

No. 32038

**CANADA
and
MEXICO**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Ottawa on 8 April 1991

Authentic texts: English, French and Spanish.

Registered by Canada on 5 July 1995.

**CANADA
et
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Convention en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Ottawa le 8 avril 1991

Textes authentiques : anglais, français et espagnol.

Enregistrée par le Canada le 5 juillet 1995.

CONVENTION¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of Canada and the Government of the United Mexican States, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

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, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.
3. The existing taxes to which the Convention shall apply are, in particular:
 - a) in the case of Canada:

the taxes imposed by the Government of Canada under the Income Tax Act, (hereinafter referred to as "Canadian tax");

¹ Came into force on 11 May 1992, the date on which the Contracting Parties notified each other that the last of such things had been done as is necessary to make the Convention applicable in Canada and in Mexico, in accordance with article 28 (1).

b) in the case of Mexico:

the income tax under the Income Tax Law; and

the assets tax under the Assets Tax Law;

(hereinafter referred to as "Mexican tax").

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

II. DEFINITIONS

Article 3

General Definitions

1. In this Convention, unless the context otherwise requires:

- a) the term "Canada" used in a geographical sense, means the territory of Canada;
- b) the term "Mexico" means the United Mexican States;
- c) the terms "a Contracting State" and "the other Contracting State" means, as the context requires, Canada or the United Mexican States;
- d) the term "person" includes an individual, an estate, a trust, a company, a partnership 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; in French, the term "société" also means a "corporation" within the meaning of Canadian law;
- f) the term "competent authority" means:
 - (i) in the case of Canada, the Minister of National Revenue or the Minister's authorized representative;
 - (ii) in the case of Mexico, the Ministry of Finance and Public Credit;

- g) the term "tax" means Canadian tax or Mexican tax, as the context requires;
- h) 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;
- i) the term "international traffic" with reference to a resident of a Contracting State means any voyage of a ship or aircraft to transport passengers or property (whether or not operated or used by that resident) except where the principal purpose of the voyage is to transport passengers or property between places within the other Contracting State.

2. As regards the application of the Convention by a Contracting State at any time, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of 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) any person who, under the laws of that State, is liable to tax therein by reason of the person's domicile, residence, place of management, place of incorporation or any other criterion of a similar nature;
 - b) the Government of that State or a political subdivision or local authority thereof or any agency or instrumentality of any such government, subdivision or authority.
2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then the individual's status shall be determined as follows:
 - a) the individual shall be deemed to be a resident of the State in which the individual has a permanent home available; if the individual has a permanent home available in both States, the individual shall be deemed to be a resident of the State with which the

individual's personal and economic relations are closer (centre of vital interests);

- b) if the State in which the individual's centre of vital interests cannot be determined, or if there is not a permanent home available to the individual in either State, the individual shall be deemed to be a resident of the State in which the individual has an habitual abode;
- c) an individual who has an habitual abode in both States or in neither of them shall be deemed to be a resident of the State of which the individual is a national;
- d) in any other case, 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, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person. In the absence of such agreement such person shall be considered to be outside the scope of Articles 6 to 21 inclusive and Article 23.

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 a resident of a Contracting State 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, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" likewise encompasses a building site, a construction, assembly