

**No. 53336\***

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**Canada  
and  
Kyrgyzstan**

**Agreement between the Government of Canada and the Government of the Kyrgyz Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Ottawa, 4 June 1998**

**Entry into force:** *4 December 2000 by notification, in accordance with article 29*

**Authentic texts:** *English, French and Russian*

**Registration with the Secretariat of the United Nations:** *Canada, 22 January 2016*

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**Canada  
et  
Kirghizistan**

**Accord entre le Gouvernement du Canada et le Gouvernement de la République kirghize en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Ottawa, 4 juin 1998**

**Entrée en vigueur :** *4 décembre 2000 par notification, conformément à l'article 29*

**Textes authentiques :** *anglais, français et russe*

**Enregistrement auprès du Secrétariat des Nations Unies :** *Canada, 22 janvier 2016*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

**AGREEMENT  
BETWEEN  
THE GOVERNMENT OF CANADA  
AND  
THE GOVERNMENT OF THE KYRGYZ REPUBLIC  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND  
THE PREVENTION OF FISCAL EVASION WITH RESPECT  
TO TAXES ON INCOME AND ON CAPITAL**

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE  
KYRGYZ REPUBLIC,**

**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:

**I. SCOPE OF THE AGREEMENT**

**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 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 this Agreement 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 Kyrgyzstan:

the taxes imposed by the Government of the Kyrgyz Republic in accordance with the laws of the Kyrgyz Republic on the taxation of income and of property (capital);

(hereinafter referred to as "Kyrgyz tax").
4. This Agreement shall apply also to any similar taxes and to taxes on capital which are imposed after the date of signature of this 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.

## **II. DEFINITIONS**

### **ARTICLE 3**

#### **General Definitions**

1. For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the term "Canada" used in a geographical sense, means the territory of Canada, including:
    - (i) 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;
    - (ii) the seas and airspace above every area referred to in clause (i) in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources referred to therein;
  - (b) the term "Kyrgyzstan" means the Kyrgyz Republic and, when used in a geographical sense, means the territory upon which the Kyrgyz Republic exercises its sovereign rights and jurisdiction in accordance with international law and in which the taxation legislation of the Kyrgyz Republic is applied;
  - (c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Kyrgyzstan;
  - (d) the term "person" includes an individual, a company and any other body of persons and, in the case of Canada it also includes a trust;
  - (e) the term "company" means any corporate entity or any entity which is treated as a corporate entity for tax purposes;

- (f) 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;
  - (g) 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 Kyrgyzstan, the Ministry of Finance or its plenipotentiary representative;
  - (h) the term "national" means:
    - (i) any individual possessing the citizenship 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 "international traffic" with reference to an enterprise of a Contracting State means any voyage of a ship or aircraft to transport passengers or property 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 this Agreement 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 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:
- (a) 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;
  - (b) the Government of that State or a political or administrative subdivision or local authority thereof or any agency or instrumentality of any such government, subdivision or authority.
- But this term does not include any person who is liable to tax in that State in respect only of income from that State.
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 only 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 only 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 only 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 only of the State of which he is a citizen;
  - (d) if he is a citizen 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 only of the State in which it was incorporated or otherwise constituted;
  - (b) if it was not incorporated or otherwise constituted in either of the States, it shall be deemed to be a resident only of the State in which its place of effective management is situated.
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 this Agreement to such person.

## **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 relating to the exploration for or the exploitation of natural resources; and
  - (g) an agricultural, pastoral or forestry property.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts for more than twelve months.