

No. 30861

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND**

and

UKRAINE

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains (with exchange of notes of 10 February and 23 March 1993). Signed at London on 10 February 1993

Authentic texts of the Convention: English and Ukrainian.

Authentic text of the exchange of notes: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 28 March 1994.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD**

et

UKRAINE

Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur les gains en capital (avec échange de notes des 10 février et 23 mars 1993). Signée à Londres le 10 février 1993

Textes authentiques de la Convention : anglais et ukrainien.

Textes authentiques de l'échange de notes : anglais.

Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 28 mars 1994.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF UKRAINE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ukraine;

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains;

Have agreed as follows:

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 gains imposed on behalf of a 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 gains all taxes imposed on total income or on elements of income including taxes on gains from the alienation of movable or immovable property and taxes on the total amounts of wages or salaries paid by enterprises.
- (3) The taxes which are the subject of this Convention are:
 - (a) in the case of the United Kingdom:
 - (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the capital gains tax;(hereinafter referred to as “United Kingdom tax”);
 - (b) in the case of Ukraine:
 - (i) the tax on profit (income) of enterprises (*podatok na pributok (dokhody) pidpriemstv*), and

¹ Came into force on 11 August 1993, the date of the last of the notifications by which the Contracting Parties informed each other of the completion of the required procedures, in accordance with article 29.

(ii) the income tax on citizens of Ukraine, foreign citizens and stateless persons (*pributkovy podatok z gromadyan Ukrainy, inozemnikh gromadyan ta ocib bez gromadyanstva*);

(hereinafter referred to as “Ukraine tax”).

(4) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes of that Contracting State referred to in paragraph (3) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3

General definitions

- (1) For the purposes of this Convention, unless the context otherwise requires:
- (a) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;
 - (b) the term “Ukraine” means the territory of Ukraine, its Continental Shelf and its exclusive (maritime) economic zone;
 - (c) the term “national” means:
 - (i) in relation to the United Kingdom, any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
 - (ii) in relation to Ukraine;
 - (aa) physical persons possessing the citizenship of Ukraine;
 - (bb) all legal persons, partnerships and associations deriving their status as such from the laws in force in Ukraine;
 - (d) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Ukraine, as the context requires;
 - (e) the term “person” comprises an individual, a company and any other body of persons, but subject to paragraph (2) of this Article does not include a partnership;
 - (f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” means 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;
 - (h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

- (1) the term “competent authority” means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and, in the case of Ukraine, the Minister of Finance of Ukraine or his authorised representative.
- (2) A partnership or a joint venture deriving its status from Ukraine law which is treated as a taxable unit under the law of Ukraine shall be treated as a person for the purposes of this Convention.
- (3) As regards the application of the Convention by a Contracting State any term not otherwise defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Contracting State concerning the taxes to which the Convention applies.

ARTICLE 4

Residence

- (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, place of registration or any other criterion of a similar nature; the term does not include any person who is liable to tax in that Contracting State only if he derives income or capital gains from sources therein.
- (2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status 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 closer (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 no 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) of this Article 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 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) an installation or structure for the exploration of natural resources;
 - (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
- (3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.
- (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, 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 sub-paragraphs (a) to (e) of this paragraph, 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) of this Article, where a person—other than an agent of an independent status to whom paragraph (6) of this Article applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Contracting State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent 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