Convention Between the Argentine Republic and the Republic of Chile (2003)

The Argentine Republic and the Republic of Chile, desiring to conclude a Convention for the avoidance of double taxation, have agreed as follows:

Chapter I.

Scope of the Convention and General Definitions

Article 1
Scope of the Convention

The taxes to which this Convention shall apply are:

In the Argentine Republic:
1. El impuesto a las ganancias (tax on profits);
2. El impuesto a los beneficios eventuales (capital gains tax);
3. El impuesto sobre los capitales (capital tax);
4. El impuesto sobre patrimonio neto (wealth tax);
5. El impuesto a los beneficios de determinados juegos y concursos (tax on profits from certain games and contests).

In the Republic of Chile:
1. Los tributos contenidos en la Ley sobre Impuesto a la Renta (taxes covered by the Income Tax Law).
2. El impuesto habitacional (housing tax).

This Convention shall apply also to any modifications which are made to the above-mentioned taxes and to any other tax which, with regard to the tax base or tax matter thereof, is substantially and economically similar to the aforementioned taxes and which one or the other of the Contracting States imposes after the signature of this Convention.
Article 2
General Definitions

For the purposes of this Convention, unless the context otherwise requires:

a) The expressions “one of the Contracting States” and “other Contracting State” mean indiscriminately the Argentine Republic or the Republic of Chile, as the context requires.

b) The expressions “territory of one of the Contracting States” and “territory of the other Contracting State” mean indiscriminately the territories of the Argentine Republic or the Republic of Chile, as the context requires.

c) The term “person” means:

1. an individual, or his undivided estate.
2. a body corporate.
3. any other entity or body of persons, whether associated or not, which is subject to tax liability.

d) An individual shall be deemed to be domiciled in the Contracting State in which he has his habitual residence. For these purposes, an individual shall be deemed to have his habitual residence in a State if he is present in the territory thereof for more than six months during a calendar year or for more than six months in total during two consecutive calendar years. Where the rule of the previous paragraph is not sufficient to attribute residency to one of the Contracting States, the individual shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests). An enterprise shall be deemed to be domiciled in the State under the rule of the laws of which it was constituted and recognition of its status as a legal entity was obtained, if applicable.

Where the rule of the previous paragraph can not be applied or is not sufficient to attribute the domicile of the enterprise to only one of the Contracting States, the enterprise shall be deemed to be domiciled in the State in which the place of effective management thereof is situated or, failing that, in the State in which the principal place of business thereof is situated.

Where, notwithstanding the rules stipulated in this sub-paragraph d), it is not possible to determine the domicile, the competent authorities of the Contracting States shall settle the question by mutual agreement.

e) “Generating source” in a Contracting State means -- irrespective of the nationality, the domicile, or the residency of the owner or of the parties involved in the operations, nor the place of execution of the contracts -- the property or rights situated, located, or used economically in such State, the execution of any act or activity in the territory thereof, and the actions taken within the boundaries thereof which are capable of generating earnings, income, or profits.
f) The expression “business activities” means the activities carried on by enterprises of one or the other Contracting State.

g) The term “enterprise” means an organization constituted by one or more persons that carries on a lucrative or speculative activity.

h) The expressions “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean an enterprise domiciled in one or the other Contracting State.

i) The term “royalty” means any benefit or compensation in money or in kind paid for the use of, or the right to use, any copyrights, patents, industrial designs or models, exclusive processes or formulas, trade marks, and other similar intangible assets.

j) The terms “pension or retirement” include retirement pay, pensions, health benefits, maternity benefits, occupational hazard benefits, disability benefits, old-age benefits, death benefits, and any other type of permanent or periodic allowance that is received under the employer-paid social security, allowance, or benefit laws, in respect of contracts intended to cover similar items or risks, or in respect of payments of the same kind that are granted by enterprises or entities to the retired personnel thereof; and the term “annuity or life annuity” means a stated sum of money paid periodically during the life of the beneficiary or for a specified period of time, freely or in consideration of a payment made in money or money’s worth.

k) The expression “capital gains” means the profits derived by an individual from the alienation of property not customarily acquired or produced in the ordinary course of his activities.

l) The expression “competent authority” means, in the case of the Argentine Republic, the Ministry of Economy (Office of the Secretary of State of Finance), and in the case of the Republic of Chile, the Ministry of Finance.

Article 3
Scope of Undefined Terms or Expressions

Any term or expression that is not defined in this Convention shall have the meaning which it has under the laws in force in each Contracting State.
Chapter II.
Taxation of Income

Article 4
Tax Jurisdiction
Irrespective of the nationality or domicile of individuals and of the place of execution of contracts, income, earnings, or profits of any kind that are received shall be taxable only in the Contracting State in which the generating source of such income, earnings, or profits, barring the cases of exception provided for in this Convention, is situated.

Article 5
Income From Immovable Property
Income, earnings, or profits of any kind derived from immovable property shall be taxable only by the Contracting State in which such property is situated.

Article 6
Income From the Right to Exploit Natural Resources
Any income, earnings, or profits derived from the letting or subletting or from the assignment or concession of the right to exploit or to use, in any manner, the natural resources of one of the Contracting States shall be taxable only by that Contracting State.

Article 7
Business Profits
Profits derived from business activities shall be taxable only by the Contracting State in which such activities are carried on.

Where an enterprise carries on activities in both Contracting States, each Contracting State may tax only the income, earnings, or profits that are generated in its territory.

The fact that an enterprise of a Contracting State carries on business in the other Contracting State through a broker or independent agent who is acting in the normal course of his activity and who is not an exclusive broker or agent for that enterprise, shall not be deemed to be carrying on business activities in that other Contracting State, unless such business of the enterprise is customary for that enterprise in the opinion of the competent authorities of the Contracting State in which it is carried on and applying for this purpose.
the general criterion which, in accordance with the tax law thereof, is used to distinguish between customary and sporadic activities.

Article 8  
Profits of Transport Enterprises  
Profits derived by air transport, ground transport, shipping, and inland waterways transport enterprises shall be subjected to taxation only in the Contracting State in which such companies are domiciled.

Article 9  
Royalties  
The royalties referred to in sub-paragraph i) of Article 2 shall be taxable only by the Contracting State in the territory of which the generating source of such royalties is situated.

Article 10  
Interest  
Interest arising from debt-claims shall be taxable only in the Contracting State in the territory of which the debt-claim is used. Unless proven otherwise, the debt-claim shall be assumed to be used in the Contracting State in which the debtor is domiciled.

Article 11  
Dividends and Profit-Sharing  
Dividends and shares in the profits of enterprises, including the returns and surpluses of cooperative enterprises, shall be taxable only by the Contracting State in which the distributing enterprise is domiciled.

Article 12  
Capital Gains  
Capital gains may be taxed only by the Contracting State in the territory of which the property is situated at the time of the sale thereof, with the exception of capital gains obtained via the alienation of:

a) Ships, aircraft, buses, and other transportation vehicles, which shall be taxable only by the Contracting State in the territory of which they are registered at the time of the alienation, and

b) Debt-claims, stocks, shares, and other securities, which shall be taxable only by the Contracting State in the territory of which the debtor or the
enterprise that issued such debt-claims, stocks, shares, and other securities, as the case may be, is domiciled.

**Article 13**

**Income From Performing Personal Services**

Remuneration, fees, wages, salaries, benefits and similar compensation received as payment for services performed by employees, professionals, technicians or for personal services in general, shall be taxable only in the territory in which such services were performed, with the exception of wages, salaries, remuneration, and similar compensation received by:

a) Individuals who perform services for a Contracting State in the exercise of duly authorized official functions, which shall be taxable only by that State, even if the services are performed in the territory of the other Contracting State.

b) Crews of ships, aircraft, buses, and other carriers operated in international traffic, which shall be taxable only by the Contracting State in the territory of which the enterprises for which they perform services is domiciled.

**Article 14**

**Professional Services Enterprises and Technical Assistance Enterprises**

Income derived by professional services enterprises and technical assistance enterprises of any kind may be taxed by the Contracting State in the territory of which such services are performed.

**Article 15**

**Pensions and Annuities**

Pensions, annuities, life annuities, and other similar periodic income shall be taxable only by the Contracting State in the territory of which the generating source thereof is situated.

Unless proven otherwise, the generating source shall be deemed to be situated in the territory of the Contracting State in which the subject obligated to pay for the services referred to in the previous paragraph is domiciled.
Article 16

Public Entertainment Activities

Income derived from the exercise of artistic and public entertainment activities shall be taxable only in the Contracting State in the territory of which they were exercised, irrespective of the amount of time that the individuals exercising such activities were present in the territory in question.

Article 17

Students

Grants or similar payments received by students or business apprentices of one of the Contracting States who are present in the other Contracting State solely for the purpose of their education or training shall not be taxed in that other State.

Article 18

Computation of Income From Foreign Sources for the Calculation of the Progressive Individual Income Tax

Income received by an individual who is a resident of or is domiciled in one of the Contracting States as regards the application of the progressive individual income tax of that State, and which in accordance with the provisions of this Convention is not subjected to taxation in that State because such income is attributable to the tax jurisdiction of the other Contracting State, may remain subjected in the first Contracting State to inclusion in the total income of the individual residing or domiciled in that State for the sole purpose of applying the progressive individual income tax schedule.

Chapter III.

Taxation of Capital

Article 19

The Capital Tax

1. Property made up by shares or holdings in the capital or assets of company may only be subjected to tax in the Contracting State in which its holder is domiciled.

2. All further elements of property may only be subjected to tax in the Contracting State where such property is situated.
Article 20

Status of Transportation Vehicles, Debt-Claims, Securities, and Other Assets

For the purposes of the previous Article, it shall be understood that:

a) Ships, aircraft, buses, and other transportation vehicles and the movable property used in the operation thereof are situated in the Contracting State in which ownership thereof is registered.

b) Debt-claims, corporate rights, shares, and other securities are situated in the Contracting State in which the debtor or issuing enterprise, as the case may be, is domiciled.

c) Unregistered movable property and livestock that are in the territory of one of the Contracting States at the close of each accounting period, in the case of enterprises, or on December 31 of each year, in the case of individuals, even if the status thereof is not permanent, are situated therein.

d) Copyrights of scientific, literary, or artistic works, trade marks and similar rights, patents, drawings, secret models and designs of industrial property, as well as the derivatives thereof and the respective licenses, are situated in the Contracting State in which the holder of the right or the license, as the case may be, is domiciled.

Article 21

Agreement for the Avoidance of Double Taxation With Respect to Profits From Shipping and Air Transport

The Contracting States agree to extend, retroactively to fiscal years not barred by the statute of limitations, the “Agreement for the Avoidance of Double Taxation With Respect to Profits From Shipping and Air Transport” signed in Buenos Aires on January 25, 1950, to the taxes and any other type of national duty on capital and/or wealth that it was the responsibility of the enterprises that fall under the terms of the aforementioned Agreement to pay in for operating ships and aircraft in international traffic.
Chapter IV.
General Provisions

Article 22
Consultations and Exchanges of Information

The competent authorities of the Contracting States shall hold consultations with each other and exchange such information as is necessary to resolve, by mutual agreement, any difficulty or doubt that may arise in the application of this Convention and to establish the administrative controls necessary for the avoidance of fraud and evasion.

The information that is exchanged in accordance with the provisions of the preceding paragraph shall be deemed secret and may not be disclosed to any person other than the authorities tasked with the administration of the taxes that are the subject of this Convention.

For the purposes of this Article, the competent authorities of the Contracting States may communicate directly with each other.

Article 23
Ratification

This Convention shall be ratified by the Governments of the Contracting States in accordance with the respective constitutional and legal requirements thereof.

The ratification instruments shall be exchanged in the city of Buenos Aires as soon as possible.

Article 24
Entry Into Force

This Convention shall enter into force on the date of the exchange of the ratification instruments and shall apply:

a) For individuals and the undivided estates thereof, with respect to income, earnings, or profits received and capital owned as of January 1, inclusive, of the immediately following calendar year.

b) For enterprises, with respect to earnings, income, or profits received in the fiscal or accounting years commencing on the date of entry into force, inclusive, of this Convention and for the capital corresponding to said years.
Article 25
Modifications

At the end of the second year of validity of this Convention, the competent authorities of the Contracting States shall meet to consider and implement any modifications or adjustments of same that are necessary taking into account the experiences they have had during that period.

Article 26
Term

This Convention shall remain in force indefinitely, but either of the Contracting States may, from January 1 until June 30 of any calendar year as of the fifth year following the entry into force thereof, inclusive, notify the other Contracting State in writing of its termination thereof, and, in such case, the Convention shall cease to be effective:

a) For individuals and the undivided estates thereof, with respect to income, earnings, or profits received and capital owned as of January 1, inclusive, of the calendar year immediately following the calendar year in which notification was given of the termination of this Convention.

b) For enterprises, with respect to earnings, income, profits, or capital corresponding to the fiscal or accounting years commencing after the date on which such notification was given.

Note: This convention went into force in 1976 has been amended by a protocol in 2003. The text above incorporates the changes made to the 1976 agreement by the protocol. (Unofficial translation from the Spanish original.)