

Mexico Draft (1943)

Model Bilateral Convention for the Prevention of the Double Taxation of Income (Prepared by League of Nations)

ARTICLE I

1. The present Convention is designed to prevent double taxation in the case of the taxpayers of the contracting States, whether nationals or not, as regards the following taxes:

A. With reference to State A:

1.
2.
3.

B. With reference to State B:

1.
2.
3.

2. It is mutually agreed that the present Convention shall apply also to any other tax, or increase of tax, imposed by either contracting State subsequent to the date of signature of this Convention upon substantially the same bases as the taxes enumerated in the preceding paragraph of this Article.

ARTICLE II

Income from real property shall be taxable only in the State in which the property is situated.

ARTICLE III

1. Income from mortgages on real property shall be taxable only in the State where the property is situated.
2. Income from mortgages on sea and/or air vessels shall be taxable only in the State where such vessels are registered.

ARTICLE IV

1. Income from any industrial, commercial or agricultural business and from any other gainful activity shall be taxable only in the State where the business or activity is carried out.
2. If an enterprise or an individual in one of the contracting States extends its or his activities to the other State, through isolated or occasional transactions, without possessing in that State a permanent establishment, the income derived from such activities shall be taxable only in the first State.
3. If an enterprise has a permanent establishment in each of the Contracting States, each State shall tax that part of the income which is produced in its territory.
4. As regards agricultural and mining raw materials and other natural materials and products, the income which results from prices prevailing between independent persons or conforming to world market quotations shall be regarded as realised in the State in which such materials or products have been produced.

ARTICLE V

Income which an enterprise of one of the contracting States derives from the operation of ships or aircraft registered in such State is taxable only in that State.

ARTICLE VI

1. Directors' percentages, attendance fees and other special remuneration paid to directors, managers and auditors of companies are taxable only in the State where the' fiscal domicile of the enterprise is situated.
2. If, however, such remuneration is paid for services rendered in a permanent establishment situated in the other contracting State, it shall be taxable only in that State.

ARTICLE VII

1. Compensation for labour or personal services shall be taxable only in the contracting State in which such services are rendered.
2. A person having his fiscal domicile in one contracting State shall, however, be exempt from taxation in the other contracting State in respect of such compensation if he is temporarily present within the latter State for a period or periods not exceeding a total of one hundred and eighty-three days during the calendar year, and shall remain taxable in the first State.

3. If the person remains in the second State more than one hundred and eighty-three days, he shall be taxable therein in respect of compensation he earned during his stay there, but shall not be taxable in respect of such compensation in the first State.
4. Income derived by an accountant, an architect, a doctor, an engineer, a lawyer or other person engaged in the practice of a liberal profession shall be taxable only in the contracting State in which the person has a permanent establishment at, or from, which he renders services.
5. If any such person has a permanent establishment in both contracting States, he shall be taxable in each State only on the income received for services rendered therein.

ARTICLE VIII

1. Salaries, wages and other remuneration paid by 'one of the contracting States, or by public bodies, institutions or services depending on it, to its nationals carrying out public functions in the other State shall be taxable only in the first State, provided that these functions are included within the normal field of activity of the State, as this field is defined by international usage.
2. Public pensions shall be taxable only in the State of the debtor entity.

ARTICLE IX

Income from movable capital shall be taxable only in the contracting State where such capital is invested.

ARTICLE X

1. Royalties from immovable property or in respect of the operation of a mine, a quarry, or other natural resource shall be taxable only in the contracting State in which such property, mine, quarry, or other natural resource is situated.
2. Royalties and amounts received as a consideration for the right to use a patent, a secret process or formula, a trade-mark or other analogous right shall be taxable only in the State where such right is exploited.
3. Royalties derived from one of the contracting States by an individual, corporation or other entity of the other contracting State, in consideration for the right to use a musical, artistic, literary, scientific or other cultural work or publication shall not be taxable in the former State.

ARTICLE XI

Private pensions and life annuities shall be taxable only in the State where the debtor has his fiscal domicile.

ARTICLE XII

Gains derived from the sale or exchange of real property shall be taxable only in the State in which the property is situated.

ARTICLE XIII

The State where the taxpayer has his fiscal domicile shall retain the right to tax the entire income of the taxpayer whether derived from its territory or from that of the other contracting State, but shall deduct from its tax on such entire income the lesser of the two following amounts:

- A. The tax collected by the latter contracting State on the income which is taxable in its territory according to the preceding Articles;
- B. The amount which represents the same proportion in comparison with the total tax on the income that is taxable in both States as the income taxable in the other State in comparison with the total income.

ARTICLE XIV

In the case of a taxpayer with a fiscal domicile in both contracting States, the tax, the collection of which under this Convention depends on fiscal domicile, shall be imposed in each of the contracting States in proportion to the period of stay during the preceding year or according to a proportion to be agreed by the competent administrations.

ARTICLE XV

A taxpayer having his fiscal domicile in one of the contracting States shall not be subject in the other contracting State, in respect of income he derives from that State, to higher or other taxes than the taxes applicable in respect of the same income to a taxpayer having his fiscal domicile in the latter State, or having the nationality of that State.

ARTICLE XVI

1. When a taxpayer shows proof that the action of the tax administration of one of the contracting States has resulted in double taxation, he shall be entitled to lodge a claim with the tax administration of the State in which he has his fiscal domicile or of which he is a national.
2. Should the claim be admitted, the competent tax administration of that State shall consult directly with the competent authority of the other State, with a view to reaching an agreement for an equitable avoidance of double taxation.

ARTICLE XVII

As regards any special provisions which may be necessary for the application of the present Convention, more particularly in cases not expressly provided for, the competent authorities of the two contracting States may confer together and take the measures required in accordance with the spirit of this Convention.

ARTICLE XVIII

1. This Convention and the accompanying Protocol, which shall be considered to be an integral part of the Convention, shall be ratified and the instruments of ratification shall be exchanged at . . . as soon as possible.
2. This Convention and Protocol shall become effective on the first day of January 19... They shall continue effective for a period of three years from that date and indefinitely after that period. They may, however, be terminated by either of the contracting States at the end of the three-year period or at any time thereafter, provided that at least six months prior notice of termination has been given, the termination to become effective on the first day of January following the expiration of the six-month period.

DONE in duplicate, at . . . this . . . day of . . . 19..