

N° 2989.

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**DANEMARK ET SUÈDE**

Convention en vue d'éviter la double imposition en matière d'impôts directs, avec protocole final. Signés à Stockholm, le 6 mai 1932.

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**DENMARK AND SWEDEN**

Convention for the Prevention of Double Taxation in the matter of Direct Taxes, with Final Protocol. Signed at Stockholm, May 6, 1932.

## TEXTE DANOIS. — DANISH TEXT.

N<sup>o</sup> 2989. — OVERENSKOMST<sup>1</sup> MELLEM KONGERIGET DANMARK OG KONGERIGET SVERIGE TIL UNDGAAELSE AF DOBBELT-BESKATNING VEDRØRENDE DIREKTE SKATTER. UNDERTEGNET I STOCKHOLM, DEN 6 MAJ 1932.

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*Danish and Swedish official texts communicated by the Swedish Minister for Foreign Affairs and by the Permanent Delegate of Denmark accredited to the League of Nations. The registration of this Convention took place July 1st, 1932.*

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KONGERIGET DANMARK og KONGERIGET SVERIGE er, for at undgaa Dobbeltbeskatning vedrørende direkte Skatter, blevet enige om at oprette en Overenskomst angaaende Deling af Beskatningsretten mellem begge Stater med Hensyn til forskellige Skatteklender.

I dette Øjemed har til Befuldmægtigede udnævnt :

HANS MAJESTÆT KONGEN AF DANMARK OG ISLAND :

Sin Overordentlige Gesandt og befuldmægtigede Minister i Stockholm, Greve E.V.S.C. REVENTLOW,

HANS MAJESTÆT KONGEN AV SVERIGE :

Sin Udenrigsminister, Hans Excellence Friherre S.G.F.T. RAMEL.

Som, efter at have undersøgt hinandens Fuldmagter og fundet dem i god og behørig Form, er blevet enige om følgende Bestemmelser :

*Artikel 1.*

Denne Overenskomst finder Anvendelse med Hensyn til Statsborgere i Kongeriget Danmark og Kongeriget Sverige samt paa danske og svenske juridiske Personer.

*Artikel 2.*

Overenskomsten angaar alene direkte Skatter.

Som direkte Skatter anses i denne Overenskomst Skatter, som paa Grundlag af de kontraherende Staters Lovgivning erlægges direkte af Netto-Indkomst eller af Netto-Formue, enten for Statens eller Kommunens Regning.

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<sup>1</sup> The exchange of ratifications took place at Copenhagen, June 25, 1932.

<sup>1</sup> TRANSLATION.

No. 2989. — CONVENTION BETWEEN THE KINGDOM OF DENMARK  
AND THE KINGDOM OF SWEDEN FOR THE PREVENTION OF  
DOUBLE TAXATION IN THE MATTER OF DIRECT TAXES.  
SIGNED AT STOCKHOLM, MAY 6, 1932.

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THE KINGDOM OF SWEDEN and THE KINGDOM OF DENMARK, in order to prevent double taxation in the matter of direct taxes, have decided to conclude a Convention concerning the division of the right of taxation 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 S. G. F. T. RAMEL, Minister for Foreign Affairs ; and

HIS MAJESTY THE KING OF DENMARK AND ICELAND :

Count E. V. S. C. REVENTLOW, Envoy Extraordinary and Minister Plenipotentiary 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 the Kingdom of Denmark and to Swedish and Danish corporate bodies.

*Article 2.*

The provisions of the present 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 net income or net capital, whether on account of the State or of the Commune.

In particular the following shall be regarded as direct taxes :

(i) Under Swedish Law :

- (a) State tax on income and capital ;
- (b) Communal tax on income ;
- (c) Graduated communal tax ;
- (d) Taxes and charges levied according to the same principles as any of the taxes specified under (a) to (c).

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

- (2) Under Danish Law :
- (a) State tax on income and capital ;
  - (b) Communal tax on income ;
  - (c) Taxes and charges levied on the same principles as any of the taxes specified under (a) and (b).

*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 such 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 stay 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 who 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. This provision shall not, however, affect the legislation of the two States in respect of the place of taxation of the undivided estate of a deceased person.

*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 activity or occupation for purposes of gain, derived from a permanent business establishment in one of the two States, shall be taxable, unless otherwise provided hereinafter, only in that State. Should there be permanent business establishments in both States, each State shall tax the portion of the income derived from the permanent establishment situated in its territory.

A permanent business establishment shall be regarded as a place at which there are special installations or at which special arrangements have been made for the permanent use of such place for business purposes, such as a place where the undertaking has its management, offices, branches, permanent agencies, factories, workshops, buying or selling premises, warehouses, mines, quarries and the like under exploitation.

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

*Article 6.*

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

*Article 7.*

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 activity or occupation for purposes of gain shall be taxable only in the State which is entitled by the provisions of this Convention to claim taxation on the income from 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 :

Such representatives, being permanent public servants, and the officials allotted to them and the persons employed by such public servants or officials, if they are not nationals of the country in which they are employed, shall be liable to pay direct taxes in that country only in respect of the income specified in Articles 4, 5 and 6 and the capital specified in Article 7 ; in other cases taxation shall be reserved to the State which appoints them.

Honorary consuls who are nationals only of the State which they represent shall not be liable to direct taxation in the country to which they are sent in respect of emoluments which they receive in payment for their consular work ; such taxation shall be reserved for the State which appoints them.

*Article 9.*

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 only in the other State, had been taxable in the former State.

*Article 10.*

If a taxpayer can prove 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 valid, 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 11.*

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 12.*

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 13.*

The present Convention shall apply first to taxes paid on the basis of the assessments — made in 1932 in Sweden and in the financial year 1932/33 in Denmark — for the calendar year 1931 or for the particular financial years on which those assessments are based.

*Article 14.*

The present Convention, done in duplicate in Swedish and Danish, 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 Denmark by His Majesty the King of Denmark and Iceland. The instruments of ratification shall be exchanged at Copenhagen as soon as possible. The Convention shall come in 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 year on the expiry of which the denunciation takes effect.

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

Done at Stockholm, in duplicate, May 6, 1932.

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

(L. S.) (*Signed*) E. REVENTLOW.

## FINAL PROTOCOL.

On signing the Convention concluded this day between the Kingdom of Sweden and the Kingdom of Denmark 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 is not intended to be 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 communes of both the higher and the lower categories.

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, succession dues and taxes on gifts, or, as regards Sweden, imposts concerning special privileges and immunities, or the corresponding taxes levied in Denmark.

If either State introduces taxation by deduction at source of income derived from capital, such taxation shall not come under the Convention until a special arrangement has been made.

5. If any doubt arises as to the State in which an individual taxpayer has his actual dwelling and home, the question shall be settled by a special agreement between the supreme financial authorities of the two States. In this respect they shall take into consideration in which State the taxpayer's interests may be considered to be centred or, if this also cannot be decided, his nationality.

In the case of taxpayers who usually reside every year for a prolonged period in the State in which according to this Convention they are not deemed to be domiciled, the supreme financial authorities of the two States may reach an equitable agreement as to the extent to which the other State shall be entitled to tax income and capital as provided in Article 3. In this respect consideration shall be given to the periods of time during which the taxpayer usually resides in each 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.

Reversions and payments in discharge of reversions (including Danish fiefs and estates in tail shall not come within the provisions of this Convention, but capital vested in them and income derived from them shall be subject to taxation in accordance with the provisions of each State. Both States agree in such cases to enter into negotiations through their supreme financial authorities as to the extent to which and the principles on which relief from taxation may be granted to the owners of such entailed estates if they are subject to double taxation.

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, or leasing or any other form of using such property, together with profit derived from alienations of immovable property which do not take place in the regular course of business, and appurtenances sold in connection with the property.

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 instructional 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. A site used for building work, the executions of which has exceeded or, as far as can be estimated, will exceed a period of twelve months, shall be regarded as a permanent business establishment within the meaning of the Convention.

A permanent 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 current Danish law, share certificates held by partners in limited partnerships, participants, shareholders, or other part owners with limited liability in commercial firms.

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 exploiting mines, quarries and other natural resources shall be taxable in the State where the immovable property, mine or quarry 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 deemed to be royalty.

14. 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.

15. In order to remove any doubt, it is hereby declared that the provisions of Article 8 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 such 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.

The provisions of Article 9 regarding the right to apply a certain higher scale of taxation shall also apply, as regards persons specified in Article 8, first paragraph, to their country of origin.

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

17. With reference to the view taken in Danish legislation that in the event of residence for a certain period in Denmark the tax is levied on income earned during the previous year, the Contracting States agree that nothing in the Convention shall be regarded as preventing such taxation in Denmark of the income referred to in Article 3, and that the question whether such income shall be regarded as subject to double taxation shall, in accordance with the Convention, depend on whether the income is taxed in both States by virtue of residence during the same period.

If a person who has removed from Sweden to Denmark after April 1st, 1932, removes back to Sweden within two years after such removal, Denmark shall be entitled, without prejudice to the provisions of Article 3, to maintain the right of taxation for a period corresponding to the period of freedom from taxation enjoyed on the removal to Denmark, but not beyond the end of the fiscal year in which the removal to Sweden takes place.

Should the application of these provisions result in the total taxation in both countries being based on an income considerably larger or considerably smaller than the amount that would be



taxed if the entire income for the period in question were taxed once, the supreme financial authorities of the two States may reach special agreements for making exceptions to these provisions.

The provisions of Article 5 shall not prevent Denmark, in the event of a taxpayer removing from Sweden to Denmark, from taxing him, at the first assessment after his removal, on income from business earned in Sweden before the removal, if the business concerned has ceased to exist as a result of the removal.

18. The provisions of Article 3 in reference to the taxation of capital shall not be applied in the event of a taxpayer removing from one State to the other, but each State shall be entitled to proceed in this respect in accordance with its own legislation, unless the supreme financial authorities of both States agree to make exceptions in special cases.

19. Each State shall be entitled in such cases to require proof that double taxation is taking place within the meaning of the present Convention.

Done at Stockholm, in duplicate, May 6, 1932.

(Signed) Fredrik RAMEL.

(Signed) E. REVENTLOW.