

No. 53369*

**Canada
and
Gabon**

Convention between the Government of Canada and the Government of the Gabonese Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital. Libreville, 14 November 2002

Entry into force: *22 December 2008 by notification, in accordance with article 29*

Authentic texts: *English and French*

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**Canada
et
Gabon**

Convention entre le Gouvernement du Canada et le Gouvernement de la République gabonaise en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune. Libreville, 14 novembre 2002

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[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE GABONESE 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
GABONESE REPUBLIC,**

DESIRING to promote their economic relations by avoiding double taxation and preventing 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");
 - (b) in the case of Gabon:

the company tax and the flat rate minimum tax,

the tax on income of individuals,

the supplementary tax,

the tax on income from movable capital,

including any withholding tax, any prepayment or advance payment with
respect to the aforesaid taxes,

(hereinafter referred to as "Gabonese 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. 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 which, 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;
 - (ii) the sea 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 "Gabon", used in a geographical sense, means the national territory, the territorial sea as well as other maritime areas over which, in conformity with international law, the Gabonese Republic exercises sovereign rights or its jurisdiction in particular for the purposes of the exploration and the exploitation of natural resources of the seabed, its subsoil and of the waters above;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Gabon;
 - (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 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 Gabon, the Minister in charge of Finance and Budget or the Minister's authorized representative;
 - (g) the term "tax" means Canadian tax or Gabonese 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 or association deriving its status as such from the laws in force in a Contracting State;

(i) 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.

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 for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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 the person’s domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person that is liable to tax in that State in respect only of income from sources in that State.

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; 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 individuals’ 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;

(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.