

No. 27700

**FEDERAL REPUBLIC OF GERMANY
and
ZIMBABWE**

**Agreement for the avoidance of double taxation with respect
to taxes on income, capital and capital gains (with proto-
col). Signed at Harare on 22 April 1988**

Authentic texts: German and English.

Registered by Germany on 7 December 1990.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
ZIMBABWE**

**Convention tendant à éviter la double imposition en matière
d'impôts sur le revenu, sur la fortune et sur les gains en
capital (avec protocole). Signée à Harare le 22 avril 1988**

Textes authentiques : allemand et anglais.

Enregistrée par l'Allemagne le 7 décembre 1990.

AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF ZIMBABWE FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME, CAPITAL AND CAPITAL GAINS

The Federal Republic of Germany
and
the Republic of Zimbabwe

desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income, capital and capital gains,

have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

(1) This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State, of a Land or a political subdivision or local authority thereof, 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, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

(3) The existing taxes to which this Agreement shall apply are:

- (a) in the Federal Republic of Germany:
 - (i) the income tax (Einkommensteuer);
 - (ii) the corporation tax (Körperschaftsteuer);

¹ Came into force on 22 April 1990, i.e., one month after the exchange of the instruments of ratification, which took place at Bonn on 22 March 1990, in accordance with article 29 (2).

- (iii) the capital tax (Vermögensteuer); and
 - (iv) the trade tax (Gewerbsteuer);
- (hereinafter referred to as "German tax");

(b) in the Republic of Zimbabwe:

- (i) the income tax;
 - (ii) the branch profits tax;
 - (iii) the non-resident shareholders' tax;
 - (iv) the non-residents' tax on interest;
 - (v) the non-residents' tax on fees;
 - (vi) the non-residents' tax on royalties; and
 - (vii) the capital gains tax;
- (hereinafter referred to as "Zimbabwean tax").

(4) This Agreement shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement 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 Agreement, unless the context otherwise requires:

- (a) the terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or the Republic of Zimbabwe as the context requires, and, when used in a geographical sense, the territory in which the tax law of the State concerned is in force;
- (b) the term "person" includes an individual, a company and any other body of persons;
- (c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (d) 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;

- (e) the term "national" means:
 - (i) in relation to the Federal Republic of Germany any German within the meaning of Article 116, paragraph (1), of the Basic Law for the Federal Republic of Germany and any legal person, partnership and association deriving its status as such from the law in force in the Federal Republic of Germany;
 - (ii) in relation to the Republic of Zimbabwe any citizen of the Republic of Zimbabwe and any legal person, partnership, association or other entity deriving its status as such from the law in force in the Republic of Zimbabwe;
- (f) the term "international traffic" means any transport by a ship or aircraft, including transport by container, operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (g) the term "competent authority" means in the case of the Federal Republic of Germany the Federal Ministry of Finance, and in the case of the Republic of Zimbabwe the Commissioner of Taxes or his authorized representative.

(2) As regards the application of this Agreement 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 relating to the taxes which are the subject of this Agreement.

Article 4

Fiscal Domicile

(1) For the purposes of this Agreement, 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) of this Article 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) of this Article 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 Agreement, 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; and
- (g) an installation or structure used for the exploration or exploitation of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six 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;