

AUSTRALIA/MEXICO

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Australia, **Mexico**

2002 Income Tax Agreement and Final Protocol

PUBLICATION-DATE: September 9, 2002

EFFECTIVE DATE: December 31, 2002; Income subject to withholding tax from January 1, 2004; other provisions

from July 1, 2004. See Article 27.

STATUS: In Force

Doc 2002-20726

2002 Income Tax Agreement and Final Protocol

General Definitions

Except as otherwise provided in this Agreement, unless the context otherwise requires,

(a) the term " **Mexico** " means the United Mexican States; when used in a geographical sense, it includes the territory of the United Mexican States: being the integrated parts of the Federation; the islands, including the reefs and cays in the

(j) the term "person" includes an individual, a company and any other body of persons;

(k) the term "tax" means Mexican tax or Australian tax, as the context requires, but does not include any penalty or

interest imposed under the law of either Contracting State relating to its tax

(d) a factory;

(e) a workshop;

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and

(g) an agricultural, pastoral or forestry property.

9 The principles set forth in the preceding paragraphs of this Article shall be applied in determining for the purposes of paragraph 6 of Article 11 and paragraph 6 of Article 12 of this Agreement whether there is a permanent establishment outside both Contracting States, and whether an enterprise, not being an enterprise of one of the Contracting States, has a permanent establishment in a Contracting State.

Article 6
Income From Immovable (Real) Property



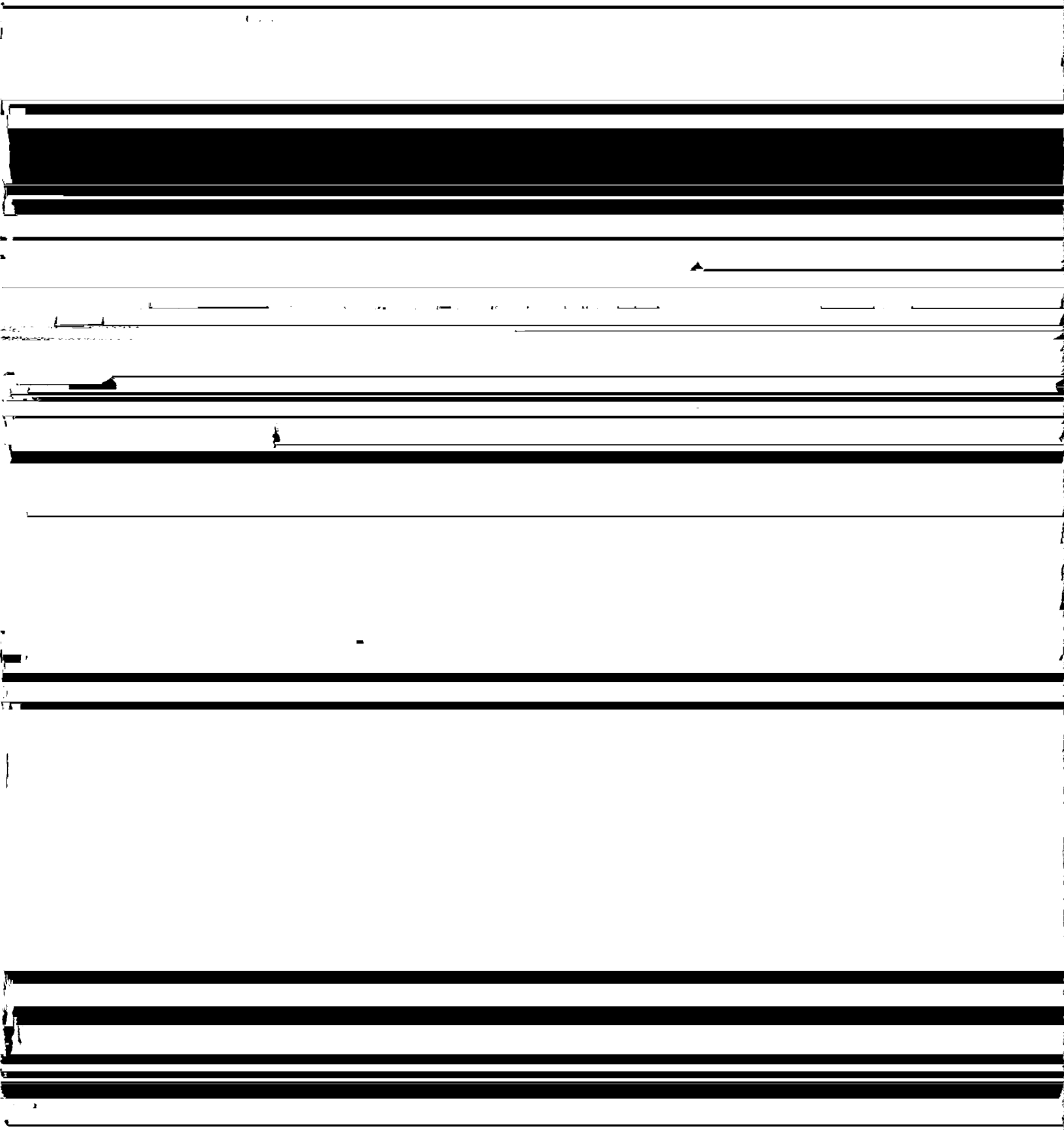
(h) sales in that other State of goods or merchandise of the same or similar kind as the goods or merchandise sold

through that permanent establishment. However, the profits derived from the sales described in this subparagraph (b) shall not be taxable in the other State if the enterprise demonstrates that such sales have been carried out for reasons other than obtaining a benefit under this Agreement.

~~Subject to the provisions of Article 10, the profits derived from the sales described in this subparagraph (b) shall not be taxable in the other State if the enterprise demonstrates that such sales have been carried out for reasons other than obtaining a benefit under this Agreement.~~

1 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;



5 The term "dividends" in this Article means income from shares and other income assimilated to income from shares

by the law, relating to tax, of the Contracting State of which the company making the distribution is a resident.

~~The provisions of this Article shall not apply to distributions of income from shares or other income assimilated to income from shares~~

~~resident in the Contracting State, unless such business is in the other Contracting State of which the company making the distribution is a resident.~~

outside both Contracting States a permanent establishment or fixed base in connection with which the indebtedness on

which the interest is paid was incurred, and that interest is borne by that permanent establishment or fixed base, then the interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7 Where, by reason of a special relationship between the payer and the person beneficially entitled to the interest, or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount

absence of that relationship, the provisions of this Article shall apply only to the lastmentioned amount. In that case, the excess part of the amount of the interest paid shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

effectively connected with that permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6 Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether the person is a resident of a Contracting State or not, has in a Contracting State or outside both Contracting States a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and the royalties are borne by the permanent establishment or fixed base, then the royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7 Where royalties are paid or credited to both of the persons mentioned in Article 12, paragraph 1, and to a third person, and the amount of the royalties paid or credited exceeds, for whatever reason,

between both of them and some other person, the amount of the royalties paid or credited exceeds, for whatever reason,

Article 14
Independent Personal Services

§ 14-101. Purpose and scope of independent personal services in construction state in payment of state financial...

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt

with in the foregoing Articles of this Agreement from sources in the other Contracting State may also be taxed in the

competent authority is notified of the case within four and a half years from the due date or the date of filing the return in **Mexico**, whichever is later. The solution so reached shall be implemented:

(a) in the case of **Mexico**, within ten years from the due date or the date of filing of the return in **Mexico**, whichever is later, or a longer period if permitted under the domestic law of **Mexico**;

(b) in the case of Australia, notwithstanding any time limits in the law relating to its tax.

3 The competent authorities of the Contracting States shall jointly endeavour to resolve any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together regarding cases not provided for in this Agreement.

giving effect to the provisions of this Agreement.

respective statutory and constitutional procedures required for the entry into force of this Agreement. This Agreement

[Redacted]

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(a) The term "recognized securities market" means:

(i) in the case of **Mexico**, stock exchanges duly authorized under the terms of the Stock Market Law (Ley del Mercado de Valores) of 2 January, 1975;

(ii) in the case of **Canada**, stock exchanges authorized under the laws of Canada;

(b)

(c) in the case of **the United States of America**, the securities markets of the Continental United States;

(d)

(b) If, in an Agreement for the avoidance of double taxation that may subsequently be made between Australia and a third State, there is included a Non-discrimination Article, Australia shall immediately inform **Mexico** in writing through the diplomatic channel and shall enter into negotiations with **Mexico** in order to provide the same treatment for **Mexico** as may be provided for the third State.

(c) If, an Agreement for the avoidance of double taxation that may subsequently be made between Australia and a third State, establishes that the Exchange of Information Article may be used for purposes of value added taxes imposed by

In witness whereof the undersigned, being duly authorised thereto by their respective Governments have signed this Protocol.

NEW ZEALAND/SOUTH AFRICA

New Zealand, South Africa

2002 Income Tax Agreement and Final Protocol

PUBLICATION-DATE: February 6, 2002

EFFECTIVE-DATE: July 23, **2004**; In New Zealand: income subject to withholding tax, from September 1, **2004**; other provisions, from April 1, 2005. In **South Africa**: income subject to withholding tax, from September 1, **2004**; other provisions, from January 1, 2005. See Article 26.

STATUS: In Force

Doc 2002-4312

2002-1 - Tax Agreement and Final Protocol

TEXT:

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 Contracting

States shall notify each other within a reasonable period of time of any significant changes that have been made in their
taxation laws.

3. Notwithstanding the provisions of paragraphs 1 and 2, the taxes covered by the Agreement do not include any amount
which represents a penalty or interest imposed under the laws of either Contracting State.

Article 3
General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) (i) the term "New Zealand" means the territory of New Zealand but does not include Tokelau or the Associated Self

(ii) any legal person or association deriving its status as such from the laws in force in **South Africa**;

(j) the term "natural resources" includes standing timber and fish;

(k) the term "person" includes an individual, a company and any other body of persons that is treated as an entity for tax purposes.

2. For the purposes of Articles 10, 11 and 12, a trustee subject to tax in a Contracting State in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of those dividends, interest or royalties.

3. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall,

(d) a factory;

(e) a workshop, and

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

8. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 9 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 7 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

9. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries

on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

10. 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 State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6
Income From Immovable Property

1. Income from immovable property situated in a Contracting State shall be taxable only in that State.

incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no deduction is allowable in respect of expenses which are not deductible under the laws of the Contracting State in which the permanent establishment is situated.

4. 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.

5. 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.

6. Where:

(a) a resident of a Contracting State beneficially owns, whether directly or through one or more interposed trusts, a share

Article 9
Associated Enterprises

1. Where

~~(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an~~

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively

connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to

3. The term "royalties" as used in this Article means payments of any kind, whether periodical or not, and however described or computed, to the extent to which they are made as consideration for:

(a) the use of, or the right to use, any copyright (including the use of or the right to use any literary, dramatic, musical,

editions), patent, design or model, plan, secret formula or process, trade mark, or other like property or right; or

(b) the use of, or the right to use, any industrial, commercial or scientific equipment; or

(c) information concerning industrial, commercial or scientific experience; or

(d) any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or

5. Nothing in this Agreement affects the application of the laws of a Contracting State relating to the taxation of gains of capital nature derived from the alienation of any property other than that to which any of the preceding paragraphs of

this Article apply.

Article 14
Income From Employment

1. Subject to the provisions of Articles 15, 17 and 18, 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 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 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 State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the year of income or year of assessment of that other State; and

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

Article 18
Government Service

1. Salaries, wages and other similar remuneration (other than pensions) paid by the Government of a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Government or a political subdivision or a local authority thereof shall be exempt from tax in the other Contracting State if the individual is not resident in that other State for the purposes of that other States tax or is resident in that other State for the purposes of that other States tax solely for the purpose of rendering those services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall also be taxable in the other Contracting State if the individual is a resident of that State.

3. The provisions of Articles 14, 15 and 17 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 19
Students

Any individual who is temporarily present in a Contracting State solely for the purpose of the student's education and who is

or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State on payments received from sources outside that first-mentioned State for the purposes of the students maintenance or education.

Article 20
Other Income

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the preceding Articles of this

which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

2. 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 State than the taxation levied on a permanent establishment which

an enterprise of a third State has in that other State.

3. Enterprises of one of the Contracting States, 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 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 the first-mentioned State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State, are or may be subjected.

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

5. This Article shall not apply to any provisions of the taxation laws of a Contracting State which:

(a) are reasonably designed to prevent or defeat the avoidance or evasion of taxes; or

(b) are in force on the date of signature of this Agreement or are substantially similar in general purpose or intent to any

information is not restricted by Articles 1 and 2. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the

