

No. 47641

**Mexico
and
Germany**

Agreement between the United Mexican States and the Federal Republic of Germany for the avoidance of double taxation and of tax evasion with respect to taxes on income and on capital (with protocol). Mexico City, 9 July 2008

Entry into force: *15 October 2009 by the exchange of instruments of ratification, in accordance with article 31*

Authentic texts: *English, German and Spanish*

Registration with the Secretariat of the United Nations: *Mexico, 9 July 2010*

**Mexique
et
Allemagne**

Accord entre les États-Unis du Mexique et la République fédérale d'Allemagne tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Mexico, 9 juillet 2008

Entrée en vigueur : *15 octobre 2009 par échange des instruments de ratification, conformément à l'article 31*

Textes authentiques : *anglais, allemand et espagnol*

Enregistrement auprès du Secrétariat des Nations Unies : *Mexique, 9 juillet 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE FEDERAL
REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION AND OF
TAX EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The United Mexican States and the Federal Republic of Germany

DESIRING to promote their mutual economic relations by removing fiscal obstacles and to strengthen their cooperation in tax matters,

Have agreed as follows:

ARTICLE 1

Persons Covered

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

ARTICLE 2

Taxes Covered

(1) This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or a political subdivision or local authority thereof, 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 amount of wages or salaries paid by enterprises as well as taxes on capital appreciation.

(3) The existing taxes to which this Agreement shall apply are in particular:

- (a) in the Federal Republic of Germany:

the income tax (*Einkommensteuer*);
the corporation tax (*Körperschaftsteuer*);
the trade tax (*Gewerbesteuer*), and
the capital tax (*Vermögenssteuer*)
including the supplements levied thereon

(hereinafter referred to as "German tax");

- (b) in the United Mexican States:

the federal income tax (el impuesto sobre la renta federal),
and
the business flat rate tax (el impuesto empresarial a tasa
única)

(hereinafter referred to as "Mexican tax").

(4) The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

ARTICLE 3

General Definitions

(1) For the purposes of this Agreement, unless the context otherwise requires:

- a) the term "the Federal Republic of Germany" means the territory of the Federal Republic of Germany, as well as the area of the sea-bed, its subsoil and the superjacent water column adjacent to the territorial sea, insofar as the Federal Republic of Germany exercises there sovereign rights and jurisdiction in conformity with international law and its national legislation for the purpose of exploring, exploiting, conserving and managing the living and non-living natural resources;

- b) the term "the United Mexican States", when used in a geographical sense, means the territory of the United Mexican States as defined in its Constitution, including any area beyond its territorial sea where the United Mexican States may exercise its sovereign rights of exploration and exploitation of the natural resources of the seabed, sub-soil and the superjacent waters, in accordance with international law;
- c) the terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or the United Mexican States, as the context requires;
- d) the term "person" includes an individual, a company and any other body of persons;
- e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- f) 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;
- g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that 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;
- h) the term "national" means:
 - aa) in respect of the Federal Republic of Germany
any German within the meaning of the Basic Law for the Federal Republic of Germany and any legal person, partnership and association deriving its status as such from the laws in force in the Federal Republic of Germany;
 - bb) in respect of the United Mexican States
any individual possessing the Mexican nationality according to the provisions of Article 30 of the Political Constitution of the United Mexican States, and any legal person, partnership or association deriving its status as such from the laws in force in the United Mexican States;

i) the term "competent authority" means:

aa) in the case of the Federal Republic of Germany the Federal Ministry of Finance or the agency to which it has delegated its powers;

bb) in the case of the United Mexican States, the Ministry of Finance and Public Credit.

(2) As regards the application of the Agreement at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4

Resident

(1) For the purposes of this Agreement, 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, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

(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 only 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 only of the State with which his personal and economic relations are closer (centre of vital interests);