

# Italy - Zambia

## Income

**Convention Signatories:** Italy, Zambia

**Citations:** 93 TNI 101-10; Doc 93-31446

**Signed:** October 27, 1972

**In Force:** March 30, 1990

**Effective:** In Italy, from January 1, 1971. In Zambia, from April 1, 1971. See Article 27.

**Status:** In Force

**Tax Analysts classification:** Income

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ITALY AND THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

SIGNED AT LUSAKA ON OCTOBER 27, 1972.

THE GOVERNMENT OF THE REPUBLIC OF ITALY

and

THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

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:

### **Chapter I SCOPE OF THE CONVENTION**

#### **Article 1**

##### **Personal Scope**

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 each Contracting State or of its administrative sub- divisions or 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3) The taxes which are the subject of this Convention are, in particular:

a) in Zambia:

- i) the Income Tax;
- ii) the Mineral Tax;
- iii) the Personal Levy (hereinafter referred to as "Zambian Tax").

b) in Italy:

- i) the tax on income from land (imposta sul reddito dei terreni);
  - ii) the tax on income from buildings (imposta sul reddito dei fabbricati);
  - iii) the tax on income from movable wealth (imposta sui redditi di ricchezza mobile);
  - iv) the tax on agricultural income (imposta sui redditi agrari);
  - v) the complementary tax (imposta complementare progressiva sul reddito);
  - vi) the tax on companies (imposta sulle società) insofar as the tax is charged on income and not on capital;
  - vii) the tax on profits distributed by companies (imposta sugli utili distribuiti dalle società);
  - viii) the taxes on income imposed on behalf of Regions, Provinces, Municipalities and Chambers of Commerce (imposte regionali, provinciali, comunali e camerali sul reddito)
- (hereinafter referred to as "Italian Tax").

4) This Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws.

## **Chapter II DEFINITIONS**

### **Article 3**

#### **General Definitions**

1) In this Convention, unless the context otherwise requires:

- a) the terms "a Contracting State", and "the other Contracting State" mean "the Republic of Zambia and the Republic of Italy, as the context requires;
- b) the term "person" comprises an individual, a company and any other body of persons;
- c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

d) 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;

e) the term "competent authority" means:

i) in the case of Zambia the Commissioner of Taxes or his authorised representative;

ii) in the case of Italy the Ministry of Finance.

2) As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

#### **Article 4**

##### **Fiscal Domicile**

1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that Contracting State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

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 States with which his personal and economic relations are closest (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 national;

d) if he is a national of both Contracting 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 it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

#### **Article 5**

##### **Permanent Establishment**

1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2) The term "permanent establishment" shall include especially:

a) a place of management;

b) a branch;

- c) an office;
- d) a factory;
- e) a workshop;
- f) a mine, quarry or other place of extraction of natural resources;
- g) a building site or construction or assembly project which exists for more than nine months;
- h) supervisory activities for more than nine months on a building site or construction or assembly project.

3) The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State -- other than an agent of an independent status to whom paragraph (5) applies -- shall be deemed to be a permanent establishment in the first-mentioned Contracting State if he has, and habitually exercises in that Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of an independent status, where such person is acting in the ordinary course of his business.

6) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

## **Chapter III TAXATION OF INCOME**

### **Article 6**

#### **Income from immovable property**

1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

2) The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall, in any case, include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4) The provisions of paragraphs (1) and (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

## **Article 7**

### **Business Profits**

1) The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as is attributable to that permanent establishment.

2) Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this article.

5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

8) If the information available to the taxation authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this Article shall affect the application of the law of either Contracting State in relation to the liability of the permanent

establishment to pay tax on an amount determined by the making of an estimate by the respective taxation authorities provided that such estimate shall be made in accordance with the principles stated in this Article.

## **Article 8**

### **Shipping and Air Transport**

- 1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
- 2) If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated; or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

## **Article 9**

### **Associated Enterprises**

Where:

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
  - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State;
- and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

## **Article 10**

### **Dividends**

- 1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other Contracting State.
- 2) However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed:
  - a) five per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
  - b) in all other cases, 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

- 3) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims,

participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the Contracting State of which the company making the distribution is a resident.

4) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the dividends are taxable in that other Contracting State according to its own law.

5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

## **Article 11**

### **Interest**

1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.

2) However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

3) Notwithstanding the provisions of paragraph (2), interest arising in a Contracting State and paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that Government or local authority shall be exempt from tax in the first-mentioned Contracting State.

4) The term "interest" as used in this Article means income from Government securities, from bonds or debentures, whether or not secured by mortgages and whether or not carrying a right to participate in profits, and from debt-claims of every kind, and any excess of the amount repaid in respect of such debt-claims over the amount lent, as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

5) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the interest is taxable in that other Contracting State according to its own law.

6) Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, an administrative sub-division, a local authority or a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the

last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## **Article 12**

### **Royalties**

- 1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
- 2) However, such royalties may be taxed in the Contracting State in which they arise, and in accordance with the law of that Contracting State, but the tax so charged shall not exceed ten percent of the gross amount of the royalties. The taxation authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.
- 3) The term "royalties" means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, video tapes for use in connection with television or tapes for use in connection with radio), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
- 4) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties, are taxable in that other Contracting State according to its own law.
- 5) Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
- 6) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **Article 13**

### **Capital Gains**

- 1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article (6), may be taxed in the Contracting State in which such property is situated.
- 2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other Contracting State.



3) Gains from the alienation of any property other than those mentioned in paragraphs (1) and (2), shall be taxable only in the Contracting State of which the alienator is a resident.

## **Article 14**

### **Independent Personal Services**

1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that Contracting State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

2) The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

## **Article 15**

### **Dependent Personal Services**

1) Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

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

a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days 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 Contracting State, and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Contracting State.

3) Notwithstanding the provisions of paragraphs (1) and (2), remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## **Article 16**

### **Directors' Fees**

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

## **Article 17**

### **Artistes and Athletes**

Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes and musicians, and by athletes, from their

personal activities as such, may be taxed in the Contracting State in which these activities are exercised.

## **Article 18**

### **Pensions**

Subject to the provisions of paragraph 1) of Article 19, any pension or similar remuneration derived from sources within a Contracting State in consideration of past employment by an individual who is a resident of the other Contracting State and subject to tax in respect thereof in that other Contracting State, shall be exempt from tax in the first-mentioned Contracting State.

## **Article 19**

### **Governmental Functions**

1) Remuneration, including pensions, paid by or out of funds created by a Contracting State or a local authority thereof to any individual in respect of services rendered to that Contracting State or local authority thereof in the discharge of functions of a governmental nature, may be taxed in that Contracting State.

2) The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a local authority thereof.

## **Article 20**

### **Research Personnel and Students**

1) The remuneration which an individual who is or was formerly a resident of a Contracting State receives for undertaking study or research during a period of temporary residence not exceeding two years at a university, research institute, or other similar establishment in the other Contracting State shall not be taxable in that other Contracting State.

2) Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State 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 other Contracting State, provided that such payments are made to him from sources outside that other Contracting State.

3) Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State for the purpose of practical training for a period or periods not exceeding in the aggregate one year shall not be taxed in that other Contracting State.

## **Article 21**

### **Income not Expressly Mentioned**

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that Contracting State.

## **Chapter IV METHODS OF ELIMINATION OF DOUBLE TAXATION**

## **Article 22**

### **Credit method**

1) a) where a resident of Zambia derives income from Italy which may be taxed in Italy in accordance with the provisions of this Convention, the amount of Italian tax payable in respect of that income shall be allowed as a credit against Zambian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Zambian tax which is appropriate to that income, before allowing the credit:

b) where the income derived from Italy is a dividend paid by a company which is a resident of Italy, the credit shall take into account the Italian tax payable in respect of its profits by the company paying the dividend.

2) The Italian Republic in determining its income taxes specified in Article 2 of this Convention in the case of its residents may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income.

The Italian Republic shall, however, deduct from the taxes so calculated the Zambian tax on income, not exempt in the Republic of Zambia under this Convention, in the following manner:

a) if the item of income is, according to the Italian law, subjected to the tax on income from movable wealth, the tax paid in Zambia shall be deducted from the tax on income from movable wealth, and from the taxes imposed on behalf of Regions, Provinces, Municipalities and Chambers of Commerce, on the same income, but in an amount not exceeding that proportion of the aforesaid Italian tax which such item of income bears to the entire income; where the tax paid in Zambia on such income is higher than the deduction so calculated, the difference shall be deducted from the complementary tax or from the tax on companies, as the case may be, but in an amount not exceeding that proportion of such complementary or company tax which the item of income bears to the entire income;

b) if the item of income is only subjected to the complementary tax or to the tax on companies, the deduction shall be granted from the complementary tax or from the tax on companies, as the case may be, but only for that part of the tax paid in Zambia which exceeds 25 per cent of such item of income. The deduction cannot, however, exceed that proportion of the complementary tax or of the tax on companies which such income bears to the entire income.

3) For the purposes of paragraph 2), "Zambian tax payable" shall be deemed to include any amount which would have been payable as Zambian tax, but for an exemption or reduction for the tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or any other Zambian law of similar purpose and effect.

## Chapter V SPECIAL PROVISIONS

### Article 23

#### Non-discrimination

1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected.

2) The term "nationals" means:

a) all individuals possessing the nationality of a Contracting State;

b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that

other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

5) The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which its grants to its own residents.

6) In this Article, the term "taxation" means taxes of every kind and description.

## **Article 24**

### **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, notwithstanding the remedies provided by the national laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident.

2) The competent authority shall endeavour, if the objection appears to be justified and if it is not able to arrive at an appropriate solution, 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.

3) 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. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

## **Article 25**

### **Exchange of Information**

1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, including judicial determination, or collection of the taxes which are the subject of this Convention.

2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation:

a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process or information, the disclosure of which would be contrary to public policy (ordre public).

## **Article 26**

### **Diplomatic and Consular Officials**

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

## **Chapter VI FINAL PROVISIONS**

### **Article 27**

#### **Entry Into Force**

1) This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.

2) This Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

a) in Zambia:

as respects income for any charge year commencing on or after the 1st April, 1971;

b) in Italy:

as respects income assessable for the taxable period commencing on or after the 1st January, 1971.

3) Claims for refund or credits arising in accordance with this Convention in respect of any tax payable by residents of either of the Contracting States shall be lodged within two years from the date of entry into force in this Convention or from the date the tax was charged, whichever is later.

### **Article 28**

#### **Termination**

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.

In such event the Convention shall cease to have effect:

a) in Zambia:

as respects income for any charge year commencing on or after the 1st April in the calendar year next following that in which such notice is given;

b) in Italy:

as respects income assessable for the taxable period commencing on or after the 1st January in the calendar year next following that in which such notice is given.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Lusaka this 27th day of October 1972, in duplicate in the English and Italian languages, each text being equally authentic.

### **Final Protocol Signatories: Italy, Zambia**

**Citations:** 93 TNI 101-10; Doc 93-31446

**Signed:** October 27, 1972

**In Force:** March 30, 1990

**Effective:** In Italy, from January 1, 1971. In Zambia, from April 1, 1971. See Article 27.

**Status:** In Force

**Tax Analysts classification:** Income

At the signing of the Convention between Zambia and Italy for the Avoidance of Double Taxation and the prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed upon the following provision which shall form an integral part of the said Convention:

Notwithstanding the provisions of paragraph 2) of Article 27, the provisions of Article 8 shall be applicable as respects income derived during the taxable years beginning on or after the first day of January, 1967.

Done in duplicate at Lusaka the 27th day of October, 1972, in the English and Italian languages, each text being equally authentic.

### **Protocol Signatories: Italy, Zambia**

**Citations:** 93 TNI 101-10; Doc 93-31446

**Signed:** November 13, 1980

**In Force:** March 30, 1990

**Effective:** In Italy, from January 1, 1971. In Zambia, from April 1, 1971. See Article 27.

**Status:** In Force

**Tax Analysts classification:** Income

PROTOCOL AMENDING THE CONVENTION BETWEEN  
THE REPUBLIC OF ZAMBIA AND THE REPUBLIC OF ITALY  
FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO  
TAXES ON INCOME, SIGNED AT LUSAKA ON 27th OCTOBER 1972.  
SIGNED AT LUSAKA ON NOVEMBER 13, 1980

The Government of the Republic of Zambia and the Government of the Republic of Italy, desiring to conclude a Protocol to amend the Convention between the Contracting States for the

avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Lusaka on 27th October, 1972 (hereinafter referred to as "the Convention");

Have agreed as follows:

### **Article 1**

Paragraph 3 of Article 2 of the Convention shall be deleted and replaced by the following:

"3) The taxes which are the subject of this Convention are, in particular:

a) in the case of Zambia:

- i) the income tax;
- ii) the mineral tax;
- iii) the personal levy;
- iv) the selective employment tax;

even if they are collected by withholding taxes at the source, (hereinafter referred to as "Zambian tax");

b) in the case of Italy:

- i) the personal income tax (imposta sul reddito delle persone fisiche);
- ii) the corporate income tax (imposta sul reddito delle persone giuridiche);
- ii) the local income tax (imposta locale sui redditi);

even if they are collected by withholding taxes at the source, (hereinafter referred to as "Italian tax")."

### **Article 2**

Paragraphs 2) and 3) of Article 22 of the Convention shall be deleted and replaced by the following:

"2) Where a resident of Italy owns items of income that are taxable in Zambia, Italy may, in determining its income taxes provided in Article 2 of this Convention, include in the basis upon which such taxes are imposed the mentioned items of income, unless express provisions of this Convention otherwise provide.

In that case, Italy shall deduct from the taxes so calculated the income tax paid in Zambia, but the amount of deduction shall not exceed that proportion of Italian tax which the items of income bear to the entire income.

However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income in accordance with the Italian laws.

3) For the purposes of paragraph 2, "the income tax paid in Zambia" shall be deemed to include any amount which would have been paid as Zambian tax but for an exemption or reduction for the tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965 or any other Zambian law of similar purpose and effect".

### **Article 3**

The last sentence of paragraph 3 of Article 24 shall be deleted.

#### **Article 4**

1) This Protocol shall form an integral part of the Convention signed at Lusaka on 27th October, 1972, shall be ratified and the instruments of ratification shall be exchanged at Lusaka as soon as possible.

2) This Protocol shall enter into force on the date of the exchange of instruments of ratification and its provisions shall have effect in respect of income assessable for any taxable period commencing on or after the 1st January, 1974.

3) Claims for refund or credits arising in accordance with this Protocol in respect of any tax payable by residents of either of the Contracting States referring to the periods beginning on or after the 1st January, 1974, and until the entry into force of this Protocol shall be lodged within two years from the date of entry into force of this Protocol or from the date the tax was charged, whichever is later.

In witness whereof the undersigned, duly authorized thereto, have signed the present Protocol.

Done in duplicate at Lusaka, this 13th day of November 1980, in the English and Italian languages, each text being equally authentic.