No. 27080

SWEDEN
and
BULGARIA

Convention for the avoidance of double taxation with respect to taxes on income and on capital. Signed at Sofia on 21 June 1988

Authentic text: English.

Registered by Sweden on 29 January 1990.

SUÈDE
et
BULGARIE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune. Signée à Sofia le 21 juin 1988

Texte authentique : anglais.

Enregistrée par la Suède le 29 janvier 1990.

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

The People's Republic of Bulgaria and the Kingdom of Sweden led by the desire to expand and deepen to their mutual advantage the economic relations and co-operation between the two countries and aiming at the avoidance of double taxation with respect to taxes on income and on capital, have agreed as follows:

Article 1

Personal scope and residence

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

2. The term "resident of a Contracting State" means:

(a) in the case of Bulgaria, any individual who is a national of Bulgaria, as well as any legal person who has its head office in Bulgaria or is registered therein;

(b) in the case of Sweden, any person who under the laws of Sweden is liable to tax therein by reason of his residence, registration, place of management or any other criterion of a similar nature.

3. (a) Where by reason of the provisions of paragraph (2) an individual is a resident of both Contracting States, then 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, the competent authorities of the Contracting States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph (2) 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 2

Taxes covered

1. The existing taxes to which this Convention shall apply are:

(a) in Bulgaria:
- (i) the tax on total income;
- (ii) the tax on income of unmarried, widowed and divorced persons and spouses without children;
- (iii) the tax on profits; and
- (iv) the tax on buildings

(hereinafter referred to as "Bulgarian tax");

(b) in Sweden:
- (i) the State income tax, including sailors' tax and coupon tax;
- (ii) the tax on public entertainers;
- (iii) the communal income tax;
- (iv) the profit sharing tax; and
- (v) the State capital tax

(hereinafter referred to as "Swedish tax").

2. The Convention shall also apply 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 existing taxes. The competent authorities of the Contracting States shall each year notify each other of any significant changes which have been made in their respective taxation laws.

[1] Came into force on 28 December 1988, the date of the last of the notifications (of 9 November and 28 December 1988) by which the Contracting Parties informed each other of the completion of the constitutional requirements, in accordance with article 26.

Article 3

General definitions

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

(a) the term "Bulgaria" means the People's Republic of Bulgaria and, when used in a geographical sense, includes the territory over which Bulgaria exercises its State sovereignity and the continental shelf within which Bulgaria exercises sovereign rights in accordance with international law;

(b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction;

(c) the terms "a Contracting State" and "the other Contracting State" mean Bulgaria and Sweden, as the context requires;

(d) the term "person" includes an individual, a legal person and any other body of persons which is treated as an entity 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 "tax" means Bulgarian tax or Swedish tax, as the context requires;

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

(h) the term "competent authority" means:

(i) in Bulgaria, the Minister of Finance or his authorized representative;

(ii) in Sweden, the Minister of Finance or his authorized 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

Place of business

1. For the purposes of this Convention the term "place of business" means a fixed place through which the business of an enterprise is wholly or partly carried on.

2. The term "place of business" includes especially:

(a) a place of management;

(b) a branch;

(c) a factory, workshop or shop;

(d) a commercial, tourist, transport, planning, service or any other office;

(e) 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 installation project constitutes a place of business only if it lasts more than six months.

4. The participation of a Swedish enterprise in a joint venture, set up in accordance with the Bulgarian legislation, shall be deemed to be a place of business situated in Bulgaria.

5. Notwithstanding the preceding provisions of this Article, the term "place of business" 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;

(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 solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) a stock of goods or merchandise displayed by the enterprise on a fair or exhibition, which is sold after the closing of the fair or exhibition;

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

(g) the maintenance of a fixed place solely for any combination of activities mentioned in sub-paragraphs (a) – (f), provided that the overall activity of the fixed place resulting from this combination is of a preparatory or auxiliary character.

6. Notwithstanding the provisions of paragraphs (1) and (2), where a person—other than an agent of an independent status to whom paragraph (7) applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a place of business in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (5) which, if exercised through a fixed place would not make this fixed place a place of business under the provisions of that paragraph.

7. An enterprise shall not be deemed to have a place of business in a Contracing 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 5

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.

Article 6

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 place of business 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 that place of business.

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 place of business situated therein, there shall in each Contracting State be attributed to that place of business 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 place of business.

3. In determining the profits of a place of business, there shall be allowed as deductions expenses which are incurred for the purposes of the place of business, including executive and general administrative expenses so incurred, whether in the State in which the place of business is situated or elsewhere.

4. No profits shall be attributed to a place of business by reason of the mere purchase by that place of business of goods or merchandise for the enterprise.

5. The provisions of this Article shall apply irrespective of whether an enterprise of a Contracting State carries on business in the other Contracting State alone or together with another person or other persons, also where such other person or persons are residents of that other Contracting State.

6. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 7

International transport

1. Profits from the operation of ships, aircraft or road vehicles in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

2. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph (1) shall apply, but only to such part of the profits as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

3. The provisions of paragraph (1) shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 8

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of appliction of this limitation.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a place of business situated therein, or performs in that other State a liberal profession from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such place of business or fixed base. In such case the provisions of Article 6 or Article 12, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a place of business or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 9

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the interest.

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.