

No. 53000*

**Canada
and
India**

Agreement between the Government of Canada and the Government of India for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). New Delhi, 30 October 1985

Entry into force: *16 September 1986 by the exchange of instruments of ratification, in accordance with article 29*

Authentic texts: *English, French and Hindi*

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Note: *See also annex A, No. 53000.*

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**Canada
et
Inde**

Accord entre le Gouvernement du Canada et le Gouvernement de l'Inde en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). New Delhi, 30 octobre 1985

Entrée en vigueur : *16 septembre 1986 par échange des instruments de ratification, conformément à l'article 29*

Textes authentiques : *anglais, français et hindi*

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Note : *Voir aussi annexe A, No. 53000.*

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[AFGHAN TEXT – TEXTE AFGHAN]

AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE
GOVERNMENT OF INDIA FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES
ON INCOME

The Government of Canada and the Government of India, desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

CHAPTER I

SCOPE OF THE AGREEMENT

Article 1

PERSONAL SCOPE

The 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 imposed by each Contracting State, 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.
3. The existing taxes to which the Agreement shall apply are:
 - (a) in the case of Canada: the income taxes imposed under the Income Tax Act of Canada (hereinafter referred to as "Canadian tax");
 - (b) in the case of India:
 - (i) the income-tax including any surcharge thereon imposed under the Income-tax Act, 1961 (43 of 1961);
 - (ii) the surtax imposed under the Companies (Profits) Surtax Act, 1964 (7 of 1964);(hereinafter referred to as "Indian tax").
4. The Agreement shall apply also to any identical or substantially similar taxes on income which are imposed by either Contracting State after the date of signature of

this Agreement in addition to, or in place of, the existing taxes.

5. At the end of each year, the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws which are the subject of this Agreement and furnish copies of relevant enactments and regulations.

CHAPTER II

DEFINITIONS

Article 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - (a)
 - (i) the term "Canada" used in a geographical sense, means the territory of Canada, including any area beyond the territorial seas of Canada which, under the laws of Canada, is an area within which Canada may exercise rights with respect to the sea-bed and sub-soil and their natural resources;
 - (ii) the term "India" means the territory of India and includes the territorial sea and airspace above it as well as any other maritime zone referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (Act No. 80 of 1976), in which India has certain rights and to the extent that these rights can be exercised therein as if such maritime zone is a part of the territory of India;
 - (b) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or India;
 - (c) the term "person" shall have the meaning assigned to it in the taxation laws in force in the respective Contracting State; in the case of Canada, it includes a partnership;
 - (d) the term "company" means any body corporate or any other entity which is treated as a company for tax purposes; in French, the term "société" also means a "corporation" within the meaning of Canadian law;
 - (e) 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;
 - (f) the term "competent authority" means:

- (i) in the case of Canada, the Minister of National Revenue or his authorised representative;
- (ii) in the case of India, the Central Government in the Ministry of Finance (Department of Revenue);
- (g) the term "tax" means Canadian tax or Indian tax, as the context requires;
- (h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership and association deriving its status as such from the law in force in a Contracting State;
- (i) the term "international traffic" means any voyage of a ship or aircraft operated by a resident of a Contracting State except where the principal purpose of the voyage is to transport passengers or goods between places in the other Contracting State.

2. As regards the application of the Agreement by a Contracting State any term not defined in this Agreement 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 Agreement.

Article 4

FISCAL DOMICILE

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who is a resident of that State in accordance with the taxation laws of that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his residential 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 (hereinafter referred to as his "centre of vital interest");
 - (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, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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 warehouse;
 - (g) a mine, quarry or other place of extraction of natural resources;
 - (h) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or supervisory activity continues for a period of more than three months;
 - (i) premises used as a sales outlet or for receiving or soliciting orders.
3. The term "permanent establishment" shall be deemed not to include:
- (a) the use of facilities solely for the purpose of storage or display 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 or display;