No. 4036

UNITED STATES OF AMERICA
and
HONDURAS

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Washington, on 25 June 1956

Exchange of notes concerning the correction in the Spanish text of paragraph 4 of article X of the above-mentioned Convention. Tegucigalpa, 6 February 1957

Official texts: English and Spanish.

Registered by the United States of America on 25 October 1957.

ÉTATS-UNIS D'AMÉRIQUE
et
HONDURAS

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Washington, le 25 juin 1956

Échange de notes concernant la correction, dans le texte espagnol, du paragraphe 4 de l'article X de la Convention susmentionnée. Tegucigalpa, 6 février 1957

Textes officiels anglais et espagnol.

Enregistrés par les États-Unis d'Amérique le 25 octobre 1957.

No. 4036. CONVENTION[1] BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF HONDURAS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT WASHINGTON, ON 25 JUNE 1956

The President of the United States of America and the Supreme Chief of State of the Republic of Honduras, desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income, have appointed for that purpose as their Plenipotentiaries :

The President of the United States of America :

John Foster Dulles, Secretary of State of the United States of America, and

The Supreme Chief of State of the Republic of Honduras :

Carlos Izaguirre, Ambassador Extraordinary and Plenipotentiary of the Republic of Honduras in Washington,

who, having communicated to one another their full powers, found in good and due form, have agreed as follows :

Article I

(1) The taxes referred to in this Convention are :

(*a*) In the case of the United States of America :
The Federal income taxes, including surtaxes.

(*b*) In the case of Honduras :
The income tax.

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either contracting State subsequent to the date of signature of the present Convention.

Article II

(1) As used in this Convention :

(*a*) The term "United States" means the United States of America, and when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii and the District of Columbia.

[1] Came into force on 1 January 1957, in accordance with article XXI (1), the exchange of the instruments of ratification having taken place at Tegucigalpa on 6 February 1957.

(*b*) The term "Honduras" means the Republic of Honduras and when used in a geographical sense means the territory of the Republic of Honduras.

(*c*) The expression "permanent establishment" means a branch, office, factory, plantation, mine, railroad, warehouse and other fixed place of business, but does not include the casual or temporary use of mere storage facilities, nor does it include an agent unless the agent has and habitually exercises a general authority to negotiate and conclude contracts on behalf of the enterprise. An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other State merely because it carries on business dealings in such other State through a *bona fide* broker, commission agent or custodian who acts as such in the ordinary course of his business. The fact that an enterprise of one of the contracting States maintains in the other contracting State a fixed place of business exclusively for the purchase by such enterprise of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. The fact that a corporation of one of the contracting States has a subsidiary corporation which is a corporation of the other contracting State or which is engaged in trade or business in the other contracting State shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation.

(*d*) The expression "enterprise of one of the contracting States" means, as the case may be, "United States enterprise" or "Honduran enterprise".

(*e*) The term "enterprise" includes any type of enterprise whether carried on by an individual (in his individual capacity or as a member of a partnership), by a corporation, or by any other entity.

(*f*) The term "United States enterprise" means an industrial or commercial or agricultural enterprise or undertaking carried on by a resident of the United States (including an individual in his individual capacity or as a member of a partnership) or a fiduciary of the United States or by a United States corporation or other entity; the term "United States corporation or other entity" means a corporation or other entity created or organized in the United States or under the laws of the United States or of any State or Territory of the United States.

(*g*) The term "Honduran enterprise" means an industrial or commercial or agricultural enterprise or undertaking carried on by a resident of Honduras (including an individual in his individual capacity or as a member of a partnership) or a fiduciary of Honduras or by a Honduran corporation or other entity; the term "Honduran corporation or other entity" means a corporation or other entity formed or organized in Honduras or under the laws of Honduras.

(*h*) The term "industrial or commercial or agricultural profits" includes manufacturing, mercantile, agricultural, mining, financial and insurance profits, but does not include income in the form of dividends, interest, rents or royalties, or remuneration for personal services : Provided, however, that such excepted items of income shall, subject to the provisions of this Convention, be taxed separately or together with industrial or commercial or agricultural profits in accordance with the laws of the contracting States.

(*i*) An individual temporarily present within one of the contracting States solely for one of the purposes specified in Article XIII or XV, shall not be considered a resident of such State merely because of such presence therein.

(*j*) The expression "competent authorities" means, in the case of the United States, the Secretary of the Treasury or his delegate and, in the case of Honduras, the Secretary of Economics and Finance or his delegate.

(*k*) For the purposes of Article XI and Article XIII, the term "United States dollars" shall be deemed to include the equivalent sum in lempiras as computed at the rate of exchange in effect at the time the money is paid.

(2) For purposes of application of the provisions of the present Convention by one of the contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which such term has under the laws of such State relating to the taxes which are the subject of the present Convention.

Article III

(1) An enterprise of one of the contracting States shall not be subject to the tax of the other contracting State in respect of its industrial or commercial or agricultural profits unless it has a permanent establishment situated in such other State. If it has such permanent establishment such other State may impose its tax upon the entire income of such enterprise from sources within such other State.

(2) In determining the industrial or commercial or agricultural profits of a permanent establishment there shall be allowed as deductions all expenses wherever incurred, reasonably allocable to such permanent establishment, including executive and general administrative expenses so allocable to the reasonable satisfaction of the competent authorities of the State in which the permanent establishment is situated.

Article IV

Where an enterprise of one of the contracting States, by reason of its participation in the management or the financial structure of an enterprise of the other contracting State, makes with or imposes on the latter enterprise, in their commercial or financial relations, conditions different from those which would be made with an independent enterprise, any profits which would normally have been allocable to one of the enterprises, but by reason of such conditions have not been so allocated, may be included in the profits of such enterprise and taxed accordingly.

Article V

(1) Where an enterprise of one of the contracting States has a permanent establishment situated in the other contracting State, there shall be attributed to such permanent establishment the industrial or commercial or agricultural profits which it might be expected to derive if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing on an independent basis with the enterprise of which it is a permanent establishment.

(2) If need be, the competent authorities of the State collecting the tax may, in order to implement Articles III, IV and V (1), rectify the tax return submitted, especially in order to correct errors and omissions or to establish the prices or compensations entered in the books and compare them with the prices which would prevail between independent persons prompted by their respective interests.

(3) (*a*) If an establishment does not submit books showing its own operations or

(*b*) if the books submitted are not consistent with the commercial practices customary in the contracting State where such establishment is situated, or

(*c*) if the rectifications provided for in this Article cannot be made, the competent authorities of the State collecting the tax may determine the net industrial, agricultural or commercial profit by applying equitable and reasonable methods or formulas to the operations of such establishment.

(4) The competent authorities of both contracting States may, consistent with other provisions of the present Convention, arrange details for the apportionment of industrial or commercial or agricultural profits.

Article VI

Profits derived by an enterprise of one of the contracting States from the operation of ships or aircraft or from the operation of motor vehicles for hire between the United States and Honduras by way of the Inter-American Highway, shall be exempt from tax by the other contracting State, if such ships, aircraft or motor vehicles are registered under the laws of the former State.

Article VII

(1) Dividends and interest paid by a corporation organized under the laws of Honduras shall be exempt from United States tax except where the recipient is a citizen or resident or corporation of the United States.