

No. 30723

**FRANCE
and
VENEZUELA**

Convention for the avoidance of double taxation and the prevention of fiscal evasion and fraud with respect to taxes on income (with protocol). Signed at Caracas on 7 May 1992

Authentic texts: French and Spanish.

Registered by France on 28 February 1994.

**FRANCE
et
VENEZUELA**

Convention en vue d'éviter les doubles impositions et de prévenir l'évasion et la fraude fiscales en matière d'impôts sur le revenu (avec protocole). Signée à Caracas le 7 mai 1992

Textes authentiques : français et espagnol.

Enregistrée par la France le 28 février 1994.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF
VENEZUELA FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION AND FRAUD
WITH RESPECT TO TAXES ON INCOME

The Government of the French Republic and
The Government of the Republic of Venezuela,

Desiring to conclude a convention for the avoidance of double taxation and the
prevention of fiscal evasion and fraud with respect to taxes on income,

Have agreed as follows:

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 imposed on behalf of a
Contracting State or of its local authorities, irrespective of the manner in which they
are levied.

2. There shall be regarded as taxes on income all taxes imposed on total
income, or on elements of income, 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 France:

- (i) The income tax;
 - (ii) The corporation tax;
 - (iii) The tax on wages;
- (hereinafter referred to as “French tax”);

(b) In the case of Venezuela: the income tax;
(hereinafter referred to as “Venezuelan tax”).

4. The Convention shall apply also to any identical or substantially similar
taxes which are imposed after the date of signature of the Convention in addition to,

¹ Came into force on 15 October 1993, the date of the last of the notifications (of 14 July and 15 October 1993) by
which the Contracting Parties informed each other of the completion of the required procedures, in accordance with
paragraph 1 of article 29.

or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

CHAPTER II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

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

(a) The terms “a Contracting State” and “the other Contracting State” mean France or Venezuela, as the case may be;

(b) The term “person” includes 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 “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(f) The term “nationals” means:

(i) All individuals possessing the nationality of a Contracting State;

(ii) All legal persons, partnerships and associations deriving their status as such from the legislation in force in a Contracting State;

(g) The term “competent authority” means:

(i) In the case of France, the Minister in charge of the budget or his authorized representative;

(ii) In the case of Venezuela, the Internal Revenue Service (*Dirección General Sectorial de Rentas*) of the Ministry of Finance.

2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies. The term “law of that State” means primarily tax law, which shall take precedence over other branches of the law of that State.

Article 4. RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. However, this term does not include persons who are liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

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

(b) If the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

(d) If he is a national of both 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 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 through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

(a) A place of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

(f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A construction or assembly site shall not constitute a permanent establishment unless it is in operation for more than twelve months, calculated from the effective date of the start of work.

4. Notwithstanding the preceding provisions of this article, the term “permanent establishment” shall be deemed not 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 of collecting information, for the enterprise;

(e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, activities relating to publicity, the supply of information or scientific research or any other activity of a preparatory or auxiliary character;

(f) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of an independent status to whom paragraph 6 applies — is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such a person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a business establishment under the provisions of that paragraph.

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

7. 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 derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under 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 and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also 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 independent personal services.