



Protocol

between

the Republic of Poland
and
the Kingdom of Denmark

amending the Convention

between

the Republic of Poland
and
the Kingdom of Denmark

for the Avoidance of Double Taxation and the Prevention of Fiscal
Evasion

with respect to Taxes on Income and on Capital
signed at 6th day of December 2001 in Warsaw

The Republic of Poland and the Kingdom of Denmark, desiring to conclude a Protocol to amend the Convention between the Republic of Poland and the Kingdom of Denmark for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, signed at Warsaw on the 6th day of December 2001 (hereinafter referred to as "the Convention"),

have agreed as follows:

Article 1

Article 22 of the Convention shall be deleted and replaced by the following:

“Article 22

Elimination of Double Taxation

1. In case of Poland, double taxation shall be avoided as follows:
 - (a) Where a resident of Poland derives income which, in accordance with the provisions of this Convention may be taxed in Denmark, Poland shall, subject to the provisions of sub-paragraph (b) of this paragraph exempt such income from tax.
 - (b) Where a resident of Poland derives income or capital gains which, in accordance with the provisions of Articles 10, 11, 12 or 13 of this Convention, may be taxed in Denmark, Poland shall allow as a deduction from the tax on the income or capital gains of that resident an amount equal to the tax paid in Denmark. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such income or capital gains derived from Denmark.
 - (c) Where in accordance with any provision of this Convention, income derived by a resident of Poland is exempt from tax in Poland, Poland may nevertheless, in calculating the amount of tax on the remaining income or capital gains of such resident, take into account the exempted income.
2. In case of Denmark, double taxation shall be avoided as follows:
 - (a) Subject to the provisions of sub-paragraph c), where a resident of Denmark derives income which, in accordance with the provisions of this Convention, may be taxed in Poland, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Poland.
 - (b) Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Poland.
 - (c) Where a resident of Denmark derives income which in accordance with the provisions of this Convention shall be taxable only in Poland, Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from Poland.”

Article 2

Article 25 of the Convention shall be deleted and replaced by the following:

“Article 25

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or

information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3, but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic tax interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or relates to ownership interests in a person."

Article 3

The Contracting States shall notify each other through diplomatic channels that the constitutional requirements for the entry into force of the Protocol have been complied with. The Protocol shall enter into force on the date of the receipt of the latter of the notifications and shall have effect in respect of taxes for the income tax year immediately following that in which the Protocol enters into force and subsequent income years.

In witness whereof, the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Warsaw this 7 day of December 2009 in the Polish, Danish and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Republic of Poland



For the Kingdom of Denmark

