

N° 3796.

BELGIQUE ET PAYS-BAS

Convention pour éviter les doubles impositions et régler certaines autres questions en matière fiscale, et protocole final, signés à Genève, le 20 février 1933, et procès-verbal, signé à La Haye, le 1^{er} février 1933.

BELGIUM AND THE NETHERLANDS

Convention for the Avoidance of Double Taxation and the Settlement of Certain Other Questions concerning Fiscal Matters, and Final Protocol, signed at Geneva, February 20th, 1933, and Procès-verbal, signed at The Hague, February 1st, 1933.

TEXTE NÉERLANDAIS. — DUTCH TEXT.

N^o 3796. — VERDRAG¹ TUSSCHEN BELGIË EN NEDERLAND TER VOORKOMING VAN DUBBELE BELASTING EN TOT REGELING VAN EENIGE ANDERE BELASTINGAANGELEGENHEDEN. GETEEKEND TE GENÈVE, DEN 20 FEBRUARI 1933.

French and Dutch official texts communicated by the Belgian and Netherlands Ministers for Foreign Affairs. The registration of this Convention took place January 1st, 1936.

ZIJNE MAJESTEIT DE KONING DER BELGEN,
en

HARE MAJESTEIT DE KONINGIN DER NEDERLANDEN,
beziel met den wensch dubbele belasting te voorkomen en eenige andere belastingaangelegenheden te regelen, hebben besloten een verdrag te sluiten en hebben daartoe als Hun gevolmachtigden benoemd, te weten :

ZIJNE MAJESTEIT DE KONING DER BELGEN,

Den Heer Paul HYMANS, Hoogstdezelfs Minister van Buitenlandsche Zaken,

HARE MAJESTEIT DE KONINGIN DER NEDERLANDEN :

Jonkheer Frans BEELAERTS VAN BLOKLAND, Hoogstderzelver Minister van Buitenlandsche Zaken,

die, na elkander mededeeling te hebben gedaan van hun volmachten, welke in goeden en behoorlijken vorm werden bevonden, over de volgende bepalingen tot overeenstemming zijn gekomen :

AFDEELING I.

DIRECTE BELASTINGEN.

Artikel 1.

§ 1. Belastingplichtigen, die hun fiscale woonplaats in een der beide verdragsluitende Staten hebben en die zekere inkomsten genieten, welke, geheel of gedeeltelijk, in den anderen Staat worden verworven, zullen ter zake van die inkomsten de voordeelen genieten van de bijzondere regeling, die bij de volgende artikelen is vastgesteld.

§ 2. Voor de toepassing van dit verdrag wordt als fiscale woonplaats van natuurlijke personen aangemerkt de plaats van hun gewoon verblijf, opgevat in den zin van duurzaam tehuis, en als die van rechtspersoonlijkheid bezittende vennootschappen en andere vereenigingen de plaats van haar werkelijke maatschappelijke zetel.

¹ The exchange of ratifications took place at Brussels, August 6th, 1935.
Came into force January 1st, 1936.

¹ TRADUCTION. — TRANSLATION.

No. 3796. — CONVENTION BETWEEN BELGIUM AND THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE SETTLEMENT OF CERTAIN OTHER QUESTIONS CONCERNING FISCAL MATTERS. SIGNED AT GENEVA, FEBRUARY 20TH, 1933.

HIS MAJESTY THE KING OF THE BELGIANS

and

HER MAJESTY THE QUEEN OF THE NETHERLANDS,

Being desirous of avoiding double taxation and of settling certain other fiscal matters, have decided to conclude a Convention, and have for that purpose appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BELGIANS :

Monsieur Paul HYMANS, His Minister for Foreign Affairs ;

HER MAJESTY THE QUEEN OF THE NETHERLANDS :

Jonkheer Frans BEELAERTS VAN BLOKLAND, Her Minister for Foreign Affairs ;

Who, after having communicated their full powers, found in good and due form, have agreed on the following provisions :

SECTION I.

DIRECT TAXES.

Article 1.

§ 1. Taxpayers having their fiscal domicile in the territory of one of the two Contracting States and deriving income, wholly or in part, from the territory of the other State shall be accorded in respect of such income the special treatment laid down in the following Articles.

§ 2. For the purposes of the present Convention, the fiscal domicile of natural persons shall be deemed to be the place of their normal residence, that is to say, their permanent home ; the fiscal domicile of companies having separate legal personality shall be deemed to be their effective centre of management.

Article 2.

§ 1. The purpose of the present Convention is the establishment of regulations relating exclusively to the assessment of certain taxes, and rates in supplement thereof, levied for account of the State, provinces or communes.

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

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

§ 2. The following are the taxes to which the present Convention relates :

A. In the case of Belgium :

- (1) The Land Tax ;
- (2) The Tax on Personal Income derived from :
 - (a) Immovable property situate abroad ;
 - (b) Mortgages thereon ;
- (3) The Tax on Occupations ;
- (4) The Provincial and Communal Taxes on Cycles.

B. In the case of the Netherlands :

- (1) The Land Tax ;
- (2) The Income Tax and the Communal Funds Tax ;
- (3) The Tax on Capital and the Defence Tax I ;
- (4) The Tax on Dividends and Directors' Fees ;
- (5) The State Tax and the Provincial Road Tax on Cycles.

Article 3.

§ 1. Income derived from immovable property with reference to the amount of its actual or estimated rentable value, together with all other income from such property which is not covered by Article 4 below, shall be taxable solely in the State in which the property is situate.

§ 2. The above regulation shall further apply to income derived from mortgages on property of the kind to which § 1 relates.

Article 4.

§ 1. Income derived from industrial, mining, commercial or agricultural undertakings (other than income derived from international traffic activities of maritime or internal shipping or air navigation undertakings) shall be taxable in the State in which permanent establishments of such undertakings are situate.

§ 2. Where industrial, mining, commercial or agricultural undertakings have permanent establishments in both Contracting States, each State shall tax that part of the income which is produced within its territory. The competent administrations of the two Contracting States shall lay down rules by agreement for the apportionment of the income concerned.

§ 3. The term " permanent establishment " shall be deemed to mean centres of effective management, branches, factories, workshops, agencies, warehouses, offices, laboratories, purchasing or sales offices, depots or any other permanent productive establishments. The fact of an undertaking established in one of the two countries having business relations with the other country through the intermediary of a wholly independent agent or company (broker, commission agent, branch, etc.) shall not be taken to mean that the said undertaking has a permanent establishment in the latter.

§ 4. Income derived from offices concerned solely with the purchase of goods for the purpose of stocking one or more establishments maintained by the taxpayer in the other country with a view to the sale or transformation of goods shall not be subject to the provisions of § 2 of the present Article in respect of its taxation.

Article 5.

§ 1. Income derived from international traffic activities of maritime shipping or air navigation undertakings, including income derived from the sale of tickets, shall be taxable only in the State in whose territory the fiscal domicile of the undertaking is situate, provided always that the ships or aircraft have the nationality of the said State.

§ 2. Income derived from international traffic activities of internal shipping undertakings, other than such as are conducted by the shippers themselves, shall be taxable only in the State of fiscal domicile of the undertaking.

Article 6.

§ 1. Shippers of Belgian or Netherlands nationality normally resident on board their boats, whose activities are exercised simultaneously or alternately in one and the same year in the national waters of both countries, shall be taxed in each country in proportion to the profits earned therein.

§ 2. For the purpose of collection of taxes due in virtue of the execution of § 1 of the present Article, neither of the two Governments shall exact from the persons concerned in the other State, on their entry into their national waters, a deposit exceeding 25 % of the normal annual tax applicable to national shippers. The said deposits shall be renewable quarterly in the event of the shipper prolonging his stay in the country concerned or returning thereto after temporarily leaving the same.

§ 3. Shippers of Belgian or Netherlands nationality shall not be liable to taxation under § 2 of Article 2 in respect of goods in transit through the national waters of either country without breaking bulk.

Article 7.

Income derived from home-workers' non-commercial occupations not covered by Article 9 shall be taxable in the Contracting State in which the parties concerned have a permanent establishment for the exercise of their professional activities. If they have permanent establishments in both States, the treatment for which Article 4 provides shall be applicable.

Article 8.

The emoluments of directors, auditors and liquidators of joint-stock companies and of persons exercising similar functions shall be taxable in the Contracting State in which the seat of management and control of the company is situate, save in so far as otherwise provided in Article 9 in respect of emoluments accruing to such persons in other effective capacities.

Article 9.

§ 1. All emoluments of all persons in receipt of wages or salaries shall be taxable in the Contracting State in which such persons normally exercise their activities.

§ 2. Nevertheless, the salaries, wages or other emoluments of frontier workers of Belgian or Netherlands nationality shall be taxable only in the country in which the parties concerned have their fiscal domicile.

The term " frontier workers " shall be deemed to mean workers in industrial, mining, commercial or agricultural undertakings situate in either country, whose permanent home is in the other country, to which they return every day or at the least every week.

The competent administrations of the two countries shall come to an agreement as to the documents to be produced by the parties concerned in proof of their status as frontier workers.

§ 3. The emoluments of commercial agents and persons employed in connection with means of transport in use for purposes of traffic between the two States shall also be taxable only in the State of fiscal domicile of the recipient.

§ 4. Furthermore, the salaries of officials and public employees of either Contracting State whose functions are exercised in the other State shall be taxable only in the country by which they are paid.

Article 10.

Public pensions shall be taxable in the State in which is situate the party liable for their payment.

Article 11.

Life annuities and income derived from lucrative occupations of all kinds not covered by the preceding Articles shall be taxable in the State of fiscal domicile of the recipient.

Article 12.

§ 1. The Contracting States shall furnish the necessary information for the apportionment of income to which Articles 4, 6 and 7 relate.

§ 2. They undertake to furnish aid and assistance to one another, in conformity with their respective legal regulations, for the collection of the taxes established as a result of the apportionment of income to which Articles 4, 6 and 7 relate, in respect both of the principal of the tax, the rates in supplement thereof, and the interest, costs or fines thereout arising.

§ 3. Prosecutions and executory measures shall be instituted on the production of an official copy of the instruments of execution together with all material decisions which have become legally binding.

§ 4. Outstanding revenue claims shall not be given precedence in the State applied to. They shall be collected in accordance with the legal regulations of the State applied to. The State applied to shall not be required to enforce executory measures for which there is no provision in the law of the State applying.

§ 5. Where a revenue claim is still subject to appeal, the State applying may request the State applied to to take measures of conservancy, and the foregoing provisions shall be applicable to such measures *mutatis mutandis*.

§ 6. The competent administrations of the two Contracting States shall make regulations for the administrative procedure to be followed in such case.

Article 13.

The principles laid down in the preceding Articles shall apply *mutatis mutandis* to the Tax on Capital.

Article 14.

Persons of Belgian or Netherlands nationality having their fiscal domicile in one of the two Contracting States, who make regular use of cycles as a means of entering the territory of the other Contracting State for the purpose of the exercise of their profession therein, shall be exempt by the latter country from all taxation on this account, provided they can show proof of payment of the tax due on this account in their country of fiscal domicile.

SECTION II.

INTERNAL CHARGES OTHER THAN CHARGES ON THE PRODUCTION, PREPARATION, TRANSPORT OR CONSUMPTION OF GOODS OR ARTICLES.

Article 15.

Internal imposts which are, or may in future be, imposed in either Contracting State on the sale or exchange of goods or other movable property or generally on any conveyance of property in return for value received, such as fees on conveyances, stamps on invoices, luxury taxes, taxes on turnover and the like, shall not in any case involve a revenue charge on the products of the other Contracting State heavier than that effectively imposed on specific similar national products of the former State or specific similar products of the most-favoured nation.

SECTION III.

MISCELLANEOUS.

Article 16.

The present Convention shall apply only to the European territories of the two Contracting States.

Article 17.

§ 1. The present Convention is drawn up in French and Dutch, both texts being authentic. It shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.

§ 2. The Convention shall come into force on the first of January of the year following the year in which it is ratified.

§ 3. It may cease to take effect on the first of January of any year, provided it has been denounced at least eight months beforehand.

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

Done in duplicate at Geneva, the 20th day of February, 1933.

(L. S.) Paul HYMANS.

(L. S.) BEELAERTS VAN BLOKLAND.

FINAL PROTOCOL.

In proceeding to sign the Convention for the Avoidance of Double Taxation and the Settlement of Certain Other Questions concerning Fiscal Matters this day concluded between Belgium and the Netherlands, the undersigned Plenipotentiaries have agreed on the following provisions, which shall form an integral part of the Convention :

I. Students from either Contracting State residing in the other State exclusively for purposes of study shall not be taxable in respect of remittances received by them for the purpose of their maintenance or studies.

II. It is understood that in the application of Article 4 income from agricultural undertakings situate in the territories of both Contracting States shall be taxable in each State in proportion to the area of the land situate therein.

III. It is understood that in the case of graduated taxes the following procedure shall be adopted with a view to the avoidance of double taxation. The State of fiscal domicile shall determine the amount of the tax due on the whole of the taxable assets, but shall deduct from the amount so calculated the amount due under its own law solely in respect of sums derived from assets situate in the other State ; and the latter assets alone shall be taxable in the other State.

Done in duplicate at Geneva, the 20th day of February, 1933.

Paul HYMANS.

BEELAERTS VAN BLOKLAND.

PROCÈS-VERBAL.

In the course of the negotiations for the conclusion of the Convention for the Avoidance of Double Taxation between Belgium and the Netherlands, it has been found that under present circumstances there are difficulties in the way of a decision to the effect that Belgian or Netherlands shippers exercising their activities in both countries should be taxable only in their country of fiscal domicile within the meaning of § 2 of Article 1.

It is nevertheless agreed that, two years after the coming into force of the above-mentioned Convention, the treatment of shippers for which Article 6 provides shall be reviewed by the Belgian and Netherlands delegates.

The negotiators are in agreement, furthermore, that Article 7 should be interpreted to mean that, where a national of either Contracting State exercises a non-commercial occupation in the territory of the other State without having a permanent establishment there, he shall not be taxed in the latter country on the income derived from such activities.

THE HAGUE, *February 1st*, 1933.

F. LAVERS.
NEDERBRAGT.