
EXPLANATORY NOTE

(This note is not part of the order)

The Convention with Belgium set out in the Schedule to this Order replaces the Convention signed on 29th August 1967 (S.I. 1970/636).

Provision is made for business profits not arising through a permanent establishment to be taxed only in the country of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the country in which the permanent establishment is situated (Articles 5 and 7). Shipping and air transport profits are to be taxed only in the country in which the place of effective management is situated (Article 8). The Convention includes rules for determining taxable profits when a company in one country is related to a company in the other (Article 9).

The Dividends Article (Article 10) takes account of the imputation system of company taxation in the United Kingdom. Where a United Kingdom company pays a dividend to a Belgian company controlling 10 per cent or more of its voting power, the Belgian company receiving the dividend will be entitled to a tax credit equal to one half of the tax credit which would be payable to a United Kingdom resident individual less a sum of not more than 5 per cent of the aggregate amount of the dividend and the half tax credit. Where the recipient is an individual resident of Belgium or a Belgian company controlling less than 10 per cent of the voting power of the United Kingdom company, the tax credit payable will be equal to the tax credit which would be payable to a United Kingdom resident individual less a sum not exceeding 20 per cent of the aggregate of the dividend and the tax credit. The Article provides that entitlement to a tax credit may be withdrawn where the recipient of a dividend cannot show, if required to do so, that the shareholding was acquired for bona fide commercial reasons or in the ordinary course of making or managing investments and it was not the main object nor one of the main objects of that acquisition to obtain entitlement to the tax credit. The Dividends Article also provides that the rate of Belgian withholding tax on dividends paid to a United Kingdom company controlling at least 25 per cent of the voting power of the Belgian company paying the dividend will be limited to a maximum of 5 per cent. In all other cases the Belgian withholding tax will not be more than 10 per cent.

Interest may be taxed in the country in which it arises, but the rate will normally be limited to 15 per cent where the beneficial owner of the interest is a resident of the other country (Article 11). Royalties are, in general, to be taxed only in the country of the taxpayer's residence (Article 12). The earnings of temporary business visitors are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence (Articles 14 and 15). Fees received by a resident of one country in his capacity as a director of a company resident in the other may be taxed in the latter country (Article 16). Income derived from the activities of artistes and athletes may be taxed in the country in which these activities are exercised (Article 17). Pensions, other than public service pensions, are to be taxed only in the country of the taxpayer's residence (Article 18). Public service salaries and pensions are normally to be taxed by the paying country only (Article 19). Payments made to visiting students and business apprentices are, in general, to be exempt from tax in the country visited (Article 20).

Income from immovable property and gains derived from such property may be taxed in the country in which the property is situated (Articles 6 and 13). Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence. Gains arising from the disposal of assets of a permanent establishment or fixed base which the taxpayer has in the other country may be taxed in the other country.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Special rules are included to cover income and profits from activities connected with offshore oil and gas exploration or exploitation (Article 21). Trading profits arising from such activities are deemed to arise through a permanent establishment or a fixed base and may therefore be taxed in the country in which the activities are carried on. Employees are, in general, to be taxed only in the country in which the employment is exercised. Different rules apply to supply vessels, tugboats and their crews.

Where income continues to be taxable in both countries, relief from double taxation will be given by the country of the taxpayer's residence in respect of tax imposed by the other country (Article 23). There are provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country (Article 24). Provision is made for consultation and exchange of information between the taxation authorities of the two countries (Articles 25 and 26).

The Convention will enter into force fifteen days after both countries have notified each other of the completion of their legislative procedures and it will have effect in the following calendar year.