

No. 54339*

**Lithuania
and
Switzerland**

Convention between the Government of the Republic of Lithuania and the Swiss Federal Council for the avoidance of double taxation with respect to taxes on income and on capital (with protocol). Bern, 27 May 2002

Entry into force: *18 December 2002, in accordance with article 28*

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**Lituanie
et
Suisse**

Convention entre le Gouvernement de la République de Lituanie et le Conseil fédéral suisse tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune (avec protocole). Berne, 27 mai 2002

Entrée en vigueur : *18 décembre 2002, conformément à l'article 28*

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CONVENTION

**BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
AND THE SWISS FEDERAL COUNCIL**

**FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Republic of Lithuania 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

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 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 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 Lithuania:

- (i) the tax on profits of legal persons (juridiniu asmenu pelno mokestis);
- (ii) the tax on income of natural persons (fiziniu asmenu pajamu mokestis);
- (iii) the tax on enterprises using state-owned capital (palukanos uz valstybinio kapitalo naudojima);
- (iv) the immovable property tax (nekilnojamojo turto mokestis);

(hereinafter referred to as "Lithuanian tax");

b) in 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);
- (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 substantial changes which have been made in their respective taxation laws.

5. The Convention shall not apply to taxes withheld at the source on winnings from gambling and lotteries.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Lithuania" means the Republic of Lithuania;
 - b) the term "Switzerland" means the Swiss Confederation;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Lithuania or Switzerland, as the context requires;
 - d) the term "person" includes an individual, a company 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 "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;
 - h) the term "competent authority" means:
 - (i) in the case of Lithuania, the Minister of Finance or his authorised representative;
 - (ii) in the case of Switzerland, the Director of the Federal Tax Administration or his authorised representative;
 - i) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership, association or other entity deriving its status as such from the laws in force in a 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, 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 his 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 who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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 settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement and determine the mode of application of the Convention to such person.

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 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;