

**No. 53154\***

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**Canada  
and  
Switzerland**

**Convention between the Government of Canada and the Swiss Federal Council for the avoidance of double taxation with respect to taxes on income and on capital. Bern, 5 May 1997**

**Entry into force:** *21 April 1998 by the exchange of instruments of ratification, in accordance with article 28*

**Authentic texts:** *English and French*

**Registration with the Secretariat of the United Nations:** *Canada, 10 December 2015*

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**Canada  
et  
Suisse**

**Convention entre le Gouvernement du Canada et le Conseil fédéral suisse en vue d'éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune. Berne, 5 mai 1997**

**Entrée en vigueur :** *21 avril 1998 par échange des instruments de ratification, conformément à l'article 28*

**Textes authentiques :** *anglais et français*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Canada, 10 décembre 2015*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

**CONVENTION**  
**BETWEEN**  
**THE GOVERNMENT OF CANADA**  
**AND**  
**THE SWISS FEDERAL COUNCIL**  
**FOR THE AVOIDANCE OF DOUBLE TAXATION**  
**WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

**THE GOVERNMENT OF CANADA AND THE SWISS FEDERAL COUNCIL,**

**DESIRING** to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital,

**HAVE AGREED** as follows:

**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 and on capital 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 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 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");

- (b) in the case of Switzerland:

the federal, cantonal and communal taxes

- (i) on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income); and
- (ii) on capital (total property, movable and immovable property, business assets, paid-up capital and reserves, and other items of capital);

(hereinafter referred to as "Swiss 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.

### **ARTICLE 3**

#### **General Definitions**

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

- (a) (i) the term "Canada" used in a geographical sense, means the territory of Canada, including:
  - (A) any area beyond the territorial seas of Canada which, in accordance with international law and the laws of Canada, is an area within which Canada may exercise rights with respect to the seabed and subsoil and their natural resources;
  - (B) the seas and airspace above every area referred to in clause (A) in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources referred to therein;
- (ii) the term "Switzerland" means the Swiss Confederation;
- (b) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Switzerland;
- (c) the term "person" includes an individual, an estate, a trust, a company, a partnership and any other body of persons;
- (d) the term "company" means any body corporate or any entity which is treated as a body corporate 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 "competent authority" means:
    - (i) in the case of Canada, the Minister of National Revenue or his authorized representative;
    - (ii) in the case of Switzerland, the Director of the Federal Tax Administration or his authorized representative;
  - (g) the term "tax" means Canadian tax or Swiss 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.
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

##### Resident

1. For the purposes of this Convention, 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, and in the case of Switzerland it includes a partnership created or organized under Swiss law.
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 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 a company is a resident of both Contracting States, then its status shall be determined as follows:

- (a) it shall be deemed to be a resident of the State of which it is a national;
  - (b) if it is a national of neither of the States, the competent authorities of the Contracting States shall settle the question by mutual agreement.
4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company 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.
5. Where by reason of the provisions of paragraphs 1 and 2 an individual would be a resident of a Contracting State but is not subject in that State, with respect to all income generally taxable from sources from the other Contracting State, to the generally imposed income taxes, then such individual is not a resident of the first-mentioned State for the purposes of this Convention.

## **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 the 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 or construction or installation project constitutes a permanent establishment only if it lasts for more than twelve 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;