No. 3567

NETHERLANDS
and
FINLAND

Agreement (with Protocol) for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to taxes on income and property. Signed at Helsinki, on 29 March 1954

Official texts: Dutch and Finnish.

Registered by the Netherlands on 18 October 1956.

PAYS-BAS
et
FINLANDE

Convention (avec Protocole) tendant à éviter la double imposition et à établir des règles d'assistance administrative réciproque en matière d'impôts sur le revenu et sur la fortune. Signée à Helsinki, le 29 mars 1954

Textes officiels néerlandais et finnois.

Enregistrée par les Pays-Bas le 18 octobre 1956.

[TRANSLATION — TRADUCTION]

No. 3567. AGREEMENT[1] BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE ESTABLISHMENT OF RULES OF RECIPROCAL ADMINISTRATIVE ASSISTANCE WITH RESPECT TO TAXES ON INCOME AND PROPERTY. SIGNED AT HELSINKI, ON 29 MARCH 1954

Her Majesty the Queen of the Netherlands and the President of the Republic of Finland,

Desiring to avoid so far as possible double taxation and to establish rules of reciprocal administrative assistance with respect to taxes on income and property,

Have decided to conclude an agreement to that purpose and have appointed as their plenipotentiaries :

Het Majesty the Queen of the Netherlands :

Her Chargé d'affaires ad interim at Helsinki, Mr. Carel G. Verdonck Huffnagel;

The President of the Republic of Finland :

The Minister of Foreign Affairs, Mr. Ralf Törngren,

Who, having examined each other's full powers, found in good and due form, have agreed on the following provisions :

Article 1

(1) This Agreement shall apply to taxes on income and property payable to the State or to provinces, communes or other political subdivisions, including levies on capital or on capital increment and taxes in the form of supplements.

(2) The taxes which are the subject of this Agreement are :

In the case of the Netherlands :

(*a*) The income tax;
(*b*) The wages tax;
(*c*) The company tax;
(*d*) The dividends tax;

[1] Came into force on 23 December 1955, by the exchange of the instruments of ratification at Helsinki, in accordance with article 29.

(*e*) The tax on fees of directors and managers of companies;
(*f*) The tax on capital (hereinafter referred to as " Netherlands tax ").

In the case of Finland :

(*a*) Income and property tax;
(*b*) Communal tax on income;
(*c*) Church tithes (hereinafter referred to as " Finnish tax ").

(3) This Agreement shall also apply to every other tax of a substantially similar nature imposed in one of the two States subsequently to the date of signature of this Agreement.

(4) If the tax legislation of either State is amended in any important respect, the competent authority of that State shall bring the amendment to the notice of the competent authority of the other State so that such changes may be introduced into this Agreement, or such interpretation or application given to the Agreement as may be considered necessary.

Article 2

(1) For the purposes of this Agreement :

(*a*) The term " Netherlands " means only the Kingdom of the Netherlands in Europe;

(*b*) The terms " resident of the Netherlands " and " resident of Finland " mean :

With reference to individuals, respectively any individual who is resident in the Netherlands for the purposes of Netherlands tax and any individual who is resident in Finland for the purposes of Finnish tax; and

With reference to bodies corporate, respectively any body corporate established under Netherlands law and any body corporate established under Finnish law, or, in the case of bodies corporate not so established, any body corporate the business of which is managed and controlled respectively in the Netherlands or in Finland.

If an individual can be deemend to be a resident of both States, he shall be regarded for the purpose of this Agreement as a resident of the State with which he has the stronger personal and economic ties. If his place of residence cannot be determined in accordance with the above rule, the individual shall be regarded as a resident of the State of which he is a national. If he is a national of both States or of neither State, the competent authorities shall come to an agreement on each individual case;

(*c*) The term " body corporate " means any company, association or other organization or entity under fiscal law;

(*d*) The term " Netherlands undertaking " means any industrial, commercial, financial or mining undertaking, including any transport undertaking, carried on by a resident of the Netherlands; the term " Finnish undertaking " means any industrial, commercial, financial or mining undertaking, including any transport undertaking, carried on by a resident of Finland; and the terms " undertaking of one of the States " and " undertaking of the other State " mean a Netherlands undertaking or a Finnish undertaking, as the context requires;

(*e*) The term " permanent establishment " means a management, branch, factory, office, workshop, sales premises or other fixed business establishment, a mine, a quarry or any other place where natural resources are worked. The term also includes any place where in pursuance of a contract construction is being carried out for a period of not less than one year, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such undertaking or has a stock of merchandise from which he regularly fills orders on behalf of the undertaking.

In this connexion :

(i) An undertaking of one of the States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in that other State through a *bona fide* broker or general commission agent acting in the normal course of his business as such;

(ii) The fact that an undertaking of one of the States maintains a fixed business establishment in the other State exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed business establishment a permanent establishment of the undertaking;

(iii) The fact that a body corporate which is a resident of one of the States has a subsidiary company which is a resident of the other State or which carries on its business in that other State (whether through a permanent establishment or otherwise) shall not of itself constitute the subsidiary company a permanent establishment of its parent company;

(*f*) The term " competent authority " means, in the case of the Netherlands, the *Directeur Generaal voor Fiscale Zaken* (Director-General of Fiscal Affairs), and in the case of Finland, the Director of the Taxation Division of the Ministry of Finance;

(*g*) The term " State " means the Netherlands or the Republic of Finland, and the term " States " the Netherlands and the Republic of Finland.

(2) In the application of the provisions of this Agreement by either State any term not defined in the Agreement shall, unless the context otherwise

requires, have the meaning applicable to such term under the laws of that State relating to the taxes which are the subject of this Agreement.

Article 3

(1) Except as otherwise provided in this Agreement, income and property shall be subject to tax only in the State in which the taxpayer is deemed to be resident.

(2) The undivided estate of a deceased person shall be deemed to be situated in the State in which the deceased person is deemed to have been resident at the time of his death.

Article 4

(1) Income derived by a resident of one of the States from immovable property situated in the other State shall be taxable in the latter State if and in so far as such income is not already taxable in that State by virtue of article 5 or article 11 of this Agreement.

(2) For the purposes of paragraph (1) of this article, the term " income derived from immovable property " includes:

(*a*) Royalties in respect of the operation of a mine or quarry or of any other extraction of a natural resource;

(*b*) Interest on mortgages or on any other form of indebtedness secured by immovable property;

(*c*) Capital gains derived from the sale or exchange of immovable property; but this term does not include interest on bonds.

Article 5

(1) Profits derived from industry, commerce, finance, mining or transport by an undertaking of one of the States shall not be subject to tax in the other State unless the undertaking carries on business in the other State through a permanent establishment situated therein. If it carries on business as aforesaid, the other State may tax such profits, but only so much of them as is attributable to that permanent establishment.

Capital gains derived from the sale or exchange of a business or part of a business shall be deemed to be profits derived from industry, commerce, finance, mining or transport.

(2) If an undertaking of one of the States carries on business in the other State through a permanent establishment situated therein, there shall be attributed to that permanent establishment the profits derived from industry, commerce, finance, mining or transport which it might be expected to obtain in that other State if it were an independent undertaking engaged in the same or similar