

CANADA

TREATY SERIES, 1946

No. 5

EXCHANGE OF NOTES

(November 3, 1945, and January 30, 1946)

BETWEEN

CANADA AND NEW ZEALAND

CONSTITUTING AN

AGREEMENT FOR RECIPROCAL EXEMPTION
OF CERTAIN AGENCY PROFITS
FROM INCOME TAX

Effective as from November 3, 1945



OTTAWA

EDMOND CLOUTIER, C.M.G., B.A., L.Ph.,
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CANADA

TREATY SERIES, 1946

No. 2

EXCHANGE OF NOTES

(November 3, 1945, and January 30, 1946)

BETWEEN

CANADA AND NEW ZEALAND

SUMMARY

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EXCHANGE OF NOTES (NOVEMBER 3, 1945 AND JANUARY 30, 1946)
BETWEEN CANADA AND NEW ZEALAND CONSTITUTING AN
AGREEMENT FOR RECIPROCAL EXEMPTION ON
CERTAIN AGENCY PROFITS FROM
INCOME TAX

I

*The Minister of Finance of New Zealand
to the High Commissioner for Canada in New Zealand*

OFFICE OF MINISTER OF FINANCE

WELLINGTON, N.Z., 3rd November, 1945.

My dear Dr. RIDDELL,

I have the honour to refer to your letter of September 20, 1945, addressed to the Prime Minister and dealing with the proposed Agreement between Canada and New Zealand for the reciprocal exemption of certain agency profits from income tax.

The Prime Minister having referred this matter to me for my attention, I desire to confirm that agreement has now been reached on a common text and I have therefore had the proposals embodied formally in a Memorandum of Agreement which is annexed to this note.

If the arrangements proposed in the Memorandum of Agreement meet with the approval of the Canadian Government, I have the honour to suggest that this note and the annexed Memorandum of Agreement, together with your reply informing me that the proposals are accepted by the Canadian Government, shall constitute a formal agreement between our two Governments which shall come into effect from to-day's date.

Yours sincerely,

W. NASH,
Minister of Finance.

Enclosure

**MEMORANDUM OF AGREEMENT BETWEEN CANADA AND
NEW ZEALAND FOR RECIPROCAL EXEMPTION OF
CERTAIN AGENCY PROFITS FROM
INCOME TAX**

His Majesty's Government in Canada and His Majesty's Government in New Zealand, being desirous of concluding an agreement for reciprocal exemption from income tax in certain cases of profits or gains arising through an agency, have agreed as follows:—

ARTICLE 1

His Majesty's Government in New Zealand undertake that the profits or gains to which this Article relates shall, so long as the exemption specified in Article 2 hereof remains effective, be exempted from income tax chargeable in New Zealand for the year of assessment commencing on the first day of April, nineteen hundred and forty-three, and for every subsequent year of assessment, and will take the necessary action under Section eleven of the Act of Parliament of New Zealand known as the Land and Income Tax Amendment Act, 1935, with a view to giving the force of law to the exemption aforesaid.

The profits or gains to which this Article relates are any profits or gains from the sale of goods, other than things in action and money, arising, whether directly or indirectly, through an agency in New Zealand to a person who is resident in Canada and is not resident in New Zealand, unless the profits or gains either—

- (1) arise from the sale of goods from a stock in New Zealand, or
- (2) accrue directly or indirectly through any branch or management in New Zealand or through an agency in New Zealand where the agent has and habitually exercises a general authority to negotiate and conclude contracts.

ARTICLE 2

His Majesty's Government in Canada undertake that the profits or gains to which this Article relates shall, so long as the exemption specified in Article 1 hereof remains effective, be exempted from income tax chargeable by Canada in respect of the 1943 taxation period and fiscal periods ending therein, and thereafter, and will take the necessary action under subsection 3 of Section 27A of the Income War Tax Act as enacted by Section 14 of Chapter 55 of the Statutes of 1934 with a view to giving the force of law to the exemption aforesaid.

The profits or gains to which this Article relates are any profits or gains from the sale of goods, other than things in action and money, arising, whether directly or indirectly, through an agency in Canada to a person who is resident in New Zealand and is not resident in Canada, unless the profits or gains either—

- (1) arise from the sale of goods from a stock in Canada, or
- (2) accrue directly or indirectly through any branch or management in Canada, or through an agency in Canada where the agent has and habitually exercises a general authority to negotiate and conclude contracts.

ARTICLE 3

His Majesty's Government in New Zealand further undertake that for the year of assessment commencing on the first day of April nineteen hundred and forty-three, and for every subsequent year of assessment, so long as the exemption specified in Article 4 hereof remains effective, profits or gains accruing to a person resident in Canada and not resident in New Zealand from sales under contracts entered into in Canada (that is to say, where the acceptance of the offer of purchase is effected in Canada) of goods stocked in a warehouse in New Zealand for convenience of delivery and not for the purposes of display, shall be exempted from income tax in New Zealand, even though the offers of purchase have been obtained by an agent in New Zealand of the principal in Canada and transmitted by him to the principal for acceptance and His Majesty's Government in New Zealand will take the necessary action under Section eleven aforementioned with a view to giving the force of law to the exemption aforesaid.

ARTICLE 4

His Majesty's Government in Canada further undertake that in respect of the 1943 taxation period and fiscal periods ending therein, and thereafter, so long as the exemption specified in Article 3 hereof remains effective, profits or gains accruing to a person resident in New Zealand and not resident in Canada from sales under contracts entered into in New Zealand (that is to say, where the acceptance of the offer of purchase is effected in New Zealand) of goods stocked in a warehouse in Canada for convenience of delivery and not for the purposes of display, shall be exempted from income tax chargeable by Canada, even though the offers of purchase have been obtained by an agent in Canada of the principal in New Zealand and transmitted by him to the principal for acceptance, and His Majesty's Government in Canada will take the necessary action under subsection 3 of section 27A aforementioned with a view to giving the force of law to the exemption aforesaid.

ARTICLE 5

For the purposes of this Agreement the word "person" includes any body of persons, corporate or not corporate, and a body corporate shall be regarded as resident in New Zealand and not resident in Canada if its business is managed and controlled in New Zealand, and shall be regarded as resident in Canada and not resident in New Zealand if its business is managed and controlled in Canada.

ARTICLE 6

The Agreement may be denounced at any time upon six months' notice being given by one Government to the other.

ARTICLE 3

II

*The High Commissioner for Canada
to the Minister of Finance of New Zealand*

OFFICE OF THE HIGH COMMISSIONER FOR CANADA

WELLINGTON, January 30, 1946.

My dear Mr. NASH,

I have the honour to acknowledge the receipt of your Note of November 3, 1945, with regard to the proposed Agreement between Canada and New Zealand for the reciprocal exemption of certain agency profits from income tax, and the annexed Memorandum of Agreement.

The arrangements proposed in the Memorandum of Agreement meet with the approval of the Government of Canada and I have been authorized to conclude the Memorandum of Agreement and to accept your suggestion that your Note and the annexed Memorandum of Agreement, together with this reply informing you that the proposals are accepted by the Government of Canada shall constitute a formal agreement between our two Governments, as of November 3, 1945.

Yours sincerely,

W. A. RIDDELL,
High Commissioner for Canada.

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