

Double Taxation Agreement between India and Romania

Signed on February 8, 1988

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Romania

Double Taxation Avoidance Agreement

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

Notification No. G. S. R. 80(E), dtd. 08.02.1988.

Notification No.7754

Whereas the annexed Convention between the Government of the Republic of India and the Government of the Socialist Republic of Romania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income has come into force on the 14th November, 1987, on the exchange of the Instruments of Ratification by both the contracting States, as required by paragraph 1 of Article 31 of the said Convention;

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), and section 24A of the Companies (Profits) Surtax Act, 1964 (7 of 1964), the Central Government hereby directs that all the provisions of the said Convention shall be given effect to in the Union of India.

ANNEXURE

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

The Government of the Republic of India and the Government of the Socialist Republic of Romania desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and to promote and strengthen the economic relations between the two countries on the basis of equality in rights and reciprocal advantage.

Have agreed as follows:

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. The taxes to which this Convention shall apply are:
 - a. **In the case of India:**
 1. Income-tax and any surcharge thereon; and
 2. Surtax;

(hereinafter referred to as "Indian tax").

- b. **In the case of Romania:**

1. the tax on incomes derived by individuals and corporate bodies;
 2. the tax on the profits of joint companies constituted with the participation of some Romanian economic organisations and some foreign partners; and
 3. the tax on income realised from agricultural activities;

(hereinafter referred to as "Romanian tax").

2. The Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of the present Convention in addition to, or in place of, the taxes referred to in paragraph 1.
3. The competent authorities of the Contracting States shall notify to each other any significant changes which are made in their respective taxation laws which are the subject of this Convention and furnish copies of relevant enactments and regulations.

Article 3

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:
 - a. the term "India" means the territory of India and includes the territorial sea and air space above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdictions, according to the Indian law and in accordance with international law;
 - b. the term "Romania" used in a geographical sense, means the territory of the Socialist Republic of Romania including the territorial sea and the continental shelf as well as any other area beyond the territorial waters of Romania where Romania exercises sovereign rights, in accordance with the international law and with its own law concerning the exploration and exploitation of the natural, biological and mineral resources existing in the sea, waters, seabed and subsoil of these waters
 - c. the terms "a Contracting State" and "the other Contracting State" mean India or Romania as the context requires;
 - d. the term "tax" means Indian tax or Romanian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Convention applies or which represents a penalty imposed relating to those taxes;
 - e. the term "person" shall have the meaning assigned to it in the taxation laws in force in the respective Contracting States;
 - f. the term "company" means any body corporate, including a joint company which is incorporated under the Romanian law or any entity which is treated as a company under the taxation laws of the respective Contracting States;
 - g. the term "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;
 - h. the term "competent authority" means in the case of India the Central Government in the Ministry of Finance (Department of Revenue) or their authorised representative, and in the case of Romania the Ministry of Finance or its authorised representative;
 - i. the term "national" means:- in the case of India, any individual possessing the nationality of India and any legal person, partnership or association deriving its status from the laws in force in India; in the case of Romania, any individual possessing the citizenship of Romania and any legal person, partnership or association deriving its status from the laws in force in Romania;
 - j. the term "a political sub-division" means a political sub-division in India;
 - k. the term "an administrative territorial unit" means an administrative territorial unit in Romania;
 - l. the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.
2. In the application of the provisions of this Convention by one of the Contracting States, any term not defined herein shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that 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 is a resident of that State in accordance with the taxation laws of that State.
2. Where by reason of the provision of paragraph 1, an individual is a resident of both Contracting States, then, his residential status for the purposes of this Convention 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 State with which his personal and economic relations are closer (hereinafter referred to as his "centre of vital interests");
 - b. If the Contracting States in which he has his centre of vital interests cannot be determined or if he does not have 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 through which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a. a place of management;
 - b. a branch;
 - c. an office;
 - 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;
 - g. a warehouse in relation to a person providing storage facilities for others;
 - h. a farm, plantation or other place where agriculture, forestry, plantation or related activities are carried on;
 - i. a premises used as a sales outlet or for receiving or soliciting orders;
 - j. an installation or structure used for the exploration of natural resources;
 - k. a building site or construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or supervisory activity (together with other such sites, projects or activities, if any) continues for a period of more than six months, or where such project or supervisory activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding six months and the charges payable for the project or supervisory activity exceed 10 per cent. of the sale price of the machinery or equipment.
3. Notwithstanding the preceding provisions of this article, the term "permanent establishment" shall be deemed not to include;
 - a. the use of facilities solely for the purpose of storage or display 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 or display;
 - 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 the 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;
- f. the selling of goods or merchandise belonging to the enterprise displayed in an occasional temporary fair or exhibition in the process of closing down of such fair or exhibition;
- g. project or supervisory activity, being incidental to sale of machinery or equipment, carried on by an enterprise other than the seller of machinery or equipment and not continuing for a period exceeding six months.

However, the provisions of sub-paragraphs (a) to (g) shall not be applicable where the enterprise maintains any other fixed place of business in the other Contracting State for any purposes other than the purposes specified in the said sub-paragraphs.

- 4. Notwithstanding the provisions of paragraphs 1 and 2 where a person-other than an agent of an independent status to whom paragraph 5 applies-is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State, if:
 - a. he has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;
 - b. he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise; or
 - c. he habitually secures orders in the first-mentioned state, wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises controlling, controlled by, or subject to the same common control as, that 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 carried on business in that other 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise itself or on behalf of that enterprise and other enterprises controlling, controlled by, or subject to the same common control as, that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.
- 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 carried 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.

Article 6

INCOME FROM IMMOVABLE PROPERTY

- 1. Income from immovable property may be taxed only in the Contracting State in which such property is situated.
- 2. The term "immovable property" shall be defined in accordance with the law and usage of the Contracting State in which the property 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, oil wells, quarries and other places of extraction of natural resources. Ships 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. 4.The provisions of paragraphs 1 and 3 shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that 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 State but only so much of them as is attributable to (a) that permanent establishment; (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.
2. Subject to the provisions of paragraph 3, 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. In any case where the correct amount of profits attributable to a permanent establishment is incapable of determination or the determination thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be estimated on a reasonable basis.
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 business 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, in accordance with the provisions of the taxation laws of that State. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents, know-how or other rights, or by way of commission or other charges, for specific services performed or for management, or except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents, know-how or other rights, or by way of commission or other charges for specific services performed or for management, or except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.
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 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.

Article 8

AIR TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

3. For the purposes of this article, interest on funds connected with the operation of aircraft in international traffic shall be regarded as profits derived from the operation of such aircraft, and the provisions of article 12 shall not apply in relation to such interest.
4. The term "operation of aircraft" shall mean business of transportation by air of passengers, mail, livestock or goods carried on by the owners or lessees or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises, the incidental lease of aircraft and any other activity directly connected with such transportation.

Article 9

SHIPPING

1. Profits derived by an enterprise of a Contracting State from the operation of ships in international traffic shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, such profits may also be taxed in the other Contracting State if the shipping activities connected with the operation of ships in international traffic are carried on in that other State, but the tax so charged shall not exceed 2.50 per cent. of the gross amount payable in respect of operation of ships in that other State.
3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency engaged in the operation of ships.
4. For the purposes of this article, the gross amount payable in respect of operation of ships in a Contracting State shall mean the aggregate of the following amounts, namely:-
 - a. the gross amount payable on account of carriage of passengers, livestock, mail or goods shipped at a port or ports in that Contracting State;
 - b. interest arising in that Contracting State on funds connected with the operation of ships in international traffic; and
 - c. the gross amount payable in that State on account of the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) in connection with the transport of goods or merchandise in international traffic. The provisions of article 12 shall not apply in relation to interest referred to in (b) above.
5. In determining the income of an enterprise of a Contracting State for the purposes of taxation in the other Contracting State, no deduction shall be allowed in respect of any loss or depreciation allowance admissible to that enterprise for any earlier "previous year" or "calendar year", as the case may be.

Article 10

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 only the 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 11

DIVIDENDS

1. Dividends paid by a company which is resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting state of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:
 - a. 15 per cent. of the gross amount of the dividends if the beneficial owner is a company which owns at least 25 per cent. of the shares of the company paying the dividends;
 - b. 20 per cent. of the gross amount of the dividends in all other cases. 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 or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. In this context, the profits distributed by Romanian Joint Companies to the capital subscribers are assimilated to dividends.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of article 7 or article 16 as the case may be, shall apply.
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 in so far as such dividends are paid to a resident of that other State or so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other state.

Article 12

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other state.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 per cent. of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2,-
 - a. interest arising in a Contracting State shall be exempt from tax in that state provided it is derived and beneficially owned by:
 - i. the Government, a political sub-division, an administrative territorial unit, or a local authority of the other Contracting State; or
 - ii. the Central Bank of the other Contracting State;
 - b. interest arising in a Contracting State shall be exempt from tax in that state if it is beneficially owned by a resident of the other Contracting State and is derived in connection with a loan or credit extended or endorsed by:
 - i. in the case of Socialist Republic of Romania, BANCA ROMANA DE COMERT EXTERIOR to the extent such interest is attributable to financing of exports and imports only;
 - ii. in the case of India, the Export-Import Bank of India (Exim Bank), to the extent such interest is attributable to financing of exports and imports only;
 - iii. any institution of a Contracting State in charge of public financing of external trade;
 - iv. any other person provided that the loan or credit is approved by the Government of the first-mentioned Contracting State.

4. The term "interest" as used in this article means income from debt- claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of article 7 or article 16, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, an administrative territorial unit, a local authority or a resident of that 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
7. Where by reason a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, 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 beneficial owner in the absence of such relationship, the provisions of this article shall apply to the last-mentioned amount. In such cases, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this convention.

Article 13

COMMISSION

1. Commission arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such commission may be taxed in the Contracting State in which it arises and according to the law of that State, but the tax so charged shall not exceed 5 per cent. of the amount of the commission. The competent authorities of the Contracting State shall, by mutual agreement, settle the mode of application of this limitation.
3. The term "commission" as used in this article means a payment made to a broker, a general commission agent or to any other person assimilated to such a broker or agent by the taxation law of the Contracting state in which such payment arises.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the commission, being a resident of a Contracting State, has in the other Contracting State in which the commission arises a permanent establishment with which the activity giving rise to the commission is effectively connected. In such a case, the provisions of article 7 shall apply.
5. Commission shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, an administrative territorial unit, a local authority or a resident of that State. Where, however, the person paying the commission, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the activities for which the payment is made was incurred, and such commission is borne by such permanent establishment, then such commission shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. Where by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the commission, having regard to the transaction 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 such cases, 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 14

ROYALTIES AND FEES FOR TECHNICAL SERVICES

1. Royalties and fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other state.
2. However, such royalties and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that State but if the recipient is the beneficial owner of the royalties, or fees for technical services, the tax so charged shall not exceed 22.5 per cent. of the gross amount of the royalties or fees for technical services.
3. The term "royalties" as used in this article 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 or films or tapes used for radio or television broadcasting 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 term "fees for technical services" as used in this article means payments of any amount to any person other than payments to an employee of a person making payments, in consideration for the services of a managerial, technical or consultancy nature, including the provision of services of technical or other personnel.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services arise, through a permanent establishment situated therein, and performs in that other State independent personal services from a fixed base situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of article 7 or article 16, as the case may be, shall apply.
6. Royalties and fees for technical services shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, an administrative territorial unit, a local authority or a resident of that state. Where, however, the person paying the royalties or fees for technical services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of royalties or fees for technical services paid exceeds the amount which would have been paid in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such cases, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 15

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 6 and situated in the other Contracting State may be taxed in that other State.
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 independent personal services,

including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains arising from a capital asset being ships or aircraft operating in international traffic or movable property pertaining to the operation of such ships or aircraft by an enterprise of a Contracting state shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1,2,3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 16

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State from the performance of professional services or other independent activities of a similar character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State:
 - a. if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or
 - b. if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the relevant "previous year" or "calendar year", as the case may be, in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other state.
2. The term "professional services" includes independent, scientific, literary, artistic, educational or teaching activities, as well as the independent activities of physicians, surgeons, lawyers, engineers, architects, dentists and accountants.

Article 17

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 18, 19, 20, 21, 22 and 23, salaries, wages and other similar remuneration derived by a resident of 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 the relevant "previous year" or "calendar year", as the case may be; and
 - b. the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
 - c. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operating in international traffic by an enterprise of a Contracting State may be taxed in that State.

Article 18

DIRECTORS' FEES AND REMUNERATION OF TOP LEVEL MANAGERIAL OFFICIALS

1. Directors' fees and other 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 State.
2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 19

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of articles 16 and 17, income derived by a resident of Contracting State as an entertainer such as theatre, motion picture, radio or television artiste or a musician or as an athlete, from his personal activities as such exercised in the other Contracting State may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 16 and 17, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
3. Notwithstanding the provisions of paragraph 1, income derived by an entertainer or an athlete who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State, shall be taxable only in the first-mentioned Contracting State, if the activities in the other Contracting State are supported wholly or substantially from the public funds of the first-mentioned Contracting State, including any of its political sub- divisions, administrative territorial units or local authorities.
4. Notwithstanding the provisions of paragraph 2 and articles 7, 16 and 17, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such in a Contracting State accrues not to the entertainer or athlete himself but to another person, that income shall be taxable only in the other Contracting State, if that other person is supported wholly or substantially from the public funds of that other State, including any of its political sub- divisions, administrative territorial units or local authorities.

Article 20

REMUNERATION AND PENSIONS IN RESPECT OF GOVERNMENT SERVICE

1.
 - a. Remuneration, other than a pension, paid by a Contracting State, a political sub-division, an administrative territorial unit or a local authority thereof to an individual in respect of services rendered to that State, sub-division, unit or authority shall be taxable only in that State.
 - b. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:
 - i. is a national of that State; or
 - ii. did not become a resident of that State solely for the purpose of rendering the services.
2.
 - a. Any pension paid by, or out of funds created by a Contracting State, a political sub-division, an administrative territorial unit or a local authority thereof to an individual in respect of services rendered to that State, sub-division, unit or authority shall be taxable only in that State.
 - b. However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of that other State.
3. The provisions of articles 17, 18 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State, a political sub-division, an administrative territorial unit or a local authority thereof.

Article 21

NON-GOVERNMENT PENSIONS AND ANNUITIES

1. Any pension, other than a pension referred to in article 20 or any annuity derived by a resident of Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned Contracting State.
2. The term "pension" means a periodic payment made in consideration of past services or by way of compensation for injuries received in the course of performance of services.
3. The term "annuity" means a stated sum payable periodically as 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 22

STUDENTS, APPRENTICES AND PERSONS SENT FOR SPECIALISATION

1. An individual who is or was resident of one of the other Contracting State and who is temporarily present in the other Contracting State solely:
 - a. as a student at a recognised university, college or school in that other State; or
 - b. as a business apprentice; or
 - c. as the recipient of a grant, allowance or award for the primary purpose of study from a religious, charitable, scientific, or educational organisation; shall be exempt from tax in that other State for a period of six years from his arrival in that other Contracting State in respect of -
 - i. the remittance from abroad for the purposes of his maintenance, education, study or training;
 - ii. the grant, allowance or award; and
 - iii. any remuneration from abroad.
2. The same exemption shall apply to income derived by the above- mentioned individual from an employment which he exercises in the other Contracting State in order to supplement his means for maintenance, education, training and other expenses for specialisation, for a period limited to two years from his arrival in that other State.
3. A resident of one of the Contracting States present in the other Contracting State under arrangements with the Government of that other State or any agency or instrumentality thereof solely for the purpose of training, study or orientation shall be exempt from tax for a period not exceeding two years from his arrival in that other Contracting State in respect of remuneration received by him on account of such training or study.
4. For the purposes of paragraph 1, the term "recognised university, college or school" means a university, college or school which has been recognised in this regard by the competent authority of the concerned Contracting State.

Article 23

PROFESSORS, TEACHERS AND RESEARCH SCHOLARS

1. A professor or teacher who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at a university, college, school or other approved institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period not exceeding two years from the date of his arrival in that other State.
2. This article shall not apply to income from research if such research is undertaken primarily for the private benefit of specific person or persons.
3. For the purposes of this article and article 22, an individual shall be deemed to be a resident of a Contracting State, if he is resident in that Contracting State in the "previous year" or the "calendar year", as the case may be, in which he visits the other Contracting State or in the immediately preceding "previous year" or the "calendar year"
4. For the purposes of paragraph 1, "approved institution" means an institution which has been approved in this regard by the competent authority of the concerned Contracting State.

Article 24

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, which are not expressly dealt with in the foregoing articles of this Convention, shall be taxable only in that Contracting State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 and article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of article 7 or article 16, as the case may be, shall apply.
3. 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 Convention, and arising in the other Contracting State may also be taxed in that other State.

Article 25

AVOIDANCE OF DOUBLE TAXATION

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income in the respective Contracting States except where provisions to the contrary are made in the Convention.
2. The amount of Romanian tax payable, under the laws of Romania