

**UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND
and
UNITED STATES OF AMERICA**

Convention and Protocol for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income. Signed at Washington, on 16 April 1945 and 6 June 1946, respectively

Came into force on 25 July 1946, upon the exchange of instruments of ratification at Washington.

English official text communicated by the Permanent United Kingdom Representative to the United Nations. The registration took place on 7 August 1947.

**ROYAUME-UNI DE GRANDE-BRETAGNE ET
D'IRLANDE DU NORD
et
ETATS-UNIS D'AMERIQUE**

Convention et protocole tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signés à Washington, les 16 avril 1945 et 6 juin 1946, respectivement

Entrés en vigueur le 25 juillet 1946, à la suite de l'échange, à Washington, des instruments de ratification.

Texte officiel anglais communiqué par le représentant permanent du Royaume-Uni auprès de l'Organisation des Nations Unies. L'enregistrement a eu lieu le 7 août 1947.

No. 76. CONVENTION AND PROTOCOL BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT WASHINGTON, ON 16 APRIL 1945 AND 6 JUNE 1946, RESPECTIVELY

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America,

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

Have appointed for that purpose as their Plenipotentiaries:

The Government of the United Kingdom of Great Britain and Northern Ireland:

The Right Honourable the Earl of Halifax, K.G., Ambassador Extraordinary in Washington; and

The Government of the United States of America:

Mr. Edward R. Stettinius, Junior, Secretary of State;

Who, having exhibited their respective full powers, found in good and due form, have agreed as follows:—

Article I

(1) The taxes which are the subject of the present Convention are:—

(a) In the United States of America:

The Federal income taxes, including surtaxes and excess profits taxes (hereinafter referred to as United States tax).

(b) In the United Kingdom of Great Britain and Northern Ireland:

The income tax (including surtax), the excess profits tax and the national defence contribution (hereinafter referred to as United Kingdom tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting Party subsequently to the date of signature of the present Convention or by the Government of any territory to which the present Convention is extended under Article XXII.

Article II

- (1) In the present Convention, unless the context otherwise requires—
- (a) The term “United States” means the United States of America, and when used in a geographical sense means the States, the Territories of Alaska and of Hawaii, and the District of Columbia.
 - (b) The term “United Kingdom” means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man.
 - (c) The terms “territory of one of the Contracting Parties” and “territory of the other Contracting Party” mean the United States or the United Kingdom as the context requires.
 - (d) The term “United States corporation” means a corporation, association or other like entity created or organised in or under the laws of the United States.
 - (e) The term “United Kingdom corporation” means any kind of juridical person created under the laws of the United Kingdom.
 - (f) The terms “corporation of one Contracting Party” and “corporation of the other Contracting Party” mean a United States corporation or a United Kingdom corporation as the context requires.
 - (g) The term “resident of the United Kingdom” means any person (other than a citizen of the United States or a United States corporation) who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in the United States for the purposes of United States tax. A corporation is to be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom.
 - (h) The term “resident of the United States” means any individual who is resident in the United States for the purposes of United States tax and not resident in the United Kingdom for the purposes of United Kingdom tax, and any United States corporation and any partnership created or organised in or under the laws of the United States, being a corporation or partnership which is not resident in the United Kingdom for the purposes of United Kingdom tax.

- (i) The term "United Kingdom enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom.
- (j) The term "United States enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of the United States.
- (k) The terms "enterprise of one of the Contracting Parties" and "enterprise of the other Contracting Party" mean a United States enterprise or a United Kingdom enterprise, as the context requires.
- (l) The term "permanent establishment" when used with respect to an enterprise of one of the Contracting Parties means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its behalf. An enterprise of one of the Contracting Parties shall not be deemed to have a permanent establishment in the territory of the other Contracting Party merely because it carries on business dealings in the territory of such other Contracting Party through a *bona fide* commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that an enterprise of one of the Contracting Parties maintains in the territory of the other Contracting Party a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one Contracting Party has a subsidiary corporation which is a corporation of the other Contracting Party or which is engaged in trade or business in the territory of such other Contracting Party (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(2) For the purposes of Articles VI, VII, VIII, IX and XIV a resident of the United Kingdom shall not be deemed to be engaged in trade or business in the United States in any taxable year unless such resident has a permanent establishment situated therein in such taxable year. The same principle shall be applied, *mutatis mutandis*, by the United Kingdom in the case of a resident of the United States.

(3) In the application of the provisions of the present Convention by one of the Contracting Parties any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting Party relating to the taxes which are the subject of the present Convention.

Article III

(1) A United Kingdom enterprise shall not be subject to United States tax in respect of its industrial or commercial profits unless it is engaged in trade or business in the United States through a permanent establishment situated therein. If it is so engaged, United States tax may be imposed upon the entire income of such enterprise from sources within the United States.

(2) A United States enterprise shall not be subject to United Kingdom tax in respect of its industrial or commercial profits unless it is engaged in trade or business in the United Kingdom through a permanent establishment situated therein. If it is so engaged, United Kingdom tax may be imposed upon the entire income of such enterprise from sources within the United Kingdom: Provided that nothing in this paragraph shall affect any provisions of the law of the United Kingdom regarding the imposition of United Kingdom excess profits tax and national defence contribution in the case of inter-connected companies.

(3) Where an enterprise of one of the Contracting Parties is engaged in trade or business in the territory of the other Contracting Party through a permanent establishment situated therein, there shall be attributed to such permanent establishment the industrial or commercial profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment, and the profits so attributed shall, subject to the law of such other Contracting Party, be deemed to be income from sources within the territory of such other Contracting Party.

(4) In determining the industrial or commercial profits from sources within the territory of one of the Contracting Parties of an enterprise of the other Contracting Party, no profits shall be deemed to arise from the mere purchase of goods or merchandise within the territory of the former Contracting Party by such enterprise.