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LEAGUE OF NATIONS

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# DOUBLE TAXATION

AND

# TAX EVASION

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## REPORT

PRESENTED BY THE

**General Meeting of Government Experts on Double Taxation  
and Tax Evasion**

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[\*7]

A. TEXT OF DRAFT CONVENTION NO. IA.

*Article 1.*

The present Convention is designed to prevent double taxation in the sphere of direct impersonal or personal taxes, in the case of the taxpayers of the Contracting Parties, whether nationals or otherwise.

For the purposes of this Convention the following shall be regarded as impersonal taxes:

- (a) .....
- (b) .....
- (c) .....

For the purposes of this Convention, the following shall be regarded as personal taxes

- (a) .....
- (b) .....
- (c) .....

**I. Impersonal Taxes.**

*Article 2.*

The income from immovable property, i.e., that which corresponds to the actual or presumed rental value of such property, as well as any other income from such property which is not covered by Article 5, shall be taxable in the State in which the property in question is situated.

This rule shall apply to income from mortgages or other similar obligations. [\*8]

*Article 3.*

Income from public funds, bonds, including mortgage bonds, loans and deposits or current accounts, shall be taxable in the State in which the debtors of such income are at the time resident.

*Article 4.*

Income from shares or similar interests shall be taxable in the State in which the real centre of management of the undertaking is situated.

*Article 5.*

Income, not referred to in Article 7, from any industrial, commercial or agricultural undertaking and from any other trades or professions shall be taxable in the State in which the permanent establishments are situated.

The real centres of management, branches, mining and oilfields, factories, workshops, agencies, warehouses, offices, depots, shall be regarded as permanent establishments. The fact that an undertaking has business dealings with a foreign country through a bona-fide agent of independent status (broker, commission agent, etc.) shall not be held to mean that the undertaking in question has a permanent establishment in that country.

Should the undertaking possess permanent establishments in both Contracting States, each of the two States shall tax the portion of the income produced in its territory. The competent administrations of the two Contracting States shall come to an arrangement as to the basis for apportionment.

Nevertheless, income from maritime shipping and air navigation concerns shall be taxable only in the State in which the real centre of management is situated.

*Article 6.*

The fees of managers and directors of joint-stock companies shall be taxable in accordance with the rule laid down in Article 4.

*Article 7.*

Salaries, wages or other remuneration of any kind shall be taxable in the State in which the recipients carry on their employment.

Salaries of officials and public employees who are serving abroad shall, however, be taxable in the State which pays these salaries.

*Article 8.*

Public or private pensions shall be taxable in the State of the debtor of such income.

*Article 9.*

Annuities or income from other sources not referred to in the previous paragraphs shall be taxable in the State of fiscal domicile of the creditor of such income.

## II. Personal Taxes.

### *Article 10.*

The personal tax on the total income shall be levied by the State in which the taxpayer has his fiscal domicile, i.e., his normal residence, the term “residence” being understood to mean a permanent home. [\*9]

The State of domicile shall deduct from its personal tax the lesser of the two following amounts:

(a) Either the amount of the tax actually paid in the other Contracting State on income from immovable property (Article 2) and on income from industrial, commercial or agricultural undertaking (Article 5); or

(b) The amount of the tax relating to the income referred to in paragraph (a) at the rates in force in the State of domicile.

This deduction shall not in total exceed x per cent of the total personal tax leviable in the State of domicile.

When the State of domicile imposes impersonal taxes, the deduction provided for above shall not include impersonal taxes which correspond or relate to income taxed in the other Contracting State.

### *Article 11.*

In the case of taxpayers who possess a fiscal domicile in both Contracting States, the personal tax shall be imposed in each of these States in proportion to the period of stay during the fiscal year, or according to a division to be determined by agreement between the competent administrations

## III. Miscellaneous Provisions.

### *Article 12.*

The principles laid down in the preceding articles shall be applicable, *mutatis mutandis*, to the recurrent taxes on total wealth, capital, or increments of total wealth, according as these taxes are impersonal or personal.

### *Article 13.*

As regards any special provisions which may be necessary to enable the present Convention to be applied, more particularly in cases not expressly provided for, the financial administrations of the two Contracting States shall confer together and take the measures required in accordance with the spirit of this Convention.

*Article 14.*

Should a dispute arise between the Contracting States as to the interpretation or application of the provisions of the present Convention, and should such dispute not be settled either directly between the States or by the employment of any other means of reaching agreement, the dispute may be submitted, with a view to an amicable settlement, to such technical body as the Council of the League of Nations may appoint for this purpose. This body will give an advisory opinion after hearing the parties and arranging a meeting between them if necessary.

The Contracting States may agree, prior to the opening of such procedure, to regard the advisory opinion given by the said body as final. In the absence of such an agreement, the opinion shall not be binding upon the Contracting States unless it is accepted by both, and they shall be free, after resort to such procedure or in lieu thereof, to have recourse to any arbitral or judicial procedure which they may select, including reference to the Permanent Court of International Justice as regards any matters which are within the competence of that Court under its Statute.

Neither the opening of the procedure before the body referred to above nor the opinion which it delivers shall in any case involve the suspension of the measures complained of; the same rule shall apply in the event of proceedings being taken before the Permanent Court of International Justice, unless the Court decides otherwise under Article 41 of its Statute.

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[\*16]

## C. TEXT OF DRAFT CONVENTION NO. IB.

The present Convention is designed to prevent double taxation as regards the following specified taxes, in the case of the taxpayers of the Contracting States, whether nationals or otherwise.

- (a) .....
- (b) .....
- (c) .....

*Article 1.**Taxes at the fiscal domicile.*

A. In principle, income shall be taxable by the State in which the taxpayer has his fiscal domicile, i.e., his normal residence, the term “residence” being understood to mean a permanent home.

B. In the case of taxpayers who possess a fiscal domicile in both Contracting States, the tax imposed in each of these States in proportion to the period of stay during the fiscal year, or according to a division to be determined by agreement between the competent administrations.

*Article 2.*

*Taxes at Source.*

The following classes of incomes shall be taxable by priority at their respective sources as described below:

A. *Income from Immovable Property.*

The income from immovable property, i.e., that which corresponds to the actual or presumed rental value of such property, as well as any other income from such property which is not covered by paragraph B below shall be taxable in the State in which the property in question is situated.

This rule shall apply to income from mortgages or other similar claims.

B. *Industrial, Commercial or Agricultural Income .*

Income from any industrial, commercial or agricultural undertaking, and from any other trades or professions not referred to in paragraph D, shall be taxable in the State in which a permanent establishment is situated.

The real centres of management, branches, mining and oil-fields, factories, workshops, agencies, warehouses, offices, depots, shall be regarded as permanent establishments. The fact that an undertaking has business dealings with a foreign country through a bona-fide agent of independent status (broker, commission agent, etc.) shall not be held to mean that the undertaking in question has a permanent establishment in that country.

Should the undertaking possess permanent establishments in both Contracting States, each State shall impose the tax applicable to that part of the income produced on its territory. The competent administrations of the two Contracting States shall come to an arrangement as to the basis for apportionment.

Nevertheless, income from maritime shipping and air navigation shall be taxable only in the State in which the real centre of management is situated.

C. *Fees of Managers and Directors.*

The fees of managers and directors of joint-stock companies shall be taxable in the State where the real centre of management of the undertaking is situated. [\*17]

D. *Salaries and Wages.*

Salaries, wages or other remuneration of any kind shall be taxable in the State in which the recipients carry on their employment.

Salaries of officials and public employees who are serving abroad shall, however, be taxable in the State which pays these salaries.

*E. Public Pensions.*

Public pensions shall be taxable in the State of the debtor of such income.

*Article 3.**Relief through Deductions and Refunds.**A. Deductions.*

On reporting his or its total income from all sources, any person or company domiciled in the territory of one of the Contracting States shall be granted relief in respect of taxes payable in the other Contracting State on income taxable under Article 2 by priority in such other Contracting State.

For this purpose the State of domicile shall deduct from its tax on the total income the lesser of the two following amounts:

- (a) The tax imposed by the other Contracting State on income taxable by priority therein; or
- (b) An amount which represents the same proportion of the tax payable on the total income as the income taxable by priority bears to the total income.

*B. Refunds.*

The State which has collected an origin tax on revenues not enumerated under Article 2 shall refund the amount on production of proper evidence.

*Article 4.*

As regards any special provisions which may be necessary to enable the present Convention to be applied, more particularly in cases not expressly provided for, the financial administrations of the two Contracting States shall confer together and take the measures required in accordance with the spirit of this Convention.

*Article 5.*

Should a dispute arise between the Contracting States as to the interpretation or application of the provisions of the present Convention, and should such dispute not be settled either directly between the States or by the employment of any other means of reaching agreement, the dispute may be submitted, with a view to an amicable settlement, to such technical body as the Council of the League of Nations may appoint for this purpose. This body will give an advisory opinion after hearing the Parties and arranging a meeting between them if necessary.

The Contracting States may agree, prior to the opening of such procedure, to regard the advisory opinion given by the said body as final. In the absence of such an agreement, the opinion shall not be binding upon the Contracting States unless it is accepted by both, and they shall be free, after resort to such procedure or in lieu thereof, to have recourse to

any arbitral or judicial procedure which they may select, including reference to the Permanent Court of International Justice as regards any matters which are within the competence of that Court under its Statute. [\*18]

Neither the opening of the procedure before the body referred to above nor the opinion which it delivers shall in any case involve the suspension of the measures complained of; the same rule shall apply in the event of proceedings being taken before the Permanent Court of International Justice, unless the Court decides otherwise under Article 41 of its Statute.

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[\*19]

E. TEXT OF THE DRAFT CONVENTION 1C

*Article 1.*

The present Convention is designed to prevent double taxation as regards the following specified taxes in the case of the taxpayers, whether nationals or otherwise, of the Contracting States:

- (a) .....
- (b) .....
- (c) .....

*Article 2.*

The income from immovable property, *i.e.*, that which corresponds to the actual or presumed rental value of such property, as well as any other income from such property which is not covered by Article 3, shall be taxable in the State in which the property in question is situated.

This rule shall apply to income from mortgages or other similar obligations.

*Article 3.*

Income derived from any industrial, commercial or agricultural undertaking and from any other trades or professions and not referred to in Article 7, shall be taxable in the State in which the permanent establishments are situated.

The real centres of management, branches, mining and oil fields, factories, workshops, agencies, warehouses, offices, depots, shall be regarded as permanent establishments. The



fact that an undertaking has business dealings with a foreign country through a *bona-fide* agent of independent status (broker, commission agent, etc.) shall not be held to mean that the undertaking in question has a permanent establishment in that country.

Should the undertaking possess permanent establishments in both Contracting States, each of the two States shall tax the portion of the income produced in its territory. The competent administrations of the two Contracting States shall come to an arrangement as to the basis for apportionment.

Nevertheless, income from maritime shipping and air navigation shall be taxable only in the State in which the real centre of management is situated.

*Article 4.*

The fees of managers and directors of joint-stock companies shall be taxable in the States where the real centre of management of the undertaking is situated.

*Article 5.*

Salaries, wages or other remuneration of any kind shall be taxable in the State in which the recipients carry on their employment.

Salaries of officials and public employees who are serving abroad shall, however, be taxable in the State which pays these salaries.

*Article 6.*

Public or private pensions shall be taxable in the State of the debtor of such income.

*Article 7.*

The income from movable assets shall be taxable in the State in whose territory the creditor has his fiscal domicile, *i.e.*, his normal residence, the term "residence" being understood to mean a permanent home.

When the other Contracting State levies a tax, by means of deductions at the source, on income from capital originating in the territory of that State, the right to this taxation shall not be affected by the rule in sub-paragraph I. In this case the State of domicile which, in addition to its ordinary direct tax, levies a special tax on income originating in the other State, shall refrain from levying that tax or shall deduct therefrom the tax paid in the other State.

In order to avoid or to mitigate the effects of such double taxation as is not, under the various fiscal systems, prevented by the provision of the previous sub-paragraph, the Contracting States shall come to an agreement, if necessary, to allow either the remission, in respect of the tax levied by the State of domicile, of the whole or part of the tax

deducted by the State of origin, or a refund, upon production of proper evidence by the State of origin, of the whole or part of the tax collected by it by means of deductions.

*Article 8.*

Annuities or income from other claims not referred to in the previous paragraphs shall be taxable in the State of fiscal domicile of the creditor of such income.

*Article 9.*

In the case of taxpayers who possess a fiscal domicile in both Contracting States, a tax collection of which under this Convention depends on domicile shall be imposed in each of the Contracting States in proportion to the period of stay during the fiscal year or according to a division to be determined by agreement between the competent administrations.

*Article 10.*

The principles laid down in the preceding articles shall be applicable, *mutatis mutandis*, to the recurrent taxes on total wealth, capital or increments of total wealth.

*Article 11.*

If, under the provisions of this Convention, either of the Contracting States has surrendered any taxable element of income or wealth, it shall retain the right to apply to the entire taxable property not exempted the rate of its general tax on income or total wealth corresponding to the whole of the income or total wealth of the taxpayer.

*Article 12.*

As regards any special provisions which may be necessary to enable the present Convention to be applied, more particularly in cases not expressly provided for, the financial administrations of the two Contracting States shall confer together and take the measures required in accordance with the spirit of this Convention.

*Article 13.*

Should a dispute arise between the Contracting States as to the interpretation or application of the provisions of the present Convention, and should such dispute not be settled either directly between the States or by the employment of any other means of reaching agreement, the dispute may be submitted, with a view to an amicable settlement, to such technical body as the Council of the League of Nations may appoint for this

purpose. This body will give an advisory opinion after hearing the parties and arranging a meeting between them if necessary.

The Contracting States may agree, prior to the opening of such procedure, to regard advisory opinion given by the said body as final. In the absence of such an agreement, the opinion shall not be binding upon the Contracting States unless it is accepted by both, and they shall be free, after resort to such procedure or in lieu thereof, to have recourse to any arbitral or judicial procedure which they may select, including reference to the Permanent Court of International Justice as regards any matters which are within the competence of that Court under its Statute.

Neither the opening of the procedure before the body referred to above nor the opinion which it delivers in any case involves the suspension of the measures complained of; the same rule shall apply in the event of proceedings being taken before the Permanent Court of International Justice, unless the Court decides otherwise under Article 41 of its Statute.

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