

**CONVENTION BETWEEN
THE ITALIAN REPUBLIC AND
THE UNION OF SOVIET SOCIALIST REPUBLICS
FOR THE AVOIDANCE OF DOUBLE TAXATION OF INCOME AND TO PROMOTE
AND DEVELOP ECONOMIC, CULTURAL, INDUSTRIAL AND TECHNICAL-
SCIENTIFIC COOPERATION¹.**

The Government of the Italian Republic and the Government of the Union of Soviet Socialist Republics, for purposes of avoidance of double taxation of income and in confirmation of their desire to promote and develop economic, cultural, industrial and technical-scientific cooperation, have decided to conclude this Convention and have agreed as follows:

Article 1 - Personal scope of the Convention

1. This Convention shall apply to persons who for taxation purposes are deemed to be residents of one or both of the Contracting States.
2. For the purposes of this Convention, the term "resident of a Contracting State" means:
 - (a) in the case of the Union of Soviet Socialist Republics, any legal person or other organization created under the laws of the U.S.S.R. or of any of its Union Republics which is deemed to be a legal person for taxation purposes in the U.S.S.R., as well as any individual deemed to be a resident of the U.S.S.R. for U.S.S.R. taxation purposes;
 - (b) in the case of the Italian Republic, any legal person, association and any other entity which, under Italian legislation, is considered a resident for taxation purposes in Italy, as well as an individual deemed to be resident for taxation purposes in Italy.
3. The term "resident of both Contracting States" means a person who, under the taxation legislation of a Contracting State, is deemed to be a resident of that Contracting State but is, under the tax legislation of the other Contracting State, also deemed to be a resident of that other Contracting State during the same period.
4. Where, under the provisions of paragraphs 1, 2 and 3 of this Article, an individual is deemed to be a resident of both Contracting States, his situation shall be determined in the following manner:
 - (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 (centre of vital interests);
 - (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 citizen;
 - (d) if each Contracting State considers him its citizen or if he is not a citizen of either of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

¹ Date of Conclusion: 26 February 1985. Entry into Force: 30 June 1989. Effective Date: 1 January 1990.

5. Where, by reason of the provisions of paragraphs 1, 2 and 3 of this Article, a person, other than an individual, is deemed to be a resident of both Contracting States, it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 2 - Taxes covered

1. This Convention shall apply to taxes on income of either a national or local character imposed in conformity with the laws of each Contracting State, whatever the method by which they are levied, regarding as taxes on income the 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. The existing taxes to which the Convention applies are:

(a) in the case of the U.S.S.R., the income tax on foreign legal entities and the income tax on the population;

(b) in the case of Italy, the individual income tax, the corporate income tax and the local income tax.

2. This Convention shall also apply to any taxes of an identical or substantially similar nature to those taxes referred to in paragraph 1, which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes.

Article 3 - Some general definitions

1. For the purposes of this Convention, the term:

(a) "Contracting State" means, as the context requires, the Union of Soviet Socialist Republics (U.S.S.R.) or the Italian Republic (Italy);

(b) "competent authorities" means:

(1) in the case of the U.S.S.R.: the Ministry of Finance of the U.S.S.R. or its authorized representative;

(2) in the case of Italy, the Ministry of Finance.

2. As regards the application of this Convention by the Contracting States any term not defined in the Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State in which the tax is imposed.

Article 4 - Income of permanent representations

1. Income from business or industrial activities derived in a Contracting State by a resident of the other Contracting State shall be taxable in the first-mentioned Contracting State only if it is derived through a permanent representation in that State and to the extent such income is attributable to the activities of the permanent representation.

2. For the purposes of this Convention, the term "permanent representation" means a fixed place of business through which a resident of a Contracting State carries on all or part of its business in the other Contracting State.

3. A resident of a Contracting State shall not be deemed to have a permanent representation in the other Contracting State merely because it carries on its activities in that other Contracting State through a broker, commission agent or any other intermediary of an independent status provided that such activity is the ordinary activity of that broker, commission agent or intermediary. The fact that a person which is a resident of a Contracting State controls or is controlled by a person which is a resident of the other Contracting State, or which carries on its business in that other State (whether through a permanent representation or otherwise), shall not of itself constitute either person a permanent representation of the other. A resident of a Contracting State shall also not be deemed to have a permanent representation in the other Contracting State if it has concluded a contract in that other Contracting State through an intermediary (other than an intermediary of an independent status) based on an authorization in writing from that person, if the conclusion of contracts based on the authorization does not constitute the ordinary activity of such intermediary.

4. A person resident in a Contracting State shall not be deemed to have a permanent representation in the other Contracting State if it carries on in that other State exclusively the following activities:

(a) the acquisition of merchandise;

(b) the use of facilities for the storage of merchandise and related services for the storage or for the consignment of merchandise belonging to the resident of the first-mentioned Contracting State;

(c) the display of merchandise and other goods belonging to a resident of the first-mentioned Contracting State, display of samples at exhibitions, as well as activities relating to the sale of such samples after the termination of the exhibition;

(d) the carrying out of advertising activities, the collection and dissemination of information, marketing studies and other similar activities of an auxiliary or preparatory character, relating to the principal activities of the person;

(e) the preparation of plans related to construction, or to scientific research (including joint projects), engineering, testing of samples of merchandise, machinery and equipment, and technical servicing of machinery and equipment, if these activities have a preparatory or auxiliary character in relation to the principal business of the person.

5. In the determination of the profits of the permanent representation, there shall be allowed as a deduction expenses directly related to the activity of the permanent representation, including executive and general administrative expenses, whether incurred in the State in which the representation is situated or elsewhere.

6. The provisions of this Article shall not affect the exemptions from taxation provided in Articles 5, 6, 7 and 11 of this Convention.

Article 5 - Income derived from copyrights and patents

1. Royalties derived from sources situated in a Contracting State and paid to a resident of the other Contracting State are taxable only in that other State.

2. For the purposes of this Article, the term "royalties" means payments of any kind received as a consideration for the use of or the right to use:

- (a) copyrights of works of literature, art or science;
- (b) inventions and innovation plans;
- (c) designs and/or models;
- (d) secret plans, formulas and/or processes;
- (e) trade or commercial marks, logos and other similar assets;
- (f) computer programmes;
- (g) tapes for the production of gramophone records and other means of sound reproduction;
- (h) tapes and films for use in broadcasting, cinema and television;
- (i) industrial, commercial or scientific equipment;
- (j) information concerning industrial, commercial or scientific experience (know-how).

3. The provisions of this Article shall also apply to payments in respect of technical services connected with the sale, use of or right to use industrial, commercial or scientific equipment.

Article 6 - Income derived from construction or assembly projects

Income derived by a resident of a Contracting State from construction or assembly activities exercised in the other Contracting State shall not be taxable in that other Contracting State provided the activities continue for not more than 36 months.

Article 7 - Income derived from the shipping and air transport

1. With regard to the taxation of income from air transport, the Agreement between the Government of the Italian Republic and the Government of the Union of the Soviet Socialist Republics for the avoidance of double taxation with respect to air transport, concluded at Rome on 16 September 1971, shall apply.

2. With regard to the taxation of income from shipping, the Agreement between the Government of the Italian Republic and the Government of the Union of the Soviet Socialist Republics for the avoidance of double taxation with respect to shipping, signed at Moscow on 20 November 1975, shall apply.

Article 8 - *Dividends*

1. Dividends paid by a resident of a Contracting State to a resident of the other Contracting State may be taxed by the first-mentioned Contracting State, but the tax so charged may not exceed 15% of the gross amount of the dividends.
2. For the purposes of this Article, the term "dividends" means income from shares as well as other income which is subjected to the same tax treatment as income from shares in conformity with the taxation laws of the State of which the company paying the dividends is a resident.

Article 9 - *Income of individuals*

1. Notwithstanding the provisions of Article 10 of this Convention, wages, salaries and other similar remuneration which an individual resident in a Contracting State receives for performing services in the other Contracting State shall be taxable in that other Contracting State if:

(a) such person is present in that other State for a period or periods exceeding an aggregate of 183 days in a calendar year;

(b) the wages, salaries and remuneration are paid by or on behalf of an employer who is a resident of that other Contracting State.

2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration which a resident of a Contracting State receives in consideration for services performed in the other Contracting State shall not be liable to taxation in that other State if it is subjected to taxation in the first-mentioned State and on the condition that it concerns the following remuneration:

(a) remuneration in respect of work directly connected with a construction or assembly project as referred to in Article 6 of this Convention, for the period of time indicated in that Article;

(b) remuneration which an individual who is present in a Contracting State at the invitation of a government agency or other government entity, or an educational or scientific research institution of that State for the purposes of teaching, scientific research, or participating in technical, scientific or professional conferences or for carrying out inter-governmental programmes of cooperation, receives for such above-mentioned activities during a period not exceeding two years, and provided such activity does not mainly serve the personal interests of that individual;

(c) study grants paid to individuals, who are present in the other Contracting State for the purposes of completing their study or professional training, as well as cash payments received by these persons from sources outside that other State for the purpose of their maintenance, education or professional training during the period of time necessary to complete their study or professional training;

(d) remuneration paid to individuals stationed in the other Contracting State as press, radio or television reporters or representatives, from sources outside that other State for two years from their arrival in that other State;

(e) remuneration paid to personnel of permanent representations of tourist institutions of a Contracting State situated in the other Contracting State for non-profit activities on the condition that they are nationals of the first-mentioned Contracting State;

(f) remuneration derived from artistic and athletic performances or other public entertainments within the scope of an exchange under cultural agreements concluded between the Contracting States;

(g) remuneration derived by residents of a Contracting State, sent as technical specialists to the other Contracting State, during a year from the date of arrival in that other State.

3. For the purposes of paragraph 2 of this Article, individuals may be subject to taxation only on income derived after the expiration of the tax relief provisions mentioned in that paragraph.

Article 10 - Government functions

Wages, salaries and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of services rendered to that State or other public entities of that State in the discharge of functions which are considered public functions under the laws of that State shall not be liable to taxation in the other Contracting State. However, it is understood that individuals engaged in commercial activities, either as employees or representatives of Italian commercial enterprises or as employees or representatives of Soviet foreign trade organizations shall not be considered to render public functions in, respectively, the U.S.S.R. and Italy.

Article 11 - Some other items of income

The following items of income which a resident of a Contracting State derives from sources situated in the other Contracting State may not be taxed in that other State:

(a) interest on bank credits and loans and on commercial credits and loans;

(b) interest on current accounts and deposits with banks or other credit institutions.

Article 12 - Elimination of double taxation

For the purposes of this Convention:

(a) If a resident of Italy owns items of income which, in accordance with the provisions of this Convention, may be taxed in the U.S.S.R., Italy may, in the computation of its taxes on income referred to in paragraph 1(b) of Article 2 of this Convention, include such items of income in the taxable base unless the provisions of the Convention specifically provide otherwise. In such a case Italy shall deduct from the taxes so calculated the income tax paid in the U.S.S.R., but the amount of such deduction may not exceed the part of the Italian tax which is appropriate to the income, in the ratio that such income bears to total income. Nevertheless, no deduction shall be granted in cases where, upon the request of the beneficiary of the income and according to Italian law, the item of income is subject to tax in Italy by way of a final withholding.

(b) If a resident of the U.S.S.R. receives income which, in accordance with the provisions of this Convention, may be taxed in Italy, the taxes paid there by that person shall be taken into consideration in the U.S.S.R. in accordance with the provisions of its law.

Article 13 - Diplomatic and consular missions

The provisions of this Convention shall not affect the fiscal privileges which, under general rules of international law, are granted to diplomatic and consular missions, to other similar institutions and organizations of the Contracting States, to the heads and members of the diplomatic personnel and staff of such missions, institutions or organizations, and to the members of their families.

Article 14 - Non-discrimination in tax matters

1. The citizens of a Contracting State shall not be subjected in the other Contracting State to any taxation which is more burdensome than the taxation to which citizens of that other State are subjected under the same circumstances.
2. The taxation on a permanent representation which a resident of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation of residents of that other State which are engaged in the same activities.

Article 15 - Conditions for the application of the Convention

1. This Convention shall apply to taxes on income derived from activities carried on in a Contracting State in accordance with the laws in force in that State.
2. The provisions of this Convention shall not affect those of other agreements governing questions of taxation which existed at the moment of signing this Convention. However, this Convention shall apply in all cases where it provides more favourable treatment.

Article 16 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, to the extent this is permitted under their national laws and on the condition of reciprocity. Any information or documents referred to in this paragraph shall be treated as confidential and shall be used only for purposes of applying this Convention.
2. The competent authorities of the Contracting States shall also exchange information with respect to changes in their domestic taxation laws.

Article 17 - Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, preventively, present his case in accordance with the legislation of the State which has imposed the tax, and thereafter present his case to the competent authority of the State of which he is a resident, or, if his case comes under paragraph 1 of Article 14 of this Convention, to the Contracting State of which he is a citizen. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention. If the competent authority of the Contracting State to which the case has been presented deems the objection to be justified and if it is not itself able to arrive at an appropriate solution, then it shall endeavour to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention.

2. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention.

3. The competent authorities of the Contracting States may communicate with each other through diplomatic channels to arrive at an agreement in accordance with the preceding paragraphs.

Article 18 - Entry into force

This Convention is subject to ratification and shall enter into force 30 days after the exchange of instruments of ratification; its provisions shall have effect in respect of taxes for tax periods beginning on or after 1 January of the calendar year following the year in which the Convention enters into force.

Article 19 - Termination

This Convention shall continue in effect until terminated by one of the Contracting States. Each Contracting State may, after the expiration of three years after the entry into force of this Convention, give notice of termination, through diplomatic channels, at least 6 months before the end of the calendar year. In such event the Convention shall cease to be effective for taxation periods beginning on or after 1 January of the calendar year following that in which notice of termination was given.

Done at Rome, 26 February 1985, in duplicate, in the Italian and Russian languages, both texts being equally authentic.