No. 9662

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
and
SWAZILAND

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at London on 26 November 1968

Authentic text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 24 June 1969.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD
et
SOUAZILAND

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Londres le 26 novembre 1968

Texte authentique : anglais.

Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 24 juin 1969.

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF SWAZILAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Swaziland;

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

(1) The taxes which are the subject of this Agreement are—

(*a*) in the United Kingdom of Great Britain and Northern Ireland—

(i) the income tax (including surtax);
(ii) the corporation tax; and
(iii) the capital gains tax;

(*b*) in Swaziland—

(i) the normal tax;
(ii) the non-resident shareholders' tax; and
(iii) the non-residents' tax on interest.

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing

[1] Came into force on 18 March 1969, the date when the last of all such things had been done in the United Kingdom and Swaziland as were necessary to give the Agreement the force of law in the two countries, respectively, in accordance with article 27 (1).

taxes. The competent authorities of the Contracting States shall notify to each other any changes which are made in their respective taxation laws.

Article 3

GENERAL DEFINITIONS

(1) In this Agreement, unless the context otherwise requires—

(*a*) the term " United Kingdom " means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea-bed and sub-oil and their natural resources may be exercised ;

(*b*) the term " Swaziland " means the Kingdom of Swaziland ;

(*c*) the term " nationals " means—

(i) in relation to the United Kingdom, all citizens of the United Kingdom and Colonies who derive their status as such from their connection with the United Kingdom and all legal persons, partnerships and associations deriving their status as such from the law in force in the United Kingdom ;

(ii) in relation to Swaziland, all Swaziland citizens and all legal persons, partnerships and associations deriving their status as such from the law in force in Swaziland ;

(*d*) the term " United Kingdom tax " means tax imposed by the United Kingdom being tax to which this Agreement applies by virtue of Article 2 ; the term " Swaziland tax " means tax imposed by Swaziland being tax to which this Agreement applies by virtue of Article 2 ;

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

(*f*) the terms " a Contracting State " and " the other Contracting State " mean the United Kingdom or Swaziland, as the context requires ;

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

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

(*i*) 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 and an enterprise carried on by a resident of the other Contracting State ;

(*j*) the term " competent authority " means, in the case of the United Kingdom the Commissioners of Inland Revenue or their authorised representative, and in the case of Swaziland, the Collector of Income Tax or his authorised representative.

(2) As regards the application of this Agreement 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 this Agreement.

Article 4

FISCAL DOMICILE

(1) For the purposes of this Agreement, the term " resident of a Contracting State " means, subject to paragraphs (2) and (3) of this Article, 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 ; the term does not include any individual who is liable to tax in that Contracting State only if he derives income from sources therein. The terms " resident of the United Kingdom " and " resident of Swaziland " shall be construed accordingly.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status 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) of this Article 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 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 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;

(*c*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another 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 the purpose of advertising, for the supply of information, for scientific research