

No. 53554*

**Finland
and
India**

Agreement between the Republic of Finland and the Republic of India for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Helsinki, 15 January 2010

Entry into force: *19 April 2010, in accordance with article 29*

Authentic texts: *English, Finnish, Hindi and Swedish*

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**Finlande
et
Inde**

Accord entre la République de Finlande et la République de l'Inde tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Helsinki, 15 janvier 2010

Entrée en vigueur : *19 avril 2010, conformément à l'article 29*

Textes authentiques : *anglais, finnois, hindi et suédois*

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AGREEMENT
between the Republic of Finland and the Republic of India for the
avoidance of double taxation and the prevention of fiscal
evasion with respect to taxes on income

The Government of the Republic of Finland and the Government of the Republic of India,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and with a view to promoting economic co-operation between the two countries,

Have agreed as follows:

Article 1
Persons covered

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 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 all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.

3. The existing taxes to which the Agreement shall apply are:

a) in Finland:

- (i) the state income taxes (valtion tuloverot; de statliga inkomstskatterna);
- (ii) the corporate income tax (yhteisöjen tulovero; inkomstskatten för samfund);
- (iii) the communal tax (kunnallisvero; kommunalskatten);
- (iv) the church tax (kirkollisvero; kyrkoskatten);
- (v) the tax withheld at source from interest (korkotulon lähdevero; källskatten på ränteinkomst); and
- (vi) the tax withheld at source from non-residents' income (rajoitetusti verovelvollisen lähdevero; källskatten för begränsat skattskyldig);

(hereinafter referred to as "Finnish tax");

b) in India, the income tax, including any surcharge thereon;

(hereinafter referred to as "Indian tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that 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 that 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 "Finland" means the Republic of Finland and, when used in a geographical

sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its sub-soil and of the superjacent waters may be exercised;

- b) the term "India" means the territory of India and includes the territorial sea and airspace above it, as well as any maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention on the Law of the Sea;
- c) the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;
- d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- e) the term "a Contracting State" and "the other Contracting State" mean the Republic of Finland and the Republic of India as the context requires;
- 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 "national", in relation to a Contracting State, means:
 - (i) any individual possessing the nationality of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
- h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- i) the term "competent authority" means:
 - (i) in Finland, the Ministry of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as competent authority;
 - (ii) in India, the Finance Minister, Government of India, or his authorised representative;
- j) the term "tax" means Finnish or Indian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Agreement applies or which represents a penalty or fine imposed relating to those taxes;
- k) the term "fiscal year" means:

- i) in Finland, the "tax year" as defined in the taxation laws of Finland relating to income tax;
 - ii) In India, the financial year beginning on the 1st day of April.
2. As regards the application of the Agreement 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 Agreement 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
Residence

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 (registration) or any other criterion of a similar nature, and also includes that State and any political subdivision, statutory body or local authority thereof. This term, however, does not include any person who 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 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 national;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 of this Article, a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall determine by mutual agreement the State of which the person shall be deemed to be a resident for the purposes of this Agreement having regard to the person's place of incorporation, the place of effective management and any other relevant factors.

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: