

N° 2714.

FINLANDE ET SUÈDE

**Convention en vue d'éviter la double
imposition en matière d'impôts
directs, avec protocole final. Signés
à Stockholm, le 16 mars 1931.**

FINLAND AND SWEDEN

**Convention for the Prevention of
Double Taxation in the matter of
Direct Taxes, with Final Protocol.
Signed at Stockholm, March 16,
1931.**

TEXTE SUÉDOIS. — SWEDISH TEXT.

N^o 2714. — ¹AVTAL MELLAN REPUBLIKEN FINLAND OCH KONUNGARIKET SVERIGE FÖR UNDVIKANDE AV DUBBELBESKATTNING BETRÄFFANDE DIREKTA SKATTER. UNDERTECKNAD I STOCKHOLM, DEN 16 MARS 1931.

*Textes officiels finnois et suédois communiqués par le ministre des Affaires étrangères de Suède.
L'enregistrement de cette convention a eu lieu le 29 mai 1931.*

KONUNGARIKET SVERIGE och REPUBLIKEN FINLAND hava, för undvikande av dubbelbeskattning beträffande direkta skatter, överenskommit att sluta avtal angående uppdelning av beskattningsrätten mellan de båda staterna med hänsyn till olika skattekällor.

För detta ändamål hava till fullmäktige utsett :

HANS MAJ:ET KONUNGEN AV SVERIGE :

Sin Minister för Utrikes Ärendena, Hans Excellens Friherre Fredrik RAMEL ; och

REPUBLIKEN FINLANDS PRESIDENT :

Republikens utomordentliga Sändebud och befullmäktigade Minister i Stockholm Rafael Waldemar ERICH ; och

vilka, efter att hava granskat varandras fullmakter och funnit dem i god och behörig form, överenskommit om följande bestämmelser :

Artikel 1.

Detta avtal är tillämpligt å medborgare i Konungariket Sverige och Republiken Finland samt å svenska och finska juridiska personer.

Artikel 2.

Avtalet innehåller bestämmelser allenast rörande direkta skatter.

Med direkta skatter avses i detta avtal skatter, som på grundval av de avtalslutande staternas lagstiftning utgå direkt å inkomst (netto- eller bruttoinkomst) eller å förmögenhet, vare sig för statens eller kommuns räkning.

Som direkta skatter anses särskilt :

1. beträffande lagstiftningen i Sverige :

- a) statlig inkomst- och förmögenhetskatt,
- b) allmän kommunalskatt,

¹ L'échange des ratifications a eu lieu à Helsingfors, le 28 avril 1931.

TEXTE FINNOIS. — FINNISH TEXT.

N^o 2714. — ¹ SOPIMUS SUOMEN TASAVALLAN JA RUOTSIN KUNINGASKUNNAN VÄLILLÄ KAKSINKERTAISEN VEROTUKSEN EHKÄISEMISEKSI VÄLITTÖMIEN VEROJEN ALALLA, ALLEKIRJOITETTU TUKHOLMASSA, 16 PÄIVÄNÄ MAALISKUUTA 1931.

Finnish and Swedish official texts communicated by the Swedish Minister for Foreign Affairs. The registration of this Convention took place May 29, 1931.

RUOTSIN KUNINGASKUNTA ja SUOMEN TASAVALLA ovat, kaksinkertaisen verotuksen ehkäisemiseksi välittömien verojen alalla, päättäneet tehdä sopimuksen verotusoikeuden jakautumisesta molempien valtioiden kesken eri verolähteiden suhteen.

Sitä varten ovat valtuutetuikseen määränneet :

HÄNEN MAJESTEETTINSA RUOTSIN KUNINGAS :

Ulkoasiainministerinsä, Hänen Ylhäisyytensä vapaaherra Fredrik RAMELIN ;

SUOMEN TASAVALLAN PRESIDENTTI :

Tasavallan Tukholmassa olevan erikoislähettilään ja täysivaltaisen ministerin Rafael Waldemar ERICHIN ;

Jotka, tarkastettuaan toistensa valtakirjat ja todettuaan ne oikeiksi ja asianmukaisiksi, ovat sopineet seuraavista määräyksistä :

1 artikla.

Tätä sopimusta sovelletaan Ruotsin Kuningaskunnan ja Suomen Tasavallan kansalaisiin sekä ruotsalaisiin ja suomalaisiin juridisiin henkilöihin.

2 artikla.

Tämän sopimuksen määräykset koskevat ainoastaan välittömiä veroja.

Välittömillä veroilla tarkoitetaan tässä sopimuksessa veroja, joita sopimusvaltioiden lainsäädännön mukaan suoritetaan välittömästi tulosta (puhtaasta tai kokonaistulosta) tahi omaisuudesta joko valtiolle tai kunnalle.

Välittömiksi veroiksi luetaan erityisesti :

1. Ruotsin lainsäädännön kannalta :

- a) valtion tulo- ja omaisuusvero,
- b) yleinen kunnallisvero,

¹ The exchange of ratifications took place at Helsingfors, April 28, 1931.

¹ TRANSLATION.

No. 2714. — CONVENTION BETWEEN THE REPUBLIC OF FINLAND AND THE KINGDOM OF SWEDEN FOR THE PREVENTION OF DOUBLE TAXATION IN THE MATTER OF DIRECT TAXES. SIGNED AT STOCKHOLM, MARCH 16, 1931.

THE KINGDOM OF SWEDEN and THE REPUBLIC OF FINLAND, in order to prevent double taxation in the matter of direct taxes, have decided to conclude an Agreement concerning the allocation of the right of taxation as between the two States in respect of various sources of taxation.

For this purpose they have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF SWEDEN :

His Excellency Baron Fredrik RAMEL, Minister for Foreign Affairs ;

THE PRESIDENT OF THE REPUBLIC OF FINLAND :

M. Rafael Valdemar ERICH, Envoy Extraordinary and Minister Plenipotentiary of the Republic at Stockholm ;

Who, having examined their respective full powers and found them in good and due form, have agreed on the following provisions :

Article 1.

The present Convention shall be applicable to nationals of the Kingdom of Sweden and of the Republic of Finland and to Swedish and Finnish corporate bodies.

Article 2.

The provisions of the Convention shall be applicable solely to direct taxes.

For the purposes of the present Convention, direct taxes shall be taken to mean taxes which, on the basis of the legislation of the Contracting States, are levied direct on income (net or gross), or on capital whether on account of the State or of the commune.

In particular, the following shall be regarded as direct taxes :

(1) Under Swedish law :

(a) State tax on income and capital ;

(b) General communal tax ;

(c) Graduated communal tax ;

(d) Forestry excise and

(e) Taxes and charges levied according to the same principles as any of the taxes specified under (a) to (d).

¹ Translated by the Secrétariat of the League of Nations, for information.

- (2) Under Finnish law :
- (a) Tax on income and capital ;
 - (b) Communal tax on income ;
 - (c) Taxes and charges levied on the same principles as any of the above-named ;
- and
- (d) Tax on interest (*Ränteskatt*) payable by foreigners.

Article 3.

Unless otherwise provided in the present Convention, income and capital shall be taxable only in the Contracting State where the taxpayer is deemed to be domiciled.

For the purposes of the present Convention, every taxpayer shall be deemed to be domiciled in one of the States if he has his actual dwelling and home in that State, or, should he have no dwelling or home in either State, if he permanently resides there. Every taxpayer shall be deemed to reside permanently in one of the States during the period when he remains at any place in that State in circumstances which warrant the presumption that he does not intend to remain there merely temporarily.

Every taxpayer who has not his actual dwelling and home and who does not reside permanently in either of the Contracting States but is, nevertheless, liable to double taxation under the laws of those States shall, for the purposes of the present Convention, be deemed to be domiciled in the State of which he is a national.

For the purposes of this Convention, a corporate body shall be deemed to be domiciled in the State in which the management or head administration has its seat.

The undivided estate of a deceased person shall be deemed to be domiciled in the State where the deceased is deemed, under the second and third paragraphs of this Article, to have been domiciled at the time of death.

Article 4.

Income from immovable property situated in one of the two States shall be taxable only in that State.

Article 5.

Income from commerce, industry or any other business or occupation, derived from a permanent establishment in one of the two States, shall be taxable, unless otherwise provided hereinafter only in that State. Should there be permanent establishments in both States, each of the States shall tax the portion of the income derived from the permanent establishment situated in its territory.

A permanent establishment shall be regarded as a place at which there are special installations for permanent use in the business or in which special arrangements have been made, such as a place where the undertaking has its management, offices, branches, permanent agencies, factories works, buying or selling offices, warehouses, mines or other mineral deposits under exploitation.

Income from part ownership of undertakings shall also be deemed to be income from business with the exception of income from shares and similar securities.

Article 6.

Income from shipping or air navigation undertakings the actual seat of management of which is in one of the two States shall be taxable only in that State.

Article 7.

Salaries, pensions, or other emoluments paid on account of employment, service, or permanent duties by either of the States, by Swedish or Finnish communes or by other Swedish or Finnish public bodies shall be taxable only in the State from which the salary or payment is received.

Salaries, pensions, or other emoluments otherwise paid on account of employment, service or permanent duties shall be taxable only in the State where the work in question is being or has been performed.

Article 8.

Capital consisting of immovable property in either State or appurtenances to such property shall be taxable only in that State.

Capital consisting of undertakings for engaging in commerce or industry or any other business or occupation, shall be taxable only in the State which is entitled by the provisions of this Convention to the income tax on the said capital.

Article 8.

The following special provisions shall apply to diplomatic and consular representatives and other representatives of the Contracting States of equal status with them :

Representatives who are permanent paid officials and officials allotted to them and persons employed by them or by their officials, shall be liable to pay direct taxes only in the State to which they are sent, in respect of the income specified in Articles 4, 5 and 6, and the capital specified in Article 8, or when the taxes are collected by means of deductions (at the source) ; in other cases taxation shall be reserved to the State which appoints them.

The provisions of the present Convention shall apply to honorary consuls who are nationals only of the State which they represent ; such consuls shall, however, not be liable to direct taxation in the State to which they are sent in respect of emoluments which they receive in payment for their consular work.

Article 10.

The State in which the taxpayer is deemed to be domiciled may, when assessing the tax, apply the scale of taxation that would have been applicable if the income and capital which, under this Convention, are taxable in the other State, had been taxable in the former State.

Article 11.

If a taxpayer proves that the measures taken by the fiscal authorities of the Contracting States have resulted in his being subjected to double taxation, he may appeal to the State of which he is a national. If his objection is deemed to be warranted, the supreme financial authorities of the State in question may come to an agreement with the supreme financial authorities of the other State with a view to equitably avoiding double taxation.

Article 12.

If difficulty or doubt arises in the interpretation and application of the present Convention, the supreme financial authorities of the two Contracting States may come to special agreements.

Article 13.

The Contracting States undertake to entrust their supreme financial authorities with the equitable decision of all other questions in respect of direct taxes which may arise owing to the different principles governing the collection of taxes in the two States or, in general, those which may arise without having been expressly decided in the present Convention.

Article 14.

The present Convention shall first apply to taxes assessed in 1931 for the calendar year 1930 or for the financial year ending between March 1, 1930 and February 28, 1931, inclusive.

Article 15.

The present Convention, done in duplicate in Swedish and Finnish, shall be ratified on the part of Sweden, by His Majesty the King of Sweden with the approval of the Riksdag, and on the part of Finland, by the President of the Republic. The instruments of ratification shall be exchanged at Helsingfors as soon as possible. The Convention shall come into force as from the exchange of the instruments of ratification and shall remain in force until denounced by one of the Contracting States. Denunciation shall take place at least eight months prior to the expiry of the calendar year. Where due notice is given, the Convention shall apply for the last time to taxes levied in respect of the calendar year on the expiry of which the denunciation takes effect, and in respect of the financial years ending not later than the end of February of the following year. If due notice is not given, the final dates mentioned in the preceding sentence shall be postponed by one year.

In faith whereof the Plenipotentiaries of the two States have signed the Convention and have thereto affixed their seals.

Done at Stockholm in duplicate, March 16, 1931.

(L. S.) (*Signed*) Fredrik RAMEL.

(L. S.) (*Signed*) R. Erich.

FINAL PROTOCOL.

On signing the Convention concluded this day between the Kingdom of Sweden and the Republic of Finland for the prevention of double taxation in the matter of direct taxes, the undersigned Plenipotentiaries have jointly made the following declarations, which shall constitute an integral part of the Convention.

1. With regard to taxpayers not belonging to either of the Contracting States, the supreme financial authorities of those States may come to special agreements in each case with a view to preventing double taxation. In this respect special account shall be taken of taxpayers belonging to States which have concluded with both the Contracting States agreements for the prevention of double taxation.

2. The list of direct taxes included in Article 2 of the Convention furnishes examples only and is not exhaustive.

Any doubtful points as to what direct taxes are included in the Convention shall be settled by agreement between the supreme financial authorities of the two States.

The supreme financial authorities of the two States shall, whenever necessary, communicate to each other lists of the direct taxes levied in each State.

3. By "communes" shall be understood in this Convention, as regards Sweden, communes of both the higher and the lower categories, and, as regards Finland, provinces (*landskap*), unions of communes, communal associations, and parishes.

4. For the purposes of this Convention, direct taxes shall not include increment taxes, turnover taxes, taxes on communications or consumption, special taxes on winnings from lotteries and betting, successions dues and taxes on gifts, or, as regards Sweden, imposts concerning special privileges and immunities, or the corresponding taxes levied in Finland.

The Finnish communal tax shall be excluded from the application of the Convention in so far as it refers to gifts, inheritances, legacies and entailed estates.

The tax on income from dividends on shares and allotments in Swedish unlimited liability banking companies is excluded from the application of the Convention until a special Agreement is concluded on the prevention of double taxation in respect of such taxes.

5. A taxpayer removing from one of the Contracting States to the other shall be regarded as ceasing to be domiciled in the former State from the date when he removes into the other State.

6. In respect of income or capital for which the undivided estate of a deceased person is taxed in one State, participants in the estate in the other State may not be taxed.

7. The provisions of Article 4 shall apply to income derived both from the direct administration and use of immovable property and to the income from letting, leasing, and any other form of using such property, together with profit derived from alienations of immovable property, including the appurtenances sold therewith.

Income from immovable property shall be deemed to include income from timber felling on the person's own property or on the property of others and income which he may obtain from the transport of felled timber to the port of exportation and its sale within the country and also from the working up of the timber in the country at places other than the permanent business establishment.

8. Occupations within the meaning of Article 5 shall also include liberal professions such as scientific, artistic, literary, pedagogic or educational work and the work of physicians, lawyers, architects and engineers.

9. The provisions of Article 5 shall also apply to income derived from the direct exercise of business and to income from the transfer of the business to others and profit on alienations of the business or parts thereof or of objects used in the business.

10. The site of a building, the construction of which has exceeded or, as far as can be estimated, will exceed a period of 12 months, shall be regarded as a permanent business establishment within the meaning of the Convention.

A business establishment in one of the Contracting States shall not be deemed to be permanent solely on the ground that an undertaking domiciled in the other State has a subsidiary company in the former State or maintains business connections there only through an entirely independent representative or a representative (agent) who, while permanently working for account of the undertaking in the former State, merely negotiates business as an intermediary, without being authorised to conclude transactions on behalf of the undertaking.

11. The supreme financial authorities of the two Contracting States may conclude a special agreement with a view to the equitable allocation of income from commerce, industry and other business in the cases provided for in Article 5, paragraph 1, second sentence.

12. Similar securities in Article 5, last paragraph, shall be understood, as regards current Swedish law to mean allotments in unlimited liability banking companies and shares in Swedish economic associations and, as regards Finnish law, shares in co-operative societies.

If doubts arise as to the meaning of the expression " similar securities ", on account of changes in the legal provisions in either State in respect of companies or other associations for carrying on business, the supreme financial authorities of the two States may conclude a special agreement on the subject.

13. Royalty paid for the use of immovable property or for working mines or other mineral deposits shall be taxable in the State where the immovable property, mine or mineral deposit is situated.

Other royalty shall be taxed in accordance with the provisions of Article 3.

Charges payable periodically for the use of patents, models or the like shall be assimilated to royalty.

14. A person employed in one State and residing temporarily in the territory of the other State in connection with his work shall not thereby be deemed to be carrying out his work in the latter State, provided that he receives his salary exclusively from his employer who is liable to taxation in the former State.

15. With regard to persons who under the present Convention are deemed to be domiciled in a rural or urban commune near the land frontier between the two States and who work in such a commune in the other State from which they receive income in accordance with Article 7, second paragraph, the provisions of Article 3 shall apply to such income until a special agreement regarding the taxation of such persons is concluded.

16. Students who reside in one of the Contracting States solely for purposes of study shall be exempt from taxation by that State in respect of any allowances for their maintenance and studies which they receive from their relatives domiciled and taxable in the other State.

17. In order to remove any doubt, it is hereby declared that the provisions of Article 9 shall not affect the right to benefit by any more extensive exemptions which have been conferred, or which may hereafter be conferred, on diplomatic and consular officials in virtue of the general rules of international law.

Where owing to much more extensive exemptions, there is no liability to direct taxation in the State to which these officials are sent, the right of taxation shall be reserved to the State appointing them.

18. The provisions of Article 10 regarding the right to apply a certain higher scale of taxation shall also apply to persons specified in Article 9, second paragraph, in their own country, and, as far as taxation in Finland is concerned, to Finnish nationals even if not resident in Finland.

19. The two Contracting States reserve to themselves the right to conclude a special agreement with regard to succession duties and the taxes on gifts.

20. With regard to income or capital taxable under the present Convention in the country of domicile, each State is entitled, if necessary, when granting exemption from State or communal taxes to which certain taxpayers are liable under the general taxation laws of the State, to demand proof that the same income or capital is liable to corresponding taxes in the other States.

Done at Stockholm, in duplicate, March 16, 1931.

(L. S.) (Signed) Fredrik RAMEL.

(L. S.) (Signed) R. ERICH.