

No. 53013*

**Canada
and
Portugal**

Convention between the Government of Canada and the Government of the Portuguese Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Ottawa, 14 June 1999

Entry into force: *24 October 2001, in accordance with article 28*

Authentic texts: *English, French and Portuguese*

Registration with the Secretariat of the United Nations: *Canada, 16 October 2015*

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

**Canada
et
Portugal**

Convention entre le Gouvernement du Canada et le Gouvernement de la République portugaise en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Ottawa, 14 juin 1999

Entrée en vigueur : *24 octobre 2001, conformément à l'article 28*

Textes authentiques : *anglais, français et portugais*

Enregistrement auprès du Secrétariat des Nations Unies : *Canada, 16 octobre 2015*

**Le numéro de volume RTNU n'a pas encore été établi pour ce dossier. Les textes reproduits ci-dessous, s'ils sont disponibles, sont les textes authentiques de l'accord/pièce jointe d'action tel que soumises pour l'enregistrement et publication au Secrétariat. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Les traductions, s'ils sont inclus, ne sont pas en form finale et sont fournies uniquement à titre d'information.*

[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE PORTUGUESE REPUBLIC
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 THE PORTUGUESE REPUBLIC, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows

ARTICLE 1

I. Scope of the Convention

Persons Covered

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

Article 2

Taxes Covered

- 1 The existing taxes to which the Convention shall apply are
- (a) in the case of Canada.

the income taxes imposed by the Government of Canada under the Income Tax Act, (hereinafter referred to as "Canadian tax"),
 - (b) in the case of Portugal:
 - (i) the personal income tax (Imposto sobre o Rendimento das Pessoas Singulares - IRS),
 - (ii) the corporate income tax (Imposto sobre o Rendimento das Pessoas Colectivas - IRC),
 - (iii) the local surtax on the corporate income tax (Derrama),
(hereinafter referred to as "Portuguese tax")

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

ARTICLE 3

II. Definitions

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 Canada or Portugal as the context requires,
 - (b) the term "Canada", used in a geographical sense, means the territory of Canada, including:
 - (i) any area beyond the territorial sea of Canada that, in accordance with international law and the laws of Canada, is an area in respect of which Canada may exercise rights with respect to the seabed and subsoil and their natural resources;
 - (ii) the sea and airspace above every area referred to in clause (i) in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources referred to therein,
 - (c) the term "Portugal", used in a geographical sense, means the territory of the Portuguese Republic situated in the European Continent and the archipelagoes of Azores and Madeira, the territorial sea as well as any other zone in which, in accordance with the laws of Portugal and international law, the Portuguese Republic has jurisdiction or sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed and subsoil, and of the superjacent waters;
 - (d) the term "person" includes an individual, a trust, a company and any other body of persons,
 - (e) the term "company" means any body corporate or any entity which 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 "competent authority" means:
 - (i) in the case of Canada, the Minister of National Revenue or the Minister's authorized representative,
 - (ii) in the case of Portugal, the Minister of Finance, the Director General of Taxation or their authorized representatives;
 - (h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;

- (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State,
- (i) the term "tax" means, as the context requires, Canadian tax or Portuguese tax,
- (j) the term "international traffic", with reference to an enterprise of a Contracting State, means any voyage of a ship or aircraft to transport passengers or property except where the principal purpose of the voyage is to transport passengers or property between places within the other Contracting State

2 As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Convention 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 Convention, the term "resident of a Contracting State" means

- (a) any person who, under the laws of that State, is liable to tax therein by reason of the person's domicile, residence, place of management or any other criterion of a similar nature, however, this term does not include any person that is liable to tax in that State in respect only of income from sources in that State;
- (b) that State itself or a political or administrative subdivision or local authority thereof or any agency or instrumentality of any such government, subdivision or authority.

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

- (a) the individual shall be deemed to be a resident only of the State in which the individual has a permanent home available, if the individual has a permanent home available in both States, the individual shall be deemed to be a resident only of the State with which the individual's personal and economic relations are closer (centre of vital interests),
- (b) if the State in which the individual's centre of vital interests is situated cannot be determined, or if there is not a permanent home available to the individual in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode,
- (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national,
- (d) if the individual 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, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person. In the absence of such agreement, such person shall be considered not to be a resident of either Contracting State for the purposes of enjoying benefits under the Convention

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, and
- (f) a mine, an oil or gas well, a quarry or any other place relating to the exploration for or the exploitation of natural resources

3. A building, site or construction or installation project constitutes a permanent establishment only if it lasts for more than six 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 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