No. 27012

FEDERAL REPUBLIC OF GERMANY
and
BULGARIA

Convention for the avoidance of double taxation with respect to taxes on income and on capital (with protocol). Signed at Bonn on 2 June 1987

Authentic texts: German and Bulgarian.

Registered by the Federal Republic of Germany on 5 January 1990.

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
BULGARIE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Bonn le 2 juin 1987

Textes authentiques : allemand et bulgare.

Enregistrée par la République fédérale d'Allemagne le 5 janvier 1990.

[TRANSLATION — TRADUCTION]

CONVENTION[1] BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE PEOPLE'S REPUBLIC OF BULGARIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Federal Republic of Germany and the People's Republic of Bulgaria,

Desiring to promote their economic, scientific, technical and cultural relations through the elimination of double taxation,

Have agreed as follows:

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 and on capital imposed on behalf of a Contracting State or of one of its political subdivisions (*Länder*) or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital.

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

(*a*) In the Federal Republic of Germany:

The income tax;

The corporation tax;

The capital tax; and

The trade tax

(hereinafter referred to as "tax of the Federal Republic of Germany");

(*b*) In the People's Republic of Bulgaria:

The tax on total income;

The tax on income of unmarried, widowed and divorced persons and spouses without children;

The tax on profits; and

The tax on buildings

(hereinafter referred to as "tax of the People's Republic of Bulgaria").

[1] Came into force on 21 December 1988, i.e., one month after the exchange of the instruments of ratification, which took place at Sofia on 21 November 1988, in accordance with article 28 (2).

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the signature of the Convention in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall, if necessary, notify each other of changes which have been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

(*a*) The terms "a Contracting State" and "the other Contracting State" mean, depending on the context, the Federal Republic of Germany or the People's Republic of Bulgaria, each State's area of territorial jurisdiction coinciding in each case with the area of application of its tax laws;

(*b*) The term "person" means any individual, body corporate or any other body of persons which is treated as a body corporate for tax purposes;

(*c*) 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;

(*d*) The term "international traffic" means any transport by a ship, a boat engaged in inland waterways transport or an aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, boat or aircraft is operated solely between places in the other Contracting State;

(*e*) The term "competent authority" means, in the case of the Federal Republic of Germany, the Federal Minister of Finance and, in the case of the People's Republic of Bulgaria, the Minister of Finance or his representative.

2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4. RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means:

(*a*) In the case of the Federal Republic of Germany:

Any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, headquarters or any other criterion of a similar nature;

(*b*) In the case of the People's Republic of Bulgaria:

(*aa*) Any individual who, under Bulgarian law, is liable to tax on his income and is not permanently resident in a third State;

(*bb*) Any body corporate which has its headquarters in the People's Republic of Bulgaria.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, the following provisions shall apply:

(*a*) He shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(*b*) If the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(*c*) If the Contracting State of which he is a resident cannot be determined under the provisions of subparagraphs (*a*) and (*b*) above, the Contracting States shall proceed in accordance with article 24.

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 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 through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(*a*) A place of management;

(*b*) A branch;

(*c*) An office;

(*d*) A factory;

(*e*) A workshop;

(*f*) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or assembly project is considered to be a permanent establishment only if it continues for a period of more than 12 months.

4. Notwithstanding the preceding provisions of this article, the term "permanent establishment" shall be deemed not 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, including the sale of exhibits after an exhibition;

(*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 of collecting information for the enterprise;

(*e*) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(*f*) The maintenance of a fixed place of business solely for the purpose of carrying on a combination of the activities mentioned in subparagraphs (*a*) to (*e*), provided that the overall activity of the fixed place of business resulting from such a combination is of a preparatory or auxiliary character.

5. Where a resident of a Contracting State carries on business in the other Contracting State through an agent, a permanent establishment shall be deemed to exist if the agent:

(*a*) Has an authority to conclude contracts in the name of the resident;

(*b*) Habitually exercises such authority in the other State;

(*c*) Is not acting as an agent of an independent status within the meaning of paragraph 6 of this article.

A permanent establishment shall not be deemed to exist if the activities of the agent are limited to those mentioned in paragraph 4 of this article.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

Article 6. INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property is situated. Ships, boats engaged in inland waterways transport and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7. BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable in the other Contracting State only if the enterprise carries on business in the other Contracting State through a permanent establishment situated therein.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for that permanent estab-