



Recommendation of the Council
concerning the Avoidance of
Double Taxation



OECD Legal
Instruments

This document is published under the responsibility of the Secretary-General of the OECD. It reproduces an OECD Legal Instrument and may contain additional material. The opinions expressed and arguments employed in the additional material do not necessarily reflect the official views of OECD Member countries.

This document, as well as any data and any map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

For access to the official and up-to-date texts of OECD Legal Instruments, as well as other related information, please consult the Compendium of OECD Legal Instruments at <http://legalinstruments.oecd.org>.

Please cite this document as:

OECD, *Recommendation of the Council concerning the Avoidance of Double Taxation*, OECD/LEGAL/0056

Series: OECD Legal Instruments

© OECD 2019

This document is provided free of charge. It may be reproduced and distributed free of charge without requiring any further permissions, as long as it is not altered in any way. It may not be sold.

This document is available in the two OECD official languages (English and French). It may be translated into other languages, as long as the translation is labelled "unofficial translation" and includes the following disclaimer: *"This translation has been prepared by [NAME OF TRANSLATION AUTHOR] for informational purpose only and its accuracy cannot be guaranteed by the OECD. The only official versions are the English and French texts available on the OECD website <http://legalinstruments.oecd.org>"*

Date(s)

Adopted on 30/07/1963
Abrogated 11/04/1977

Background Information

THE COUNCIL

Having regard to Article 5 (b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960 ;

Having regard to the Recommendation of the Council of the Organisation for European Economic Co-operation of 3rd July 1959 concerning the Avoidance of Double Taxation, as amended on 19th July 1960 and 7th July 1961, and approved by the Council on 30th September 1961 [Doc. Nos. C(59)147(Final) ; C(60)157(Final) ; C(61)97(Final) ; OECD/C(61)5] ;

Having regard to the Report of the Fiscal Committee of 6th July 1963 on the Draft Convention for the Avoidance of Double Taxation with respect to Taxes on Income and Capital between the Member countries of the O.E.C.D. and, in particular, to paragraphs 5, 48, 51, 53, 54 and 62-66, as well as the Commentaries on the Articles of the Draft Convention contained in that Report [Doc. No. C(63)87] ;

Considering the desirability of removing the obstacles that double taxation presents to the free movement of goods, services, capital and manpower between the Member countries of the O.E.C.D. and of concluding Conventions between them for that purpose ;

Considering also the need for harmonizing existing bilateral Conventions on the basis of uniform principles, definitions, rules and methods, and of agreeing on a common interpretation, and of extending the existing network of such Conventions to all Member countries ;

I. RECOMMENDS THE GOVERNMENTS OF MEMBER COUNTRIES :

1. to pursue their efforts to conclude bilateral Conventions for the avoidance of double taxation with respect to taxes on income and on capital with those Member countries with which they have not concluded such Conventions, and to revise the Conventions existing between them which may no longer be in keeping with present circumstances ;
2. when concluding or revising bilateral Conventions between them, to conform to the Draft Convention, set out in the Annex hereto (hereinafter referred to as the « Draft Convention »), as interpreted by the Commentaries and in the Report of the Fiscal Committee referred to above and having regard to the derogations and reservations contained in those Commentaries and in that Report.

II. RECOMMENDS THE GOVERNMENTS OF MEMBER COUNTRIES WHICH ARE ALSO MEMBERS OF REGIONAL GROUPINGS :

to examine, as and when appropriate, the feasibility of concluding within such groupings multilateral Conventions based upon the Draft Convention.

III. REQUESTS :

1. the Governments of Member countries to notify the Organisation of the text of any new or revised bilateral double taxation Convention which they may conclude between them and, where appropriate, the reasons why the provisions of the Draft Convention have not been adopted in any such Convention ;
2. the Governments of Member countries who are also members of regional groupings to notify the Organisation in due time of the results of the examination provided for in Section II above, and of any difficulties encountered with regard to the provisions of the Draft Convention.

IV. INSTRUCTS THE FISCAL COMMITTEE :

1. to seek solutions to the problems mentioned in paragraphs 53 and 54 of the Report of the Fiscal Committee, to consider the desirability of providing for recourse to arbitration, and to report to the Council before 1st July 1965 ;
2. to prepare and submit to the Council before 1st July 1965 a Draft Convention for the avoidance of double taxation with respect to taxes on estates and inheritances ;
3. to report to the Council before 1st July 1965 on the programme of work contemplated regarding the study of the problems of double taxation with respect to indirect taxes ;
4. to examine the information submitted in conformity with Section II above, and to report to the Council as and when appropriate ;
5. to report to the Council, as and when appropriate, on the feasibility of concluding a multilateral Convention for the avoidance of double taxation with respect to taxes on income and capital among all Member countries of the O.E.C.D.

V. DECIDES :

The Recommendation of the Council of the Organisation for European Economic Co-operation of 3rd July 1959, as amended, referred to above, is hereby repealed.

Annex I

DRAFT CONVENTION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

Summary of the Convention

Title and Preamble

Chapter I

Scope of the Convention

Art. 1	(Art. XVIII)	Personal Scope
Art. 2	(Art. I)	Taxes covered

Chapter II

Definitions

Art. 3		General definitions
Art. 4	(Art. III)	Fiscal domicile
Art. 5	(Art. II)	Permanent establishment

Chapter III

Taxation of income

Art. 6	(Art. XIII)	Income from immovable property
Art. 7	(Art. XV)	Business profits
Art. 8	(Art. V)	Shipping, inland waterways transport and air transport
Art. 9	(Art. XVI)	Associated enterprises
Art. 10	(Art. XX)	Dividends
Art. 11	(Art. XXI)	Interest
Art. 12	(Art. XXII)	Royalties
Art. 13		Capital gains
Art. 14	(Art. VII)	Independent personal services
Art. 15	(Art. VIII)	Dependent personal services
Art. 16	(Art. IX)	Directors' fees
Art. 17	(Art. XI)	Artistes and athletes
Art. 18	(Art. X)	Pensions
Art. 19	(Art. VIII)	Governmental functions
Art. 20	(Art. XII)	Students
Art. 21	(Art. XVII)	Income not expressly mentioned

Chapter IV

Taxation of Capital

Art. 22	(Art. XIV)	Capital
---------	------------	---------

Chapter V

Methods for elimination of double taxation

Art. 23 (A) (Art. XXIII)	Exemption method
Art. 23 (B) (Art. XXIV)	Credit method

Chapter VI

Special provisions

Art. 24	(Art. IV)	Non discrimination
Art. 25	(Art. XXV)	Mutual agreement
Art. 26		Exchange of information
Art. 27		Diplomatic and consular officials
Art. 28	(Art. XIX)	Territorial extension

Chapter VII

Final provisions

Art. 29	Entry into force
Art. 30	Termination

Note : The Roman numerals in brackets refer to the numbering of the Articles in the Fiscal Committee's first four reports published in 1958, 1959, 1960 and 1961, under the title « The Elimination of Double Taxation ».

Title

CONVENTION BETWEEN (STATE A) AND (STATE B) FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

Preamble

Note : The Preamble of the Convention shall be drafted in accordance with the constitutional procedure of both Contracting States.

Chapter I

Scope of the Convention

Article 1

Personal scope

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

Taxes covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are, in particular :
 - (a) In the case of (State A) :
 - (b) In the case of (State B) :
4. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

Chapter II

Definitions

Article 3

General definitions

1. In this Convention, unless the context otherwise requires :
 - (a) the terms «a Contracting State» and «the other Contracting State» mean (State A) or (State B), as the context requires ;
 - (b) the term «person» comprises an individual, a company and any other body of persons ;
 - (c) the term «company» means any body corporate or any entity which is treated as a body corporate for tax purposes ;
 - (d) the terms «enterprise of a Contracting State» and «enterprise of the other Contracting State» mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State ;
 - (e) the term «competent authority» means :
 - (1) in (State A),
 - (2) in (State B),
2. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article 4

Fiscal domicile

1. For the purposes of this Convention, the term « resident of a Contracting State » means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules :

(a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests) ;

(b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode ;

(c) If he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national ;

(d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5

Permanent establishment

1. For the purposes of this Convention, the term « permanent establishment » means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term « permanent establishment » shall include especially :

(a) a place of management,

(b) a branch,

(c) an office,

(d) a factory,

(e) a workshop,

(f) a mine, quarry or other place of extraction of natural resources,

(g) a building site or construction or assembly project which exists for more than twelve months.

3. The term « permanent establishment » shall not be deemed to include :

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise ;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery ;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise ;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise ;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph 5 applies — shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

Chapter III

Taxation of income

Article 6

Income from immovable property

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term « immovable property » shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources ; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7

Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping, inland waterways transport and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

Article 9

Associated enterprises

Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed :

(a) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends ;

(b) in all other cases, 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term « dividends » as used in this Article means income from shares, « jouissance » shares or « jouissance » rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. The term «interest» as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.
5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.
2. The term «royalties» as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

2. The term « professional services » includes, especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if :
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

Directors' fees

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artistes and athletes

Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 18

Pensions

Subject to the provisions of paragraph 1 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

Governmental functions

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.
2. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision or a local authority thereof.

Article 20

Students

Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

Article 21

Income not expressly mentioned

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

Chapter IV

Taxation of capital

Article 22

Capital

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
3. Ships and aircraft operated in international traffic and boats engaged in inland waterways transport, and movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Chapter V
Methods for elimination of double taxation

Article 23(A)

Exemption method

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.
2. Where a resident of a Contracting State derives income which, in accordance with the provisions of Articles 10 and 11, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other Contracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.

Article 23(B)

Credit method

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow:
 - (a) as a deduction from the tax on the income of that person, an amount equal to the income tax paid in that other Contracting State;
 - (b) as a deduction from the tax on the capital of that person, an amount equal to the capital tax paid in that other Contracting State.
2. The deduction in either case shall not, however, exceed that part of the income tax or capital tax, respectively, as computed before the deduction is given, which is appropriate, as the case may be, to the income or the capital which may be taxed in the other Contracting State.

Chapter VI
Special provisions

Article 24

Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The term «nationals» means:
 - (a) all individuals possessing the nationality of a Contracting State,
 - (b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. Stateless persons shall not be subjected in a Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that State in the same circumstances are or may be subjected.

4. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reduction for taxation purposes on account of civil statuts or family responsibilities which it grants to its own residents.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State or any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

6. In this Article the term « taxation » means taxes of every kind and description.

Article 25

Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authorities of the Contracting State shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by

this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation :

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State ;

(b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State ;

(c) to supply information which would disclose any trade, business, industrial, commerical or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27

Diplomatic and consular officials

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

Article 28

Territorial extension

1. This Convention may be extended, either in its entirety or with any necessary modifications, [to any part of the territory of (State A) or of (State B) which is specifically excluded from the application of the Convention or] to any State or territory for whose international relations (State A) or (State B) is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under Article 30 shall terminate, in the manner provided for in that Article, the application of the Convention [to any part of the territory of (State A) or of (State B) or] to any State or territory to which it has been extended under this Article.

Note : The words between brackets are of relevance when, by special provision, a part of the territory of a Contracting State is excluded from the application of the Convention.

Chapter VII

Final provisions

Article 29

Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at as soon as possible.
2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:
 - (a) in (State A) :
 - (b) in (State B) :

Article 30

Termination

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year In such event, the Convention shall cease to have effect:

- (a) in (State A) :
- (b) in (State B) :

Terminal clause

Note: The terminal clause concerning the signing shall be drafted in accordance with the constitutional procedure of both Contracting States.

In adopting this Recommendation, the Council:

1. AGREED that Parts I and II of the Report by the Fiscal Committee of 6th July 1963 referred to above should be de-restricted.
2. NOTED that a short press release would be issued.

Adherents*

OECD Members	Non-Members	Other
Australia		
Austria		
Belgium		
Canada		
Chile		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Israel		
Italy		
Japan		
Korea		
Latvia		
Luxembourg		
Mexico		
Netherlands		
New Zealand		
Norway		
Poland		
Portugal		
Slovak Republic		
Slovenia		
Spain		
Sweden		
Switzerland		
Turkey		
United Kingdom		
United States		

* Additional information and statements are available in the Compendium of OECD Legal Instruments:
<http://legalinstruments.oecd.org>

About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

OECD Legal Instruments

Since the creation of the OECD in 1961, around 450 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions:** OECD legal instruments which are legally binding on all Members except those which abstain at the time of adoption. While they are not international treaties, they entail the same kind of legal obligations. Adherents are obliged to implement Decisions and must take the measures necessary for such implementation.
- **Recommendations:** OECD legal instruments which are not legally binding but practice accords them great moral force as representing the political will of Adherents. There is an expectation that Adherents will do their utmost to fully implement a Recommendation. Thus, Members which do not intend to do so usually abstain when a Recommendation is adopted, although this is not required in legal terms.
- **Declarations:** OECD legal instruments which are prepared within the Organisation, generally within a subsidiary body. They usually set general principles or long-term goals, have a solemn character and are usually adopted at Ministerial meetings of the Council or of committees of the Organisation.
- **International Agreements:** OECD legal instruments negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.
- **Arrangement, Understanding and Others:** several ad hoc substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.