

AGREEMENT BETWEEN THE KINGDOM OF SWEDEN AND BERMUDA FOR THE AVOIDANCE OF DOUBLE TAXATION ON INDIVIDUALS

The Government of the Kingdom of Sweden and the Government of Bermuda, desiring to conclude an Agreement for the avoidance of double taxation on individuals with respect to taxes on income, have agreed as follows:

Article 1

Individuals covered

This Agreement shall apply to individuals who are residents of one or both of the Parties.

Article 2

Taxes covered

1. The existing taxes to which the Agreement shall apply are:
 - (a) in the case of Bermuda: any tax imposed by Bermuda which is substantially similar to the existing taxes of Sweden to which this Agreement applies, but does not include payroll tax (hereinafter referred to as “Bermudian tax”);
 - (b) in the case of Sweden:
 - (i) the national income tax (den statliga inkomstskatten);
 - (ii) the income tax on non-residents (den särskilda inkomstskatten för utomlands bosatta);
 - (iii) the income tax on non-resident artistes and athletes (den särskilda inkomstskatten för utomlands bosatta artister m.fl.); and
 - (iv) the municipal income tax (den kommunala inkomstskatten) (hereinafter referred to as “Swedish tax”).
2. 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 Parties shall notify each other of any significant changes that have been made in their taxation laws concerning individuals.

Article 3

General definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - (a) the term “a Party” means Bermuda or Sweden, as the context requires; the term “Parties” means Bermuda and Sweden;
 - (b) the term “Bermuda” means the Islands of Bermuda;
 - (c) the term “Sweden” means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction;
 - (d) the term “competent authority” means:
 - (i) in the case of Bermuda, the Minister of Finance or an authorised representative of the Minister;
 - (ii) in the case of Sweden, the Minister of Finance, his authorised representative or the authority which is designated as a competent authority for the purposes of this Agreement;
 - (e) the term “enterprise” applies to the carrying on of any business;
 - (f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Party, except when the ship or aircraft is operated solely between places in the other Party.
2. As regards the application of the Agreement at any time by a Party, 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 Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

Resident

1. For the purposes of this Agreement, the term “resident of a Party” means:
 - (a) in Sweden in respect of an individual any individual who, under the laws of Sweden, is liable to tax therein by reason of his domicile, residence or any other criterion of a similar nature. This term, however, does not include an individual who is liable to tax in Sweden in respect only of income from sources in Sweden;
 - (b) in Bermuda in respect of an individual any individual who, under the laws of Bermuda is ordinarily resident.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Parties, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the Party 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 Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

(c) if he has an habitual abode in both Parties or in neither of them, the competent authorities of the Parties shall settle the question by mutual agreement.

Article 5

Income from employment

1. Subject to the provisions of Articles 6, 7, 8 and 9, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:

(a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and

(c) the remuneration is not borne by a fixed place of business through which the business is wholly or partly carried on which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Party, may be taxed in that Party.

Article 6

Directors' fees

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors of a company which is a resident of the other Party may be taxed in that other Party.

Article 7

Artistes and sportsmen

1. Income derived by a resident of a Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another individual or legal entity, that income may be taxed in the Party in which the activities of the entertainer or sportsman are exercised.

Article 8

Pensions

1. Pensions and other similar remuneration, disbursements under the Social Security legislation and annuities arising in a Party and paid to a resident of the other Party may be taxed in the first-mentioned Party.

2. The term “annuity” means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

Article 9

Government service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Party or a political subdivision or a statutory body or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or body or authority shall be taxable only in that Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that Party and the individual is a resident of that Party who did not become a resident of that Party solely for the purpose of rendering the services.

2. The provisions of Articles 5, 6 and 7 shall apply to salaries, wages, and other similar remuneration in respect of services rendered in connection with a business carried on by a Party or a political subdivision or a statutory body or a local authority thereof.

Article 10

Students

Payments which a student or business apprentice who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

Article 11

Elimination of double taxation

1. In Bermuda double taxation shall be avoided in accordance with the laws of Bermuda.

2. In Sweden double taxation shall be avoided as follows:

(a) Where a resident of Sweden derives income which under the laws of Bermuda and in accordance with the provisions of this Agreement may be taxed in Bermuda, Sweden shall allow – subject to the provisions of the laws of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) – as a deduction from the tax on such income, an amount equal to the Bermudian tax paid in respect of such income.

(b) Where a resident of Sweden derives income which, in accordance with the provisions of this Agreement, shall be taxable only in Bermuda, Sweden may, when determining the graduated rate of Swedish tax, take into account the income which shall be taxable only in Bermuda.

Article 12

Mutual agreement procedure

1. Where an individual considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement.

4. The competent authorities of the Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 13

Entry into force

1. Each of the Parties shall notify the other in writing of the completion of the procedures required by its law for the entry into force of this Agreement.

2. The Agreement shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect

(a) in Bermuda:

in respect of Bermudian tax, on tax chargeable for any fiscal year of any April beginning on or after the first day of January of the year next following that in which this Agreement enters in force;

(b) in Sweden:

(i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the date on which the Agreement enters into force;

(ii) in respect of other taxes on income, on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the date on which the Agreement enters into force.

3. Notwithstanding paragraph 2, this Agreement shall only have effect when the Agreement signed on _____ between the Kingdom of Sweden and Bermuda on the exchange of information with respect to taxes shall have effect.

Article 14

Termination

1. This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year. In such case, the Agreement shall cease to have effect

(i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the end of the six month period;

(ii) in respect of other taxes on income, on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six month period.

2. Notwithstanding paragraph 1, this Agreement will be terminated, without giving notice of termination, on the date of termination of the Agreement signed on _____ between the Kingdom of Sweden and Bermuda on the exchange of information with respect to taxes.

In witness whereof the undersigned being duly authorised thereto have signed this Agreement.

Done at _____ this _____ day of _____, in duplicate in the English language.

For the Government of
the Kingdom of Sweden

For the Government
of Bermuda