

N° 3120.

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## BELGIQUE ET ITALIE

Convention pour éviter les doubles impositions et régler certaines autres questions en matière fiscale, avec protocole final. Signés à Bruxelles, le 11 juillet 1931.

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## BELGIUM AND ITALY

Convention for the Prevention of Double Taxation and for the Settlement of various other Questions connected with Fiscal Matters, with Final Protocol. Signed at Brussels, July 11, 1931.

<sup>1</sup> TRADUCTION. — TRANSLATION.No. 3120. — CONVENTION<sup>2</sup> BETWEEN BELGIUM AND ITALY FOR THE PREVENTION OF DOUBLE TAXATION AND FOR THE SETTLEMENT OF VARIOUS OTHER QUESTIONS CONNECTED WITH FISCAL MATTERS. SIGNED AT BRUSSELS, JULY 11, 1931.

*French official text communicated by the Italian Minister for Foreign Affairs. The registration of this Convention took place January 1, 1933.*

HIS MAJESTY THE KING OF ITALY and HIS MAJESTY THE KING OF THE BELGIANS, being desirous of avoiding double taxation and settling certain other fiscal questions, have decided to conclude a Convention and have appointed as their Plenipotentiaries for this purpose :

HIS MAJESTY THE KING OF ITALY :

Dr. Gino BOLAFFI, Director, Head of Division in the Ministry of Finance ;

HIS MAJESTY THE KING OF THE BELGIANS :

M. Charles CLAVIER, Director-General of Direct Taxation ;

M. Rodolphe PUTMAN, Inspector-General of Direct Taxation ;

M. Fernand LAVERS, Director in the Ministry of Foreign Affairs ;

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

*Article 1.*

§ 1. — Taxpayers having their fiscal domicile in either of the two contracting States, a proportion of whose income is derived, in whole or in part, from the other State, shall be entitled in respect of such income to the special treatment prescribed in the following Articles.

§ 2. — For the purposes of the present Convention, the fiscal domicile of natural persons shall be their normal place of residence to be construed as meaning their permanent home ; that of companies constituting a separate legal entity shall be the place in which are situate their actual headquarters or seat, and that of other juristic persons the place from which is conducted their actual central management or administration.

*Article 2.*

§ 1. — The present Convention shall apply to impersonal or personal direct taxes.

§ 2. — Direct taxes shall be deemed to be those levied directly on income, whether on behalf of the State or on behalf of the provinces, departments or communes.

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations, à titre d'information.

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

<sup>2</sup> The exchange of ratifications took place at Rome, September 8, 1932. Came into force January 1, 1933.

The Convention prescribes separate rules for impersonal direct taxation and for personal direct taxation.

§ 3. — For the purposes of the present Convention, impersonal taxes shall be deemed to be those direct taxes levied on the various classes of income separately considered. Personal taxes shall be deemed to be those direct taxes levied on the total income, or any part thereof, of each taxpayer, in consideration of his personal standing or the inferences to be drawn from his way of life.

§ 4. — At the date of the present Convention, the impersonal taxes referred to are the following :

Under Italian law :

- (a) The land tax (*imposta sul reddito dei terreni*) ;
- (b) The tax on buildings (*imposta sul reddito dei fabbricati*) ;
- (c) The tax on income derived from movable property (*imposta sui redditi di ricchezza mobile*) ;
- (d) The tax on income derived from agricultural property (*imposta sui redditi agrari*).

Under Belgian legislation : The schedular taxes on income, that is to say :

- (a) The land tax ;
- (b) The tax on movable property ;
- (c) The occupational tax ;
- (d) The special tax on income derived from the letting of shooting, fishing or trapping rights.

The personal taxes referred to are the following :

Under Italian law :

The graded surtax on total income (*imposta complementare progressiva sul reddito complessivo del contribuente*).

Under Belgian law :

The personal surtax.

## I. IMPERSONAL TAXES.

### Article 3.

Income derived from immovable property up to the amount of its actual or estimated rentable value together with all other income from such property which is not covered by Article 6 below shall be taxable exclusively in the State in which such property is situate.

### Article 4.

§ 1. — Income derived from public funds, bonds, loans, deposits and deposit accounts and from all other claims shall be taxable in the State where the party liable in respect of such payments is established.

§ 2. — If the party liable has permanent establishments within the meaning of Article 6 below in both States, and if one of these establishments within the ambit of its ordinary operations contracts a loan or receives a deposit, the tax shall be levied by the State in whose territory such establishment is situated.

### Article 5.

Income derived from shares or similar interests in joint stock companies, or from limited partnerships, or from shares in companies regulated by the civil code or limited liability companies, shall be taxable in the State where the actual seat of the company is situated.

*Article 6.*

§ 1. — Without prejudice to the foregoing provisions, industrial, mining, commercial or agricultural undertakings shall be taxable in either State in proportion to the income brought in by the permanent establishments situate in its territory ; the taxpayer shall be required to submit his general balance sheet and profit and loss account together with all documents necessary to the division of the income.

§ 2. — In the absence of a regular system of accountancy showing accurately and separately the income of each establishment, the competent authorities shall lay down rules for distinguishing between such income and shall if necessary come to an agreement with the competent authorities of the other State with a view to its apportionment.

§ 3. — Permanent establishments shall be deemed to include actual centres of management, branches, factories, works, workshops, agencies, warehouses, offices, laboratories, buying or selling departments, depositories and all other fixed premises of a productive character. Should an undertaking established in either of the two contracting States have business dealings with the other country through the intermediary of a genuinely independent agent or company (broker, commission agent, subsidiary, etc.), this shall not be deemed to imply that the undertaking in question possesses a permanent establishment in the latter country.

*Article 7.*

As an exception to Article 6 of the present Convention, profits derived from shipping or air navigation undertakings, including those derived from the sale of passages, shall only be taxable in the State in whose territory the actual central headquarters of the undertaking are situate, provided that the ships or the aircraft possess the nationality of such State.

*Article 8.*

§ 1. — Income derived from non-commercial occupations not covered by Article 10 by persons workings at their private addresses shall be taxable in the contracting State in which such persons possess a permanent establishment for the purpose of carrying on their professional activity.

§ 2. — Copyright fees and patent fees shall be taxable in the country in which the recipients have their fiscal domicile. Should such fees be collected by transferees for a monetary consideration, or fall for any other reason within the category of industrial or commercial income, they shall nevertheless be taxable as such in the manner laid down in Article 6.

*Article 9.*

The remuneration of directors of joint stock companies and of persons performing duties similar to those of a director shall be taxable in the State in which are situate the actual headquarters of the company, subject to the application of Article 10 to remuneration drawn by the persons aforementioned in any other effective capacity.

*Article 10.*

§ 1. — The remuneration of all persons in receipt of wages and salaries shall be taxable in the State in which those concerned carry on their activities.

§ 2. — The salaries of all public officials and employees of either of the two Contracting States performing their duties in the other State shall only be taxable in the country by which they are paid.

Article 11.

§ 1. — Public pensions are taxable in the State of the party liable for such payments.

§ 2. — Private pensions are taxable in the State in which is situate the establishment liable for such payments.

Article 12.

Life annuities and income derived from all lucrative occupations not specified in the previous Articles shall be taxable in the State in whose territory the recipient has his fiscal domicile.

II. PERSONAL TAXES.

Article 13.

§ 1. — Personal taxes assessed on the basis of inference or income shall only be collected by either of the two contracting States, if the taxpayer has a fiscal domicile in its territory.

§ 2. — Should the taxpayer possess a fiscal domicile in the other State also, the latter shall only tax him in proportion to the period during which he resides in its territory.

III. MISCELLANEOUS PROVISIONS.

Article 14.

§ 1. — The Contracting Parties undertake to afford each other mutual assistance for the purpose of notifying documents relative to the assessment or collection of direct taxes within the meaning of the present Convention.

§ 2. — They further undertake to examine, in a spirit of friendly co-operation, the possibility of using their influence to ensure the collection, in conformity with the following provisions and according to the stipulations of their own laws, of the taxes referred to in Article 2 for which taxpayers domiciled in the territory of either of the two States are liable in the territory of the other State.

§ 3. — Legal proceedings and executory measures shall be instituted on production of an official copy of the executory documents together with any such decisions as have already acquired the force of *res judicata*.

§ 4. — Outstanding fiscal claims shall not be regarded as prior claims in the State to which application is made, nor shall the latter be required to apply executory measures not provided for in the laws of the State making application.

§ 5. — Should a fiscal claim be still subject to appeal, the State making the application may request the State to which application is made to take conservatory measures or obtain securities to which *mutatis mutandis* the foregoing provisions shall apply.

*Article 15.*

§ 1. — Should either of the two High Contracting Parties be called upon to deal with a case not expressly provided for in the present Convention but falling within the general framework thereof, the competent authorities in the two States shall settle the matter thus brought to their attention jointly and in the spirit of the foregoing provisions.

§ 2. — The same procedure shall apply where amendments to the fiscal laws of either of the two High Contracting Parties necessitate the re-adjustment of certain of the foregoing provisions.

§ 3. — Any such amending or supplementary agreements shall be dealt with in notes exchanged through the diplomatic channel.

*Article 16.*

The present Convention shall only apply to the home territory of the Contracting Parties.

*Article 17.*

§ 1. — The present Convention shall be ratified, and the instruments of ratification shall be exchanged in Rome at the earliest possible date.

§ 2. — The Convention shall come into force on the first day of January of the year following that in which ratification takes place.

§ 3. — It may cease to apply as from the first day of January of each year, if denounced at least eight months previously.

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

Done in Brussels in duplicate the eleventh day of July, one thousand nine hundred and thirty-one.

(L. S.) Gino BOLAFFI.

(L. S.) C. CLAVIER.

(L. S.) R. PUTMAN.

(L. S.) F. LAVERS.

## FINAL PROTOCOL.

At the moment of signing the present Convention, the undersigned Plenipotentiaries have made the following identical declarations which shall form an integral part thereof :

## I.

§ 1. — As regards the direct taxes to which the present Convention relates, companies and other juristic persons legally constituted in either of the two Contracting States and having their fiscal domicile in its territory, together with their branches and agencies, shall not be subjected in the territory of the other State to higher fiscal charges than those borne by national companies of a like character.

§ 2. — The same principle shall apply to natural persons in virtue of Article 50 of the Treaty<sup>1</sup> of Commerce and Navigation concluded between Belgium and Italy on December 11, 1882.

<sup>1</sup> *British and Foreign State Papers*, Vol. 73, page 597.

## II.

Should either of the two contracting States levy real taxes on income derived from foreign transferable securities (public funds, bonds, shares, etc.) when collected in its territory, it is understood that, in consideration of the mutual advantages arising out of the present Convention, such taxes shall not be payable on income derived from the sources aforementioned when taxable in the other State under Articles 4 and 5.

## III.

The competent authorities of the two Contracting States shall concert general rules for the apportionment of profits between the permanent establishments mentioned in paragraph 3 of Article 6.

## IV.

Students who are nationals of either of the two contracting States sojourning in the other State for the exclusive purpose of study shall not be subject to taxation on the allowances received by them for maintenance and study.

Done in Brussels in duplicate the eleventh day of July one thousand nine hundred and thirty-one

(L. S.) Gino BOLAFFI.

(L. S.) C. CLAVIER.

(L. S.) R. PUTMAN.

(L. S.) F. LAVERS.