

N° 1091.

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**POLOGNE  
ET TCHÉCOSLOVAQUIE**

Traité en vue de la suppression de la double imposition en matière d'impôts directs, avec protocole additionnel, signés à Varsovie, le 23 avril 1925.

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**POLAND  
AND CZECHOSLOVAKIA**

Treaty for the purpose of Preventing Double Taxation in the Field of Direct Taxation, and Additional Protocol, signed at Warsaw, April 23, 1925.

## TEXTE POLONAIS. — POLISH TEXT.

N<sup>o</sup> 1091. — UMOWA<sup>1</sup> MIĘDZY REPUBLIKĄ CZECHOSŁOWACKĄ A RZECZĄ-  
POSPOLITĄ POLSKĄ W SPRAWIE ZAPOBIEŻENIA PODWÓJNYM OPO-  
DATKOWANIOM W DZIEDZINIE BEZPOŚREDNICH PODATKÓW PAŃST-  
WOWYCH, PODPÍSANÁ W WARSZAWIE, DNIA 23 KWIETNIA 1925, R.

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*Polish and Tchechoslovak official texts communicated by the Delegate of the Polish Republic and by the Permanent Delegate of the Czechoslovak Republic accredited to the League of Nations. The registration of this Treaty took place February 10, 1926.*

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REPUBLIKA CZECHOSŁOWACKA i RZECZPOSPOLITA POLSKA celem zapobieżenia podwójnym opodatkowaniom w dziedzinie bezpośrednich podatków państwowych, postanowiły zawrzeć co do tego umowę i zamianowały w tym celu swymi pełnomocnikami:

PREZYDENTA REPUBLIKI CZECHOSŁOWACKIEJ :

Dra J. Bohumila VLÁŠÁKA, upełnomocnionego Ministra i Szefa Sekcji Ministerstwa Skarbu,

PREZYDENTA RZECZYPOSPOLITEJ POLSKIEJ :

Dra J. Karola BIRGFELLNERA, sędziego Najwyższego Trybunału Administracyjnego,

kórtzy po wzajemnej wymianie swych pełnomocnictw, oraz po stwierdzeniu, iż są tak co do treści jak i formy odpowiednie, umówili zgodnie, co następuje :

*Artykuł 1.*

Od nieruchomości (gruntów i budynków), tudzież od dochodów z tych źródeł, państwowe podatki bezpośrednie pobiera się w tem Państwie, na którego obszarze odnośne nieruchomości się znajdują.

*Artykuł 2.*

1. Od przedsiębiorstw handlowych i przemysłowych, do których zalicza się także zajęcia zawodowe i wszelkie inne zatrudnienia o celach zarobkowych tudzież od dochodów z tych źródeł, państwowe podatki bezpośrednie pobiera się w tem Państwie, na którego obszarze odnośne przedsiębiorstwa są wykonywane.

Miejscem wykonywania (działalności) przedsiębiorstwa jest to miejsce, w którym znajduje się zakład główny, filjalny, produkcyjny (fabryka), składownia, kantor (biuro) ekspozytura zakupów i sprzedaży, wogóle jakieś trwałe urządzenie w celu wykonywania (prowadzenia) przedsiębiorstwa, czyto przez samego właściciela czy przez współnika lub stałego zastępcę (pracownika), a w braku takiego urządzenia miejsce faktycznego wykonywania zatrudnienia o celach zarobkowych.

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<sup>1</sup> The exchange of ratifications took place at Prague, December 14, 1925.

<sup>1</sup> TRANSLATION.

No. 1091. — TREATY BETWEEN POLAND AND CZECHOSLOVAKIA FOR THE PURPOSE OF PREVENTING DOUBLE TAXATION IN THE FIELD OF DIRECT TAXATION, SIGNED AT WARSAW, APRIL 23, 1925.

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THE CZECHOSLOVAK REPUBLIC and THE POLISH REPUBLIC, desirous of preventing double taxation in the domain of direct taxation, have decided to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries :

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC :

Dr. Bohumil VLASÁK, Minister Plenipotentiary and Head of Department in the Ministry of Finance ;

THE PRESIDENT OF THE POLISH REPUBLIC :

Dr. Karol BIRGFELLNER, Judge of the Supreme Administrative Court ;

Who, having exchanged their full powers, found in good and due form, have agreed upon the following provisions :

*Article 1.*

Immovable property (landed and house property) and income derived therefrom shall be subject to direct taxation in the country in which such property is situated.

*Article 2.*

(1) Commercial and industrial undertakings, including professions and all other occupations of a lucrative nature, and income derived therefrom, shall be subject to direct taxation in the country in which such undertakings are established or such professions carried on.

An undertaking shall be deemed to be established in the place where it has its head office or a branch factory, warehouse, office, shop for purchase and sale, or generally speaking any permanent premises kept for the purposes of the business by the owner himself or his partner or permanent representative. If there is no place of establishment as defined above, a lucrative undertaking shall be deemed to be established in the place where it is in fact carried on.

For the purposes of this Convention the expression " working establishment " shall not include the following ; journeys made by the head of the undertaking to obtain orders, delivery of orders, delivery of goods on commission to an established dealer, delivery to customers of goods transported from one country to the other or of goods lying in warehouses belonging to a transport undertaking or to a forwarding agent, provided that such transactions are not carried out by offices or employees of the undertaking.

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<sup>1</sup> Translated by the Secretariat of the League of Nations.

(2) If an undertaking possesses establishments in the territory of both States, it shall be liable to direct taxation in each State only in respect of the business transacted in the establishments situated in the territory of that State.

The common receipts of such establishments shall, as a general rule, be allocated in proportion to the funds and capital allotted to those establishments, and the common expenditure shall be allocated in proportion to the receipts. In certain cases the Finance Ministers of the two States may agree upon a different system of allocation.

Receipts obtained in one country from the sale of goods purchased in the other country, and the expenditure corresponding to such receipts, shall as a general rule be divided equally among the establishments concerned in the transaction.

(3) If an undertaking established in the territory of one State extends its operations to the territory of the other State, it shall be subject to direct taxation only in the State in whose territory it is established.

(4) The two Contracting Parties agree that the fixed tax on earned income imposed by the Polish Republic under the law of May 14, 1923, No. 412 Dz. U. R. P., is not contrary to the provisions of this Convention in cases in which the profession or trade is subject to no tax other than the fixed tax on earned income.

#### Article 3.

Mortgages, trusts, and all other property legally attached to the territory of one of the Contracting Parties, and income derived therefrom, shall be subject to direct taxation in the State in whose territory such property is situated.

Each of the Contracting Parties reserves the unrestricted right to tax capital and the interest thereon, provided always that such taxes shall be deducted at the source, or collected from a person other than the taxpayer. This reservation shall, however, in no way invalidate the right of the other State to tax such capital and income in accordance with the laws in force in its territory.

#### Article 4.

Dividends, salaries, pensions and retired pay, paid by the State, autonomous bodies (municipalities) or other institutions or funds of the same kind, shall be subject to taxation only in the State in which payment is made.

#### Article 5.

Except as otherwise provided in Articles 1 to 4, Czechoslovak and Polish nationals shall be liable to direct taxation only in the country in which they are domiciled, or, if they have no domicile, in the country in which they are resident for the time being.

Persons having a domicile in each of the two countries shall be liable to direct taxation only in the country of which they are nationals.

For the purposes of this Convention the term "domicile" shall mean any habitation occupied under conditions which imply an intention to retain it continuously.

#### Article 6.

(1) The Polish special tax established by the Law of December 16, 1921, No. 1. Dz. U. R. P. of 1922, and the capital levy established by the Polish Law of August 11, 1923, No. 746, Dz. U. R. P., on the one hand, and the tax on capital and capital increments established by the Czechoslovak Law of April 8, 1920, No. 309, Sb. z. a. n., on the other hand, shall be regarded as equivalent taxes.

(2) In respect of the imposition of these taxes, Articles 1 to 5 shall apply to legal persons as well as to physical persons. The two Contracting Parties agree, in accordance with Article 5, that movable property shall be taxed only in the State in which the taxpayer is domiciled, or, if he has a domicile in each of the two States, only in that State of which he is a national.

(3) Should double taxation be rendered possible by the occurrence, during the period between the essential date for the assessment of the Czechoslovak tax and the essential date for the assessment of the Polish tax, of changes in the personal circumstances of a taxpayer or the investment of his capital, the Finance Ministers of the two Contracting Parties shall agree upon the necessary measures to prevent double taxation or to allocate the tax equitably between the territories of the two States.

(4) The provisions of this Convention shall not apply in cases in which the stipulations of this Article would involve exemption from or reduction of the Polish tax without at the same time entailing the application of the Czechoslovak capital levy.

(5) The provisions of this Convention shall also not apply to the property of nationals of the two Contracting Parties (including property belonging to an unsettled succession) or of legal persons domiciled in the territory of one of the two States, if such property has been acquired or transferred in the territory of the other Contracting Party since 1918.

#### Article 7.

In respect of the period up to the end of 1918, direct taxation shall be levied in the territories of the two Contracting Parties in accordance with the fiscal legislation in force at that time. Nevertheless, no claim may be made for the revision of the assessment legally in force on December 31, 1924, on the sole ground that it was made in contravention of the former fiscal laws.

Should double taxation be involved by the application of the fiscal legislation referred to in the first paragraph of this Article, the provisions of Articles 1-5 of this Convention shall be applied, *mutatis mutandis*, in order to prevent such double taxation. The Finance Ministers of the two Contracting Parties shall be authorised to take steps by common consent, if necessary, to prevent double taxation of the kind referred to or to establish an equitable system of assessment for the taxes in question.

#### Article 8.

In respect of that part of the territory of Teschen Silesia, which now belongs to the Czechoslovak Republic but was under Polish administration until August 10, 1920, and that part of the Spisz and Orava territory which now belongs to the Polish Republic but was formerly under Czechoslovak administration, direct taxation levied by the authorities of the Contracting Party which formerly administered those territories shall be deemed to have been legally levied, and accordingly the Contracting Party now administering the territories may not demand the payment of these taxes a second time if the tax-payer can prove that he has already paid them.

These provisions shall also apply to the territories ceded to the Czechoslovak Republic in virtue of the decision reached by the Polish-Czechoslovak Frontier Delimitation Commission on April 29, 1924.

#### Article 9.

The present Convention shall not apply to peddling or to itinerant trades.

*Article 10.*

The fiscal authorities of the two Contracting Parties shall afford each other direct assistance in carrying out this Convention. In dealing with applications for information, and replying thereto, the legal regulations for the preservation of administrative secrecy shall be observed. Official documents shall not be communicated. In correspondence between the authorities of the two countries, the Czechoslovak language or the Polish language, as the case may be, shall be employed.

The question of mutual assistance in the forcible recovery of taxes shall be settled by a special Convention.

*Article 11.*

If in certain particular cases there is doubt as to the application or interpretation of this Convention or it is impossible, notwithstanding the Convention, to prevent double taxation, the Finance Ministers of the two Contracting Parties shall agree upon the most equitable method of dealing with such cases.

*Article 12.*

The provisions of this Convention, except Articles 7 and 8, shall apply to direct taxation in respect of the period since January 1, 1919.

*Article 13.*

The present Convention shall be ratified and the instruments of ratification shall be exchanged at Prague as soon as possible. The Convention shall come into force on the fifteenth day after the exchange of the instruments of ratification.

Either of the contracting States may denounce the Convention not less than six months before the close of any calendar year, and, in that case, the Convention shall cease to have effect as from the end of that calendar year.

The present Convention is drawn up in two original copies, each in Czechoslovak and Polish. Both texts shall be authentic.

In faith whereof the above-named Plenipotentiaries have signed the present Convention and have thereto affixed their seals.

Done at Warsaw on April 23, 1925.

For the Czechoslovak Republic :

(L. S.) (Signed) Dr. BOHUMIL VLASÁK.

For the Polish Republic :

(L. S.) (Signed) Dr. KAROL BIRGFELLNER.

## FINAL PROTOCOL

TO THE CONVENTION BETWEEN THE CZECHOSLOVAK REPUBLIC AND THE POLISH REPUBLIC FOR THE PREVENTION OF DOUBLE TAXATION IN THE FIELD OF DIRECT TAXATION.

The Contracting Parties have agreed upon the following points :

(1) Salaries do not fall within the terms of Article 2 (" Professions and all other occupations of a lucrative nature"), but within those of Article 5.

(2) Subject to the provisions of Article 11, the stipulations of the present Convention, except Articles 6, 7 and 8, shall not apply to legal persons.

(3) Property belonging to an unsettled succession shall be dealt with as if the deceased were still living.

(4) The provisions of Article 3, paragraph 2, shall apply to schedular taxes only and not to income-tax.

(5) The payments mentioned in Article 4, if made on behalf of the State or any other institution referred to in that Article, which is domiciled in the territory of that State, shall be deemed to have been made in the territory of that State.

(6) The taxes referred to in Article 6, paragraph 3, may not be claimed in full by either of the Contracting Parties on the sole ground that the date on which the basis of the tax was fixed was previous to the essential date.

(7) The documents and technical material (land registers, birth, marriage and death registers, and other lists) relating to the territory of Teschen (Silesia), and to Spisz and Orava shall be allocated between the Contracting States by common agreement on the basis of the territories respectively assigned to them.

(8) On the occasion of the assessment of taxation on a mortgage, the bonds and securities drawn on that mortgage shall be deducted from the amount of the debt in accordance with the regulations in force in the State concerned for the assessment of the capital levy.

Done at Warsaw on April 23, 1925.

For the Czechoslovak Republic :

(L. S.) (Signed) DR. BOHUMIL VLASÁK.

For the Polish Republic :

(L. S.) (Signed) DR. KAROL BIRGFELLNER.