

No. 27079

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**SWEDEN  
and  
INDIA**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Signed at Stockholm on 7 June 1988**

*Authentic text: English.*

*Registered by Sweden on 29 January 1990.*

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**SUÈDE  
et  
INDE**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Stockholm le 7 juin 1988**

*Texte authentique : anglais.*

*Enregistrée par la Suède le 29 janvier 1990.*

# CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Republic of India and the Government of the Kingdom of Sweden

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

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

(a) in India:

- (i) the income tax and any surcharge thereon;
- (ii) the surtax; and
- (iii) the wealth-tax;

(hereinafter referred to as "Indian tax");

(b) in Sweden:

- (i) the State income tax, including the sailors' tax and the coupon tax;
- (ii) the tax on the undistributed profits of companies and the tax on distribution in connection with reduction of share capital or the winding-up of a company;
- (iii) the tax on public entertainers;

(iv) the communal income tax;

(v) the profit sharing tax; and

(vi) the State capital tax;

(hereinafter referred to as "Swedish tax").

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the taxes referred to above. The competent authorities of the Contracting States shall notify each other of any significant 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 term "India" means the territory of India and includes the territorial sea and the air space above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law;

(b) the term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which under the laws of Sweden and in accordance with international law the rights of Sweden with respect to the exploration and exploitation of the natural resources on the sea bed or in its subsoil may be exercised;

<sup>1</sup> Came into force on 12 December 1988, the date of the last of the notifications (of 12 October and 12 December 1988) by which the Contracting Parties informed each other of the completion of the required constitutional procedures, in accordance with article 30 (1).

(c) the term “person” includes an individual, a company and any other body of persons or any entity which is treated as a taxable unit under the tax laws in force in the respective Contracting States;

(d) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

(e) 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;

(f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) the term “national” means:

- (i) any individual possessing the nationality of a Contracting State;
- (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;

(h) the term “competent authority” means:

- (i) in India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorized representative;
- (ii) in Sweden, the Minister of Finance or his authorized representative;

(i) the term “fiscal year” means:

- (i) in the case of India, “previous year” as understood under the laws concerning taxes on income in force in India; and
- (ii) in the case of Sweden, the calendar year.

2. As regards the application of this Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws 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 any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(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 he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(d) if he is a national of both 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, 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;
- (g) a warehouse in relation to a person providing storage facilities for others;
- (h) premises used as a sales outlet or for receiving or soliciting orders; and

(i) an installation or structure used for the exploration of natural resources.

3. The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or the like or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 6 months or where such project or supervisory activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding 6 months but the charges payable for the project or supervisory activity exceed 10 per cent of the sale price of the machinery and equipment.

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 or display 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 or display;
- (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 advertising, for the supply of information or for scientific research, being activities solely of a preparatory or auxiliary character in the trade or business of the enterprise.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise itself or for that enterprise and other enterprises controlling, controlled by, or subject to the same common control as, that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph but in such cases the provisions of paragraph 5 shall apply.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## Article 6

### *Income from immovable property*

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) 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 in question is situated. The term shall in any case include buildings, property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats 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 only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to (a) that permanent establishment; (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or (c) other business activities carried on in that other State of the same or similar

kind as those effected through that permanent establishment.

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 the purposes of the business of the permanent establishment, including such executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, as are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is situated. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys