

No. 891

DENMARK
and
UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND

**Convention for the avoidance of double taxation and the prevention of
fiscal evasion with respect to taxes on income. Signed at London,
on 27 March 1950**

Official texts: Danish and English.

Registered by Denmark on 9 August 1950.

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

**Convention tendant à éviter les doubles impositions et à prévenir l'éva-
sion fiscale en matière d'impôts sur le revenu. Signée à Londres,
le 27 mars 1950**

Textes officiels danois et anglais.

Enregistrée par le Danemark le 9 août 1950.

NO. 891. CONVENTION¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT LONDON, ON 27 MARCH 1950

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

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 Ernest Bevin, M.P., Principal Secretary of State for Foreign Affairs;

The Government of the Kingdom of Denmark:

His Excellency Count Eduard Reventlow, Ambassador Extraordinary and Plenipotentiary of Denmark in London;

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 Denmark: The national income tax (including the extraordinary company tax) (hereinafter referred to as "Danish tax").
- (b) In the United Kingdom of Great Britain and Northern Ireland: The income tax (including sur-tax) and the profits tax (hereinafter referred to as "United Kingdom tax").

2. The present Convention shall also apply to any other taxes of a substantially similar character imposed in Denmark or the United Kingdom subsequently to the date of signature of the present Convention.

¹ Came into force on 7 July 1950, by the exchange of the instruments of ratification, in accordance with article XXI.

Article II

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

- (a) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;
- (b) The term "Denmark" means the Kingdom of Denmark, excluding the Faroe Islands and Greenland;
- (c) The terms "one of the territories" and "the other territory" mean the United Kingdom or Denmark, as the context requires;
- (d) The term "tax" means United Kingdom tax or Danish tax, as the context requires;
- (e) The term "person" includes any body of persons, corporate or not corporate;
- (f) The term "company" means any body corporate;
- (g) The terms "resident of the United Kingdom" and "resident of Denmark" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Denmark for the purposes of Danish tax, and any person who is resident in Denmark for the purposes of Danish tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Denmark if its business is managed and controlled in Denmark;
- (h) The terms "resident of one of the territories" and "resident of the other territory" means a person who is a resident of the United Kingdom or a person who is a resident of Denmark, as the context requires;
- (i) The terms "United Kingdom enterprise" and "Danish enterprise" means respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Denmark, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Danish enterprise as the context requires;
- (j) The term "industrial or commercial profits" includes rents or royalties in respect of cinematograph films;

- (k) The term "permanent establishment," when used with respect to an enterprise of one of the territories, 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. In this connexion—
- (i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealing in that other territory through a *bona fide* broker or general commission agent acting in the ordinary course of his business as such;
 - (ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
 - (iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

2. Where under this Convention any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference only to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Convention in the first-mentioned territory shall apply only to the amount so remitted or received.

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

Article III

1. The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Danish tax unless the enterprise carries on a trade or business in Denmark through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Denmark, but only on so much of them as is attributable to that permanent establishment.

2. The industrial or commercial profits of a Danish enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business

in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

3. Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory 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.

4. Where an enterprise of one of the territories derives profits, under contracts concluded in that territory, from sales of goods or merchandise stocked in a warehouse in the other territory for convenience of delivery and not for purposes of display, those profits shall not be attributed to a permanent establishment of the enterprise in that other territory, notwithstanding that the offers of purchase have been obtained by an agent in that other territory and transmitted by him to the enterprise for acceptance.

5. No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

Article IV

Where—

- (a) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

and in either case, conditions are made or imposed between the two enterprises, in their commercial or financial relations, which differ from those which would be made between independent enterprises, then any profits which would but for those conditions have accrued to one of the enterprises but by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

Article V

1. The industrial and commercial profits of a company which is a resident of Denmark shall, so long as undistributed profits of United Kingdom enterprises are effectively charged to United Kingdom Profits Tax at a lower rate than distributed profits of such enterprises, be charged to United Kingdom Profits Tax only at that lower rate.