



CONVENTION

BETWEEN

THE REPUBLIC OF POLAND

AND

THE KINGDOM OF NORWAY

FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Republic of Poland and the Kingdom of Norway, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

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 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which this Convention shall apply are in particular:

(a) in the case of Poland:

(i) the personal income tax; and

(ii) the corporate income tax;

(hereinafter referred to as "Polish tax");

(b) in the case of Norway:

(i) the tax on general income;

(ii) the tax on personal income;

(iii) the special tax on petroleum income;

(iv) the withholding tax on dividends; and

(v) the tax on Remuneration to non-resident artistes and sportspersons.

(hereinafter referred to as "Norwegian tax").

4. This Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of this Convention 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 taxation laws.

ARTICLE 3

General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) the term "Poland" means the Republic of Poland, including any area outside the territorial sea of the Republic of Poland designated under its laws and in accordance with international law as an area within which the rights of the Republic of Poland with respect to the sea bed and sub-soil and their natural resources may be exercised;
 - (b) the term "Norway" means the Kingdom of Norway, and includes the land territory, internal waters, the territorial sea and the area beyond the territorial sea where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise her rights with respect to the seabed and subsoil and their natural resources; the term does not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland");
 - (c) the term "person" includes an individual, a company and any other body of persons;
 - (d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (e) the term "enterprise" applies to the carrying on of any business;
 - (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, except when the ship or aircraft is operated solely between places in a Contracting State;
 - (h) the term "competent authority" means:
 - (i) in the case of Poland, the Minister of Finance or his authorised representative;
 - (ii) in the case of Norway the Minister of Finance or the Minister of Finance's authorised representative;
 - (i) the term "national", in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship 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;
- (j) the term "business" includes especially the performance of professional services and of other activities of an independent character.

2. As regards the application of this 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 laws of that State for the purposes of the taxes to which this 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 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.

2. Where by reason of the provisions of paragraph 1 of this Article 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 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

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;

(e) a workshop;

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" also encompasses a building site, a construction, assembly or installation project, but only if such site or project lasts for a period of more than twelve months.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3 of this Article, where an enterprise of a Contracting State performs services in the other Contracting State;

(a) through an individual who is present in that other State during a period or periods exceeding in the aggregate 183 days in any twelve month period, or

(b) during a period or periods exceeding in the aggregate 183 days in any twelve month period, and these services are performed for the same project or connected projects through one or more individuals who are performing such services in that other State or are present in that State for the purpose of performing such services,

and more than 50 per cent of the gross revenues attributable to active business activities of the enterprise during this period or periods are derived from services in that other State through those individuals, the activities carried on in that other State in performing these services shall be deemed to be carried on through a permanent establishment that the enterprise has in that other State, unless these services are limited to those mentioned in paragraph 5 of this Article which, if performed through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

