

No. 53354*

**Canada
and
Peru**

Convention between the Government of Canada and the Government of the Republic of Peru for the avoidance of double taxation and the prevention of fiscal avoidance and evasion with respect to taxes on income and on capital (with protocol). Lima, 20 July 2001

Entry into force: *17 February 2003 by notification, in accordance with article 29*

Authentic texts: *English, French and Spanish*

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**Canada
et
Pérou**

Convention entre le Gouvernement du Canada et le Gouvernement de la République du Pérou en vue d'éviter les doubles impositions et de prévenir l'évasion et la fraude fiscales en matière d'impôts sur le revenu et sur la fortune (avec protocole). Lima, 20 juillet 2001

Entrée en vigueur : *17 février 2003 par notification, conformément à l'article 29*

Textes authentiques : *anglais, français et espagnol*

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[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION

BETWEEN

THE GOVERNMENT OF CANADA

AND

THE GOVERNMENT OF THE REPUBLIC OF PERU

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
REPUBLIC OF PERU,**

DESIRING to conclude a Convention 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 CONVENTION

ARTICLE 1

Persons Covered

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"; and
 - (b) in the case of Peru, the taxes imposed by the Government of Peru under the Income Tax Act (*Ley del Impuesto a la Renta*) and the Solidarity Extraordinary Tax (*Impuesto Extraordinario de Solidaridad*) supported by an individual in respect of independent personal services, hereinafter referred to as "Peruvian tax".
4. The Convention shall apply also to any identical or substantially similar taxes and to taxes on capital 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. For the purposes of this Convention, 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 sea of Canada that, in accordance with international law and the laws of Canada, is an area in respect of which Canada may exercise rights with respect to the seabed and subsoil and their natural resources, and
 - (ii) the sea and airspace above every area referred to in clause (i);
 - (b) the term "Peru", used in a geographical sense, means the territory of the Republic of Peru which includes, in addition to the areas contained within its internationally recognized land boundaries, the adjacent maritime zones and airspace within which the Republic of Peru exercises sovereign rights and jurisdiction in accordance with its legislation and international law;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Peru;
 - (d) the term "person" includes an individual, 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;
 - (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 the Minister's authorized representative, and
 - (ii) in the case of Peru, the Minister of Economy and Finance or the Minister's authorized representative;
 - (h) the term "national" means
 - (i) any individual possessing the nationality of a Contracting State, and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State; and

- (i) the term "international traffic" means any voyage of a ship or aircraft operated by an enterprise of a Contracting State 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 the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that 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 or any other criterion of a similar nature but does not include any person who is liable to tax in that State in respect only of income from sources in that State, and
 - (b) that State or a political subdivision or local authority thereof or any agency or instrumentality of any such State, 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 only of the State in which the individual has a permanent home available and if the individual has a permanent home available in both States, the individual shall be deemed to be a resident only 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 is situated 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 only of the State in which the individual has an habitual abode;
 - (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national; and
 - (d) if the individual 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 only of the State of which it is a national;