to negotiate and conclude contracts on behalf of the enterprise. An agent shall in particular be demeed to have such authority if he regularly withdraws goods or merchandise from a stock for sale or delivery to customers.

3. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other State because:

(*a*) It maintains in the second-mentioned State a warehouse the sole purpose of which is to facilitate the delivery in that State of goods or merchandise covered by sales contracts concluded in the first-mentioned State;

(*b*) It has in any form whatsoever an interest in a company or body corporate which is a taxpayer of the second-mentioned State;

(*c*) It carries on business in the second-mentioned State through a genuinely independent agent (broker, commission agent or other intermediary) acting in the course of his normal business, or through a legally independent company (e.g. a subsidiary);

(*d*) It maintains offices, even if they are fixed places of business, exclusively for the purchase of merchandise for its stocks.

Paragraph 5. So far as concerns the taxation of their profits in accordance with the provisions of article 5, insurance enterprises shall be deemed to have a permanent establishment in one of the two States if they collect premiums in the territory of that State or insure risks situated therein through a representative.

Article 4

Paragraph 1. Income from immovable property, including profits from agricultural and forestry enterprises and profits derived from the alienation of such property, shall be taxable only in the State in which the property is situated.

Paragraph 2. Royalties paid for the use of immovable property, for the exercise of hunting, fishing and other similar rights or for the working of mines, quarries or other natural resources shall be taxable only in the State in which the property to which the royalties relate is situated.

Article 5

Paragraph 1. Where an enterprise operated in one of the Contracting States has a permanent establishment within the meaning of article 3 of this Convention in the other State, income derived from all the operations effected by that establishment and profits arising from the total or partial alienation of assets invested in the said establishment shall be taxable only in the latter State.

Paragraph 2. If the actual amount of the income realized by the permanent establishment cannot be determined exactly and separately from the accounts or from other information, the taxation authorities of the two States shall if necessary agree on the formulation of rules of apportionment for determining the share of the income of the enterprise as a whole which may equitably be attributed to the establishment.