

No. 31066

**VENEZUELA
and
ITALY**

**Convention for the avoidance of double taxation with respect
to taxes on income and the prevention of tax evasion and
fraud (with protocol). Signed at Rome on 5 June 1990**

Authentic texts: Spanish, Italian and French.

Registered by Venezuela on 1 July 1994.

**VENEZUELA
et
ITALIE**

**Convention en vue d'éviter les doubles impositions en matière
d'impôts sur le revenu et de prévenir l'élusion, l'évasion
et la fraude fiscale (avec protocole). Signée à Rome le
5 juin 1990**

Textes authentiques : espagnol, italien et français.

Enregistrée par le Venezuela le 1^{er} juillet 1994.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA AND THE GOVERNMENT OF THE ITALIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FOR THE PREVENTION OF TAX EVASION AND FRAUD

The Government of the Republic of Venezuela and the Government of the Italian Republic, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and for the prevention of tax evasion and fraud, have agreed upon the following provisions:

CHAPTER I. SCOPE OF THE CONVENTION

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 imposed on behalf of each Contracting State or its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income, taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amount of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(a) In Venezuela:

1. The income tax (*impuesto sobre la renta*);

2. Local business taxes (*impuestos locales de patente de industria y comercio*)

even if collected by withholding at the source
(hereinafter referred to as “Venezuelan tax”);

(b) In Italy:

1. The personal income tax (*imposta sul reddito delle persone fisiche*);

2. The corporate income tax (*imposta sul reddito delle persone giuridiche*);

¹ Came into force on 14 September 1993 by the exchange of the instruments of ratification, in accordance with article 29 (2).

3. The local income tax (*imposta locale sui redditi*) even if collected by withholding at the source (hereinafter referred to as “Italian tax”).

4. The Convention shall apply also to any future 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 notify each other of any changes which have been made in their respective taxation laws.

CHAPTER II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires,
 - (a) The term “Venezuela” means the Republic of Venezuela;
 - (b) The term “Italy” means the Italian Republic;
 - (c) The terms “a Contracting State” and “the other Contracting State” mean Venezuela and Italy, as the context requires;
 - (d) The term “person” includes an individual, a company and any other body of persons;
 - (e) The term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (f) The terms “enterprise of a State” and “enterprise of the other 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;
 - (g) The term “international traffic” means any transport by a ship or aircraft 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;
 - (h) The term “national” means:
 - (i) Any individual possessing the nationality of a Contracting State;
 - (ii) Any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
 - (i) The term “competent authority” means:
 - (i) In Venezuela: The General Sectoral Income Office;
 - (ii) In Italy: The Ministry of Finance.
2. As regards the application of the Convention by a Contracting State, any term not defined herein 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 the Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to taxation therein by reason of domicile, residence, nationality, place of management or any other criterion of a similar nature. However, this term does not include any person who is liable to tax in that State exclusively in respect of income from sources in that State.

2. Where, by reason of the provisions of the preceding paragraph, 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 Contracting 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 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 two 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 that person 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 in 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, quarry or other place of extraction of natural resources;

(g) A building site or assembly project which exists for more than 12 months, reckoned from the actual start-up date of the work.

3. 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;

(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 collecting information, for the enterprise;

(e) The maintenance of a fixed place of business solely for the purpose of advertising for the enterprise, collecting information, conducting scientific research or carrying on any similar activities of a preparatory or auxiliary character.

4. When a person acts in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph 5 applies — he shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises, in that State an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that other 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.

6. 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.

CHAPTER III. TAXATION OF INCOME

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 property accessory to immovable property, livestock and equipment used in agriculture and forestry and 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, springs and other natural resources shall also be considered as “immovable property”. 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.