

No. 53555*

**Finland
and
Poland**

Convention between the Republic of Finland and the Republic of Poland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Helsinki, 8 June 2009

Entry into force: *11 March 2010, in accordance with article 26*

Authentic texts: *English, Finnish and Polish*

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**Finlande
et
Pologne**

Convention entre la République de Finlande et la République de Pologne tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Helsinki, 8 juin 2009

Entrée en vigueur : *11 mars 2010, conformément à l'article 26*

Textes authentiques : *anglais, finnois et polonais*

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**CONVENTION
BETWEEN THE REPUBLIC OF FINLAND AND THE
REPUBLIC OF POLAND FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The Republic of Finland and the Republic of Poland

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

Persons covered

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, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are:

a) in Finland:

- (i) the state income taxes (valtion tuloverot; de statliga inkomstskatterna);
 - (ii) the corporate income tax (yhteisöjen tulovero; inkomstskatten för samfund);
 - (iii) the communal tax (kunnallisvero; kommunalskatten);
 - (iv) the church tax (kirkollisvero; kyrkoskatten);
 - (v) the tax withheld at source from interest (korkotulon lähdevero; källskatten på ränteinkomst); and
 - (vi) the tax withheld at source from non-residents' income (rajoitetusti verovelvollisen lähdevero; källskatten för begränsat skattskyldig);
- (hereinafter referred to as "Finnish tax");

b) in Poland:

- (i) the personal income tax (podatek dochodowy od osób fizycznych); and
 - (ii) the corporate income tax (podatek dochodowy od osób prawnych)
- (hereinafter referred to as "Polish 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, 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
General definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the seabed and its sub-soil and of the superjacent waters may be exercised;
 - b) the term "Poland" means the Republic of Poland and, when used in a geographical sense, means the territory of the Republic of Poland, and any area adjacent to the territorial waters of the Republic of Poland within which, under the laws of Poland and in accordance with international law, the rights of Poland with respect to the exploration and exploitation of the natural resources of the seabed and its sub-soil may be exercised;
 - c) the term "person" includes an individual, a company and any other body of persons;
 - d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - e) the term "enterprise" applies to the carrying on of any business;
 - f) the terms "a Contracting State" and "the other Contracting State" mean the Republic of Finland and the Republic of Poland as the context requires;
 - g) 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;
 - h) the term "national" in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
 - i) 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;
 - j) the term "competent authority" means:

- (i) in Finland, the Ministry of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as competent authority;
 - (ii) in the case of Poland, the Minister of Finance or its authorised representative;
 - k) the term "business" includes the performance of professional services and of other activities of an independent character.
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 that 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
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 incorporation (registration) or any other criterion of a similar nature, and also includes that State and any statutory body 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.
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);
 - 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 only 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 only 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 his status shall be determined by mutual agreement of the competent authorities of the Contracting States. In such an agreement the competent authorities shall pay particular regard to where the place of effective management of the person is situated.