

No. 33265

**ESTONIA
and
POLAND**

Agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital. Signed at Tallinn on 9 May 1994

Authentic texts: Estonian, Polish and English.

Registered by Estonia on 17 October 1996.

**ESTONIE
et
POLOGNE**

Accord tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune. Signé à Tallinn le 9 mai 1994

Textes authentiques : estonien, polonais et anglais.

Enregistré par l'Estonie le 17 octobre 1996.

AGREEMENT¹ BETWEEN THE REPUBLIC OF ESTONIA AND THE
REPUBLIC OF POLAND 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 Estonia
and
the Government of the Republic Poland

Desiring to conclude an Agreement 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 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 or of its political
subdivisions or local authorities, 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 the Agreement shall apply are in
particular:

- a) In Estonia:
 - (i) the income tax (tulumaks);
 - (ii) the land tax (maamaks);

¹ Came into force on 9 December 1994 by notification, in accordance with article 29.

b) In Poland:

- (i) the personal income tax (podatek dochodowy od osob fizycznych);
- (ii) the corporate income tax (podatek dochodowy od osob prawnych);

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement 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.

ARTICLE 3

GENERAL DEFINITIONS

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

- a) the term "Estonia" means the Republic of Estonia and, when used in the geographic sense, means the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the sea-bed and its sub-soil and their natural resources;
- b) the term "Poland" when used in geographical sense means the territory of the Republic of Poland, including any area beyond its territorial waters, within which under the laws of Poland and in accordance with international law, Poland may exercise its sovereign rights over the sea-bed, its sub-soil and their natural resources;
- c) the terms "a Contracting State" and "the other Contracting State" mean Poland or Estonia as the context requires;
- d) the term "national" means any individual possessing the nationality of a Contracting State and any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- e) the term "person" includes an individual, a company and any other body of persons;
- f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- g) 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;

- h) the term "international traffic" means any transport by a ship, aircraft or road transport vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or road transport vehicle is operated solely between places in the other Contracting State;
- i) the term "competent authority" means:
 - (i) in the case of Estonia, the Minister of Finance or his authorised representative;
 - (ii) in the case of Poland, the Minister of Finance or his authorised representative.

2. As regards the application of the 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 concerning the taxes to which this Agreement applies.

ARTICLE 4

RESIDENT

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, place of incorporation or any other criterion of a similar nature. The term also includes a Government of that State itself, its political subdivisions and local authorities and any agency or wholly owned entity of such State, political subdivision or local authority that is established under the laws in that State. The term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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 the status of resident cannot be determined according to subparagraphs a)-c) 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 Contracting State under the laws of which it derives its status as such.

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, and
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site, a construction, assembly or installation project or a supervisory or consultancy activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than nine 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;
 - 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 of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;