

1996 Income and Capital Tax Convention (English Translation)

Signed date: March 4, 1996

In force date: October 17, 1998

Effective date: January 1, 1999. See Article 30.

Status: In Force

CONVENTION BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM AND THE GOVERNMENT OF ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF TAX AVOIDANCE WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

[TRANSLATION]

The Government of the Kingdom of Belgium and the Government of Romania, Desiring to promote and reinforce the economic relationship between the two countries by the conclusion of a Convention for the avoidance of double taxation and prevention of tax avoidance with respect to taxes on income and on capital, have agreed to the following provisions:

Article 1 Personal Scope

The present Convention applies to persons who are residents of one Contracting State or both Contracting States.

Article 2 Taxes Covered

1. The present Convention applies to taxes on income and on capital levied on behalf of each of the Contracting States, their territorial administrative units or their local communities, irrespective of the manner in which they are levied.
2. The following are considered to be taxes on income and on capital: all taxes levied on the entire income, on the entire capital or on elements of the income or capital, including taxes on gains coming from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The current taxes to which the Convention applies are notably:
 - a) with regard to Romania:
 - (i) l'impôt sur le revenu des personnes physiques (the income tax on individuals);
 - (ii) l'impôt sur le profit (the tax on profit);
 - (iii) l'impôt sur les salaires et autres rémunérations similaires (the tax on salaries and other similar remunerations);
 - (iv) l'impôt sur les salaires des non-résidents (the income tax on non-residents);
 - (v) l'impôt sur les dividendes (the tax on dividends);
 - (vi) l'impôt sur le revenu agricole (the tax on agricultural income);
 - (vii) l'impôt sur les b(timents et sur les terrains occupés par des b(timents ou d'autres constructions (the tax on buildings and the land occupied by buildings or other constructions), (hereinafter designated "the Romanian tax");
 - b) with regard to Belgium:
 - (i) l'impôt des personnes physiques (the tax on individuals);
 - (ii) l'impôt des sociétés (the company tax);
 - (iii) l'impôt des personnes morales (the tax on bodies corporate);
 - (iv) l'impôt des non-résidents (the tax on non-residents);
 - (v) la cotisation spéciale assimilée (l'impôt des personnes physiques (the special contribution classed in the same category as the tax on individuals);
 - (vi) la contribution complémentaire de crise (the complementary emergency crisis tax), including précomptes (deductions at source), centimes (surcharges) to said taxes and deductions, as well as taxes additionnelles (l'impôt des personnes physiques (supplements to the tax on individuals), (hereinafter designated "the Belgian tax").
4. The Convention will also apply to taxes of an identical or analogous nature that may be established after the signatory date of the Convention and that may be in addition to current taxes or that may replace them. The competent authorities of the Contracting States will inform each other of important changes brought about to their respective tax laws.

Article 3 General Definitions

1. For the purposes of the present Convention, unless the context requires a different interpretation:

- a) the expressions "a Contracting State" and "the other Contracting State" designate, according to the context, Romania or Belgium;
 - b) the term "Romania" designates the territory of Romania, including its territorial seas, as well as the exclusive economic zone and airspace over which Romania exercises its sovereignty, sovereign rights, and its jurisdiction by virtue of its own laws and in compliance with international law;
 - c) the term "Belgium" designates the territory of the Kingdom of Belgium, including its territorial seas, as well as the maritime zones and airspace over which the Kingdom of Belgium exercises sovereign rights or its jurisdiction in conformance with international law;
 - d) the term "person" includes individuals, companies, and all other bodies of persons, that are legally constituted in a Contracting State;
 - e) the term "company" designates any body corporate or any entity that is considered to be a body corporate for the purpose of taxation;
 - f) the expressions "enterprise of a Contracting State" and "enterprise of the other Contracting State" designate, respectively, an enterprise run by a resident of one Contracting State and an enterprise run by a resident of the other Contracting State;
 - g) the term "national" designates:
 - (i) any individual who possesses citizenship in Romania, or nationality in Belgium according to the case;
 - (ii) any body corporate, partnership or association instituted in compliance with the legislation in force in a Contracting State;
 - h) the expression "international traffic" designates any transport carried out by a ship, aircraft, or rail or road vehicle operated by an enterprise of which the place of effective management is located in a Contracting State, except when such a transport is carried out only between points situated within the other Contracting State;
 - i) the expression "competent authority" designates, in each of the Contracting States, the Minister of Finance or his authorized representative.
2. For the application of the Convention by a Contracting State, any expression that is not defined here, has the meaning that is attributed to it by the laws of this State concerning the taxes to which the Convention applies, unless the context requires a different interpretation.

Article 4 Resident

1. For the purposes of the present Convention, the expression "resident of a Contracting State" designates any person that, by virtue of the legislation of this State, is subject to taxation in this State by reason of this person's domicile, residence, place of management or any other criteria of an analogous nature. However, this expression does not include those persons that are subject to tax in this State only for income from sources situated in this State or for capital situated there.
2. When, according to the provisions of paragraph 1, an individual is a resident of both Contracting States, his situation is settled in the following manner:
- a) this person is considered a resident of the State where he has a permanent home at his disposal: if he has a permanent home at his disposal in both States, he is considered a resident of the State with which his personal and economic connections are closest (center of vital interests);
 - b) if the State where this person has the center of his vital interests can not be determined, or if he doesn't have a permanent home at his disposal in either State, he is considered a resident of the State where he habitually resides;
 - c) if this person habitually resides in both States, or if he doesn't habitually reside in either of them, he is considered a resident of the Contracting State of which he is a national;
 - d) if this person is a national of both States, or if he is a national of neither of them, the competent authorities shall settle the question by a mutual agreement.
3. When, according to the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, it is considered a resident of the State where its place of effective management is situated.

Article 5 Permanent Establishment

1. For the purposes of the present Convention, the expression "permanent establishment" designates a fixed place of business by means of which an enterprise carries on all or part of its activities.
2. The expression "permanent establishment" includes notably:
- 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 site for the extraction of natural resources.
3. The expression "permanent establishment" also encompasses a building site or construction or assembly project, or supervisory or consulting activities carried out therein, but only when this site or these activities have a duration exceeding nine months.
4. Notwithstanding the preceding provisions of the present article, it shall be considered that there is no "permanent establishment" if:
- a) facilities are used for the sole purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise;
 - b) a stock of goods or merchandise is maintained for the sole purpose of storage, display, or delivery;
 - c) a stock of goods or merchandise is maintained for the sole purpose of processing by another enterprise;
 - d) a fixed place of business is used for the sole purpose of buying goods or merchandise or gathering information for the enterprise;
 - e) a fixed place of business is used for the sole purpose of carrying out for the enterprise any other activity of a preparatory or auxiliary nature;
 - f) goods or merchandise belonging to an enterprise and displayed at a trade fair or exposition are sold by the enterprise, after the closing of this fair or exposition;
 - g) a fixed place of business is used for the sole purpose of the cumulative carrying out of activities mentioned in subparagraphs a) through f), with the condition that the activity of the whole of the fixed place of business resulting from this aggregate keeps its preparatory or auxiliary nature.
5. Notwithstanding the provisions of paragraph 1 and 2, when a person - other than an agent possessing the independent status to which paragraph 6 applies - acts as a representative of a business and makes use in a Contracting State of powers that he exercises there habitually permitting him to conclude contracts in the name of the enterprise, this enterprise is considered to have a permanent establishment in this State for all the activities that this person carries out for the enterprise, unless the activities of this person are limited to those that are mentioned in paragraph 4 and that, if they were carried out by means of a fixed place of business, would not permit one to consider this facility as a permanent establishment according to the provisions of this paragraph.
6. An enterprise is not considered to have a permanent establishment in a Contracting State solely based on the fact that it carries out its activity there through a broker, a general commission agent, or any other agent possessing independent status, with the condition that these persons act within the normal bounds of their activity.
7. The fact that a company that is a resident of one Contracting State controls or is controlled by a company that is a resident of the other Contracting State or that carries out its activity there (whether by means of a permanent establishment or not) is not sufficient, in and of itself, to make either one of these companies a permanent establishment of the other.

Article 6 Income From Immovable Property

1. Income that a resident of one Contracting State draws from immovable property (including income from agriculture and forestry) situated in the other Contracting State, are taxable in this other State.
2. The expression "immovable property" has the meaning that is attributed to it by the law of the Contracting State where the property under consideration is located. The expression includes in any case the accessories of immovable property, equipment or livestock used for agriculture and forestry, those rights to which the provisions of private law concerning landed property apply, the usufruct from immovable property, and the rights to variable or fixed payments for the working of or the concession of working rights to mineral deposits, springs, and other natural resources; ships, boats, aircraft, or rail or road vehicles are not considered to be immovable property.
3. The provisions of paragraph 1 apply to income originating from the direct use, renting, or leasing, as well as any other form of use of immovable property.
4. The provisions of paragraphs 1 and 3 apply as much to income coming from the immovable property of an enterprise as to income from immovable property serving in the exercise of the profession of one who is self-employed.

Article 7 Business Profits

1. The profits of an enterprise of a Contracting State are taxable only in this State, unless the enterprise carries out its activity in the other Contracting State by means of a permanent establishment that is located there. If the enterprise carries out its activity in such a way, the profits from the enterprise are taxable in the other State, but only to the extent that they are attributable to this permanent establishment.

2. Subject to the provisions of paragraph 3, when an enterprise of one Contracting State carries out its activity in the other Contracting State by means of a permanent establishment that is located there, the profits, that this permanent establishment should have been able to realize if it had constituted a distinct enterprise carrying out identical or analogous activities in the same or similar conditions and dealing in total independence with the enterprise of which it constitutes a permanent establishment, are to be attributed, in each Contracting State, to this permanent establishment.
3. For the purpose of determining the profits of a permanent establishment, expenses incurred for the purposes of this permanent establishment, including executive and general administrative expenses incurred in this way, whether in the State where this permanent establishment is located or elsewhere, are allowed to be deducted.
4. If it is customary, in a Contracting State, to determine the profits attributable to a permanent establishment based on an apportionment of the total profits of the enterprise among its various parts, none of the provisions of paragraph 2 shall impede the State from determining taxable profits according to the apportionment in usage; the method of apportionment adopted should however be such that the obtained result conforms to the principles contained in the present article.
5. No profit is attributable to a permanent establishment simply by the fact that it was used to buy goods or merchandise for the enterprise.
6. For the purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment are determined each year according to the same method, unless there exist valid and sufficient reasons to proceed otherwise.
7. When the profits include elements of income treated separately in the other articles of the present Convention, the provisions of these articles are not affected by the provisions of the present article.

Article 8 Transport Enterprises

1. Profits coming from the operation, in international traffic, of ships, aircraft, or rail or road vehicles are taxable only in the Contracting State where the place of effective management of the enterprise is located.
2. The provisions of paragraph 1 also apply:
 - a) to profits coming from the occasional rental on a bare hull basis of ships or aircraft operated in international traffic;
 - b) to profits drawn from the use or rental of containers, with the condition that these profits are complementary or accessory with respect to the profits dealt with in said paragraph.
3. Profits coming from the operation of boats used for inland navigation are taxable only in the Contracting State where the place of effective management of the enterprise is located.
4. If the place of effective management of a maritime or inland shipping enterprise is on board a ship or boat, this headquarters is considered to be situated in the Contracting State where the home harbor of this ship or boat is found, or when there is no home harbor, in the Contracting State of which the operator of the ship or boat is a resident.
5. The provisions of paragraphs 1 and 2 also apply to profits coming from participation in a pool, a joint business, or an international operating organization.

Article 9 Associated Enterprises

1. When:
 - a) an enterprise of one Contracting State takes part directly or indirectly in the management, control, or assets of an enterprise of the other Contracting State, or when
 - b) the same persons take part directly or indirectly in the management, control, or assets of an enterprise of one Contracting State and of an enterprise of the other Contracting State, and when, in either case, the two enterprises are, in their commercial or financial relations, connected by agreed upon or imposed conditions which are different than those that would have been agreed upon between independent enterprises, the profits that, without these conditions, should have been realized by one of these enterprises but have not been in point of fact because of these conditions, are able to be included in the profits of this enterprise and taxed as a result.
2. When a Contracting State includes in the profits of an enterprise of that State - and taxes as a result - those profits upon which an enterprise of the other Contracting State has been taxed in this other State, and when the profits thusly included are profits which should have been realized by the enterprise of the first State if the conditions agreed upon by the two enterprises had been those which would have been agreed upon between independent enterprises, the other State will institute the adjustment that it deems appropriate of the amount of the tax that has been levied upon these profits. To determine this adjustment, the other provisions of the present Convention will be taken

into account and, if necessary, the competent authorities of the Contracting States will consult one another.

Article 10 Dividends

1. The dividends paid by a company that is a resident of one Contracting State to a resident of the other Contracting State are taxable in this other State.

2. However, these dividends are also taxable in the Contracting State of which the company which pays the dividends is a resident, and according to the legislation of this State, but if the effective beneficiary of the dividends is a resident of the other Contracting State, the tax thusly assessed may not exceed:

a) 5 percent of the gross amount of the dividends if the effective beneficiary is a company that directly or indirectly holds possession of at least 25 percent of the capital of the company that pays the dividends;

b) 15 percent of the gross amount of the dividends in all other cases. The present paragraph does not affect the taxation of a company under the heading of profits used for the payment of dividends.

3. The term "dividends" employed in the present article designates income originating from shares, jouissance shares or jouissance rights, mining shares, founders' shares, or other beneficiary shares with the exception of debt-claims, as well as income, even that given under the form of interest, subject to the same tax regulations as income from shares by the legislation of the Contracting State of which the distributing company is a resident.

4. The provisions of paragraphs 1 and 2 do not apply when the effective beneficiary of the dividends, resident of a Contracting State, carries out in the other Contracting State of which the company that pays the dividends is a resident, either an industrial or commercial activity by means of a permanent establishment that is situated there, or self-employed work by means of a fixed base that is situated there, and when the holding from which the dividends are generated is effectively connected to this site. In this case, the provisions of article 7 or of article 15, according to the case, are applicable.

5. When a company that is a resident of one Contracting State draws profits or income from the other Contracting State, this other State may neither levy any tax on the dividends paid by the company, except to the extent that these dividends are paid to a resident of this other State or to the extent that the holding from which the dividends are generated is effectively connected to a permanent establishment or to a fixed base situated in this other State, nor levy any tax, under the heading of taxation of undistributed profits, on the undistributed profits of the company, even if the paid dividends or the undistributed profits consist in total or in part of profits or income originating in this other State.

Article 11 Interest

1. Interest originating from a Contracting State and paid to a resident of the other Contracting State is taxable in this other State.

2. However, this interest is also taxable in the Contracting State from which it comes and according to the legislation of this State, but if the effective beneficiary of the interest is a resident of the other Contracting State, the tax assessed in this way may not exceed 10 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest paid by reason of loans or debt-claims awarded or granted, guaranteed or underwritten by the other Contracting State, one of its territorial administrative units or local communities or one of their institutions is exempt from taxation in the Contracting State from which it originates.

4. The term "interest" employed in the present article designates income from debt-claims of any kind, whether secured or not by the guarantee of a mortgage or by a right to participate in the profits of the payer, and notably income from government securities and from debentures, including the premiums and prizes attached to these headings; however, the term "interest" does not include, for the purposes of the present article, penalties for late payment or interest treated as dividends by virtue of article 10, paragraph 3.

5. The provisions of paragraphs 1, 2, and 3 do not apply when the effective beneficiary of the interest, resident of one Contracting State, carries out in the other Contracting State, from which the interest originates, either an industrial or commercial activity by means of a permanent establishment that is situated there or self-employed work by means of a fixed base that is situated there, and when the debt-claim, from which the interest is generated, is effectively connected to this site. In this case, the provisions of article 7 or of article 15, according to the case, are applicable.

6. Interest is considered to originate from a Contracting State when the payer is this State itself, a territorial administrative unit, a local community, or a resident of this State. However, when the payer

of this interest, whether said payer is a resident of a Contracting State or not, has in a Contracting State a permanent establishment, or a fixed base, for which the debt giving rise to the payment of interest has been incurred and by which this interest is borne, then such interest is considered to have originated from the State where the permanent establishment, or the fixed base, is situated.

7. When, by reason of a special relationship existing between the payer and the effective beneficiary or that both of them undertake with third parties, the sum of the interest, taking into account the debt-claim for which it is paid, exceeds that to which the payer and the effective beneficiary would have agreed in the absence of similar relations, the provisions of the present article apply only to that latter sum. In this case, the surplus portion of the payments remains taxable in compliance with the legislation of each Contracting State, taking into account the other provisions of the present Convention.

Article 12 Royalties

1. Royalties originating from one Contracting State and paid to a resident of the other Contracting State are taxable in this other State.

2. However, these royalties are also taxable in the Contracting State from which they originate and according to the legislation of this State, but if the effective beneficiary of the royalties is a resident of the other Contracting State, the tax thusly assessed may not exceed 5 per cent of the gross amount of the royalties.

3. The term "royalties" employed in the present article designates remuneration of any kind paid for the usage of or the concession of the right to use a copyright on a literary, artistic, or scientific work, including cinematographic films, and films and recordings for radio or television broadcast or any other type of broadcast, on a computer program, patent, brand name or trademark, design or model, plan, secret formula or process, as well as for the usage of or concession of the right to use a piece of industrial, commercial or scientific equipment and for information related to an obtained experience in the industrial, commercial, or scientific domain.

4. The provisions of paragraphs 1 and 2 do not apply when the effective beneficiary of the royalties, resident of one Contracting State, carries out in the other Contracting State from which the royalties originate, either an industrial or commercial activity by means of a permanent establishment that is situated there, or self-employed work by means of a fixed base that is situated there, and when the right or asset from which the royalties are generated is effectively connected to this site. In this case, the provisions of article 7 or of article 15, according to the case, are applicable.

5. Royalties are deemed to originate from a Contracting State when the payer is this State itself, a territorial administrative unit, a local community, or a resident of this State. However, when the payer of these royalties, whether said payer is a resident of a Contracting State or not, has in a Contracting State a permanent establishment, or a fixed base, for which the contract giving rise to the payment of royalties has been concluded and by which these royalties are borne, then the royalties are deemed to have originated from the State where the permanent establishment, or the fixed base, is situated.

6. When, by reason of a special relationship existing between the payer and the effective beneficiary or that both of them undertake with third parties, the sum of the royalties, taking into account the service for which they are paid, exceeds that to which the payer and the effective beneficiary would have agreed in the absence of similar relations, the provisions of the present article apply only to that latter sum. In this case, the surplus portion of the payments remains taxable in compliance with the legislation of each Contracting State, taking into account the other provisions of the present Convention.

Article 13 Commissions

1. Commissions originating from one Contracting State and paid to a resident of the other Contracting State are taxable in this other State.

2. However, these commissions are also taxable in the Contracting State from which they originate and according to the legislation of this State, but if the effective beneficiary of the commissions is a resident of the other Contracting State, the tax thusly assessed may not exceed 5 per cent of the gross sum of the commissions.

3. The term "commissions" employed in the present article designates remuneration paid to any person for the services that this person has rendered in the capacity of intermediary; this term does not include the income dealt with in articles 15 and 16.

4. The provisions of paragraphs 1 and 2 do not apply when the effective beneficiary of the commissions, resident of one Contracting State, carries out in the other Contracting State from which the commissions originate, either an industrial or commercial activity by means of a permanent establishment that is situated there, or self-employed work by means of a fixed base that is situated

there, and when the commissions are effectively connected to this site. In this case, the provisions of article 7 or of article 15, according to the case, are applicable.

5. Commissions are considered to originate from a Contracting State when the payer is this State itself, a territorial administrative unit, a local community, or a resident of this State. However, when the payer of these commissions, whether said payer is a resident of a Contracting State or not, has in a Contracting State a permanent establishment, or a fixed base, for which the obligation to pay these commissions has been entered into and by which these commissions are borne, then the commissions are considered to have originated from the State where the permanent establishment, or the fixed base, is situated.

6. When, by reason of special relations existing between the payer and the effective beneficiary or that both of them undertake with third parties, the sum of the commissions, taking into account the services for which they are paid, exceeds that to which the payer and the effective beneficiary would have agreed in the absence of similar relations, the provisions of the present article apply only to that latter sum. In this case, the surplus portion of the commissions remains taxable in compliance with the legislation of each Contracting State, taking into account the other provisions of the present Convention.

7. When a resident of one Contracting State, that receives commissions originating from the other Contracting State, claims commission for a given year, the tax that can be levied on these commissions in the Contracting State from which they originate is calculated as if this resident had a permanent establishment in this State and as if the commissions were profits attributable to this permanent establishment.

Article 14 Capital Gains

1. Those gains that a resident of one Contracting State draws from the alienation of immovable property as dealt with in article 6 and situated in the other Contracting State are taxable in this other State.

2. Gains coming from the alienation of movable property that is part of the assets of a permanent establishment that an enterprise of one Contracting State has in the other Contracting State, or of movable property that belongs to a fixed base of which a resident of one Contracting State makes use of in the other Contracting State for the exercise of a profession of one who is self-employed, including such gains as come from the alienation of this permanent establishment (alone or with the whole of the enterprise) or of this fixed base, are taxable in this other State.

3. Gains coming from the alienation of ships, aircraft, or rail or road vehicles operated in international traffic, boats used for inland navigation, as well as movable property set aside for the operation of these means of transport are taxable only in the Contracting State where the place of effective management of the enterprise is situated.

4. Gains coming from the alienation of any other property than that dealt with in paragraphs 1, 2, and 3 are taxable only in the Contracting State of which the alienator is a resident.

Article 15 Independent Professions (Self-Employment)

1. Income that a resident of a Contracting State draws from professional services or other activities of an independent nature are taxable only in this State, unless this resident habitually makes use in the other Contracting State of a fixed base for the exercise of his activities. If he makes use of such a fixed base, the income is taxable in the other State, but only to the extent that it is attributable to this fixed base.

2. The expression "professional services" includes notably independent scientific, literary, artistic, educational, or teaching activities, as well as the independent activities of doctors, lawyers, engineers, architects, dentists, and accountants.

Article 16 Dependent Personal Services

1. Subject to the provisions of articles 17, 19, 20 and 21, salaries, earnings and other similar remuneration that a resident of a Contracting State receives under the title of salaried employee are taxable only in this State, unless the employment is carried out in the other Contracting State. If the employment is carried out there, remuneration received under this title is taxable in this other State.

2. Notwithstanding the provisions of paragraph 1, remuneration that a resident of one Contracting State receives under the title of salaried employee carried out in the other Contracting State is taxable only in the first State if:

- a) the beneficiary stays in the other State during a period or multiple periods of time not exceeding a total of 183 days during the course of any period of 12 months, and
- b) the remuneration is paid by an employer 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 that the employer has in the other State.

3. Notwithstanding the preceding provisions of the present article, remuneration received under the title of salaried employee carried out on board a ship, aircraft, or rail or road vehicle operated in international traffic, or on board a boat used for inland navigation, is taxable in the Contracting State where the place of effective management of the enterprise is situated.

Article 17 Directors' Fees and Remuneration for Company Executives

1. Directors' fees, attendance fees and other similar payments that a resident of one Contracting State receives in his capacity as a member of the board of directors of a company that is a resident of the other Contracting State are taxable in this other State.

2. Remuneration that a person dealt with in paragraph 1 receives from the company for the regular exercise of a managerial or technical activity as well as remuneration that a resident of one Contracting State draws from personal activity as a partner in a company that is not a joint stock company and that is a resident of the other Contracting State, are taxable in compliance with the provisions of article 16, as if it were a matter of remuneration that an employee draws from a salaried employment and as if the employer were the company.

Article 18 Entertainers and Athletes

1. Notwithstanding the provisions of articles 15 and 16, income that a resident of one Contracting State draws from his personal activities carried out in the other Contracting State as an entertainer, such as a theater, cinema, radio or television entertainer, or a musician, or as an athlete, is taxable in this other State.

2. When the income from activities that an entertainer or athlete carries out personally and in this capacity is accrued not to the entertainer or athlete himself but to another person, this income is taxable, notwithstanding the provisions of articles 7, 15, and 16, in the Contracting State where the activities of the entertainer or athlete are carried out.

3. Notwithstanding the provisions of paragraph 1 and 2, income drawn from activities such as those of entertainers and athletes that are residents of a Contracting State are taxable only in this State, when the activities are carried out in the other Contracting State within the bounds of a program of cultural or athletic exchanges approved by the Governments of both Contracting States.

Article 19 Pensions

1. Subject to the provisions of article 20, paragraph 2, pensions and other similar remuneration, paid to a resident of a Contracting State under the title of a previous employment, are taxable only in this State.

2. However, pensions and other allowances, whether periodic or not, paid in the carrying out of the social legislation of a Contracting State or within the bounds of a general plan organized by this Contracting State for the purpose of effectuating those advantages provided for by said legislation, are taxable in this State.

Article 20 Government Employment

1.

a) Remuneration, other than pensions, paid by a Contracting State, or one of its territorial administrative units or local communities to an individual under the heading of services rendered to this State or this unit or community is taxable only in this State.

b) However, this remuneration is taxable only in the other Contracting State if the services are rendered in this State and if the individual is a resident of this State whom:

(i) is a national of this State, or

(ii) did not become a resident of this State for the sole purpose of rendering these services.

2.

a) Pensions paid by a Contracting State, or one of its territorial administrative units or local communities, whether directly, or out of funds created by this State or this unit or community, to an individual, under the heading of services rendered to this State or this unit or community, are taxable only in this State.

b) However, these pensions are taxable only in the other State if the individual is a resident of this State and is a national of it.

3. The provisions of articles 16, 17, and 19 apply to remuneration and pensions paid under the heading of services rendered within the bounds of an industrial or commercial activity carried out by a Contracting State or one of its territorial administrative units or local communities.

Article 21 Teachers, Researchers, and Students

1. Any remuneration of teachers or other teaching personnel, as well as researchers, who are residents of one Contracting State, that reside temporarily in the other Contracting State for the purpose of teaching there, or devoting themselves to scientific research there in a university or other officially recognized institution of learning, is taxable only in the first State during a period not to exceed two years to be counted from the arrival date of these persons in the other State. This provision does not apply to remuneration received for research work if this work is undertaken principally for the private benefit of one or multiple persons.
2. A student who is, or who was immediately before entering a Contracting State, a resident of the other State and who stays temporarily in the first State for the sole purpose of pursuing his studies or training there in a university or other officially recognized institution of learning of the first State, is exempt from taxation in the first State:
 - a) on those sums that he receives from sources situated outside of this State for the purpose of covering his costs of sustenance, studies, or training;
 - b) on such remuneration as is received, during a maximum period of two years, under the title of salaried employment carried out in this State in conjunction with his studies or training, with the condition that this remuneration should not exceed, according to the case, 120,000 Belgian francs or the equivalent in Romanian currency.

Article 22 Other Income

1. Those elements of the income of a resident of a Contracting State, that are of a different nature or come from sources not mentioned in the preceding articles of the present Convention and that are subject to taxation in this State are taxable only in this State.
2. The provisions of paragraph 1 do not apply to income other than income coming from immovable property such as it is defined in article 6, paragraph 2, when the beneficiary of such income, resident of one Contracting State, carries out in the other Contracting State, either an industrial or commercial activity by means of a permanent establishment that is situated there, or self-employed work by means of a fixed base that is situated there, and when the right or property from which the income is generated is effectively connected to this site. In this case, the provisions of article 7 or of article 15, according to the case, are applicable.

Article 23 Taxation of Capital

1. Capital consisting of immovable property as discussed in article 6, that a resident of one Contracting State possesses, and that is situated in the other Contracting State is taxable in this other State.
2. Capital consisting of movable property that makes up a part of the assets of a permanent establishment that an enterprise of one Contracting State has in the other Contracting State, or of movable property that belongs to a fixed base of which a resident of one Contracting State makes use in the other Contracting State for the exercise of a profession of one who is self-employed, is taxable in this other State.
3. Capital consisting of ships, aircraft, or rail or road vehicles operated in international traffic, of boats used for inland navigation, as well as of movable property set aside for the operation of these means of transport, is taxable only in the Contracting State where the place of effective management of the enterprise is located.
4. All other elements of the capital of a resident of a Contracting State are taxable only in this State.

Article 24 Methods for the Elimination of Double Taxation

1. In Romania, double taxation is avoided in the following manner:
 - a) When a resident of Romania receives income or possesses elements of capital that, in compliance with the provisions of the present Convention, are taxable in Belgium, Romania will exempt from taxation this income or these elements of capital, subject to the provisions of subparagraphs b) and c) below, but may, for the purpose of calculating the sum of the tax on the remainder of the income or capital of this resident, apply the same tax rates as if this income or these elements of capital were not exempt.
 - b) When a resident of Romania receives income that, in compliance with the dispositions of articles 10 through 13, is taxable in Belgium, Romania will grant on the tax that it levies upon the income of this resident, a deduction of a sum equal to the tax paid in Belgium. This deduction may not however exceed the portion of the tax, calculated before deduction, corresponding to this income received from Belgium.
 - c) Notwithstanding the provisions of subparagraph b), dividends dealt with in article 10, paragraph 3, that a company which is a resident of Romania receives from a company that is a resident of Belgium

are exempted from the tax on profit in Romania, to the extent that this exemption would have been granted if the two companies were residents of Romania.

2. In Belgium, double taxation is avoided in the following way:

- a) When a resident of Belgium receives income not discussed in subparagraphs b) and c) below, or possesses elements of capital that are taxable in Romania in compliance with the provisions of the Convention, Belgium will exempt this income or these elements of capital from taxation, but it may, for the purpose of calculating the sum of this tax on the remainder of the income or capital of this resident, apply the same rates as if the income or elements of capital in question had not been exempted.
- b) Subject to the provisions of Belgian law related to the deduction of taxes paid abroad from the Belgian tax, when a resident of Belgium receives elements of capital that are included in this resident's global income subject to the Belgian tax and that consist of dividends taxable in compliance with article 10, paragraph 2 and not exempted from the Belgian tax by virtue of c) below, of interest taxable in compliance with article 11, paragraphs 2 or 7, or of royalties taxable in compliance with article 12, paragraphs 2 or 6, the Romanian tax levied on this income is allowed as a deduction against the Belgian tax chargeable on said income.
- c) Dividends dealt with in article 10, paragraph 3, that a company which is a resident of Belgium receives from a company which is a resident of Romania are exempted from the company tax in Belgium, within the conditions and limits provided for by Belgian law.
- d) When, in compliance with Belgian law, losses suffered by an enterprise operated by a resident of Belgium in a permanent establishment located in Romania have effectively reduced the profits of this enterprise for the purpose of its taxation in Belgium, the exemption provided for in a) above does not apply in Belgium to the profits for other taxable periods that are attributable to this establishment, to the extent that these profits have also been exempted in Romania by reason of their being offset by said losses.

Article 25 Non-Discrimination

1. Nationals of one Contracting State will not be subject in the other Contracting State to any taxation or related obligation, that is other than or greater than those to which nationals of the other State, who find themselves in the same situation notably with respect to residence, are or can be subjected. The present provision applies also, notwithstanding the provisions of article 1, to persons who are not residents of a Contracting State or of both Contracting States.
2. The taxation of a permanent establishment that an enterprise of one Contracting State has in the other Contracting State will not be assessed in this other State in a less favorable manner than the taxation of enterprises of this other State that carry out the same activity. This provision may not be interpreted as obliging one Contracting State to grant to residents of the other Contracting State the personal deductions, abatements, or reductions in tax accorded due to familial situations or obligations that it grants to its own residents.
3. Unless the provisions of article 9, paragraph 1, of article 11, paragraph 7, or of article 12, paragraph 6 apply, interest, royalties, and other expenses paid by an enterprise of one Contracting State to a resident of the other Contracting State are deductible, for the determination of the taxable profits of this enterprise, under the same conditions as if they had been paid to a resident of the first State. In the same way, the debts of an enterprise of one Contracting State owed to a resident of the other Contracting State are deductible, for the determination of the taxable capital of this enterprise, under the same conditions as if they had been taken out owing to a resident of the first State.
4. Those enterprises of one Contracting State, of which the capital is in total or in part, directly or indirectly, held or controlled by one or more residents of the other Contracting State, will not be subject in the first State to any taxation or related obligation, that is other than or greater than those to which other similar enterprises of the first State are or can be subjected.
5. No provision of the present article can be interpreted as impeding a Contracting State:
 - a) from taxing, at the rates provided for by its domestic legislation, the profits of a permanent establishment, located in this State, of a company that is a resident of the other Contracting State, provided that the aforementioned rate does not exceed the maximum rate applicable to the profits of companies that are residents of the first State;
 - b) from withholding at source on dividends related to a holding that is effectively attached to a permanent establishment of which a company that is a resident of the other Contracting State makes use in that first State.
6. The provisions of the present article apply, notwithstanding the provisions of article 2, to taxes of every kind or description.

Article 26 Mutual Agreement Procedure

1. When a person feels that the measures taken by a Contracting State or by both Contracting States result in or will result in a taxation for this person that is not in compliance with the provisions of the present Convention, this person may, independently of the remedies provided for by the domestic laws of these States, submit the case to the competent authority of the Contracting State of which this person is a resident or, if the case arises from article 25, paragraph 1, to the competent authority of the Contracting State of which this person is a national. The case should be submitted within the three years following first notification of the measure which leads to a taxation that is not in compliance with the provisions of the Convention.
2. The competent authority will endeavor, should they determine that the objection appears to be justified and if it is not within its powers to bring about a satisfactory solution by itself, to resolve the case by way of a mutual agreement with the competent authority of the other Contracting State, with the purpose of avoiding taxation not in compliance with the Convention.
3. The competent authorities of the Contracting States will endeavor, by way of a mutual agreement, to resolve those difficulties or dissipate those doubts to which the interpretation or application of the Convention can give rise.
4. The competent authorities of the Contracting States will consult each other on the subject of measures necessary to the execution of the provisions of the Convention and notably on the subject of supporting documents to be supplied by the residents of each Contracting State in order to benefit in the other State from the exemptions or reductions of taxes provided for by this Convention.
5. The competent authorities of the Contracting States may communicate directly between themselves for the application of this Convention.

Article 27 Exchange of Information

1. The competent authorities of the Contracting States will exchange such information as is necessary for the application of the provisions of the present Convention, and those of the domestic legislation of the Contracting States related to the taxes discussed in the Convention, to the extent that the stipulated taxation is not contrary to the Convention.

The exchange of information is not limited by article 1. The information received by a Contracting State is held in secret in the same manner as information obtained in the application of the domestic legislation of this State and is to be communicated only to persons or authorities (including tribunals and administrative bodies) concerned with the assessment or recovery of the taxes discussed in the Convention, with the procedures or pursuits concerning these taxes, or with the decisions made on appeals related to these taxes. These persons or authorities shall use this information only for these ends. They may present this information in the course of public hearings before a tribunal or in judgments.

2. The provisions of paragraph 1 may in no case be interpreted as imposing on one Contracting State the obligation:
 - a) to take administrative measures at variance with its laws and administrative practices or those of the other Contracting State;
 - b) to supply information which could not be obtained on the basis of its own legislation or within the normal bounds of its administrative practices or those of the other Contracting State;
 - c) to supply information which will disclose any trade, business, industrial, commercial or professional secret or trade process, or information the communication of which would be contrary to public policy (ordre public).

Article 28 Assistance in Collection

1. The Contracting States will commit themselves to lend each other mutual aid and assistance for the purpose of notifying each other of and recovering the taxes discussed in article 2 as well as all increases, surcharges, late fees, costs, and non-criminal penalties, related to these taxes.
2. Upon request from the competent authority of one Contracting State, the competent authority of the other Contracting State shall ensure, in accordance with the legal and statutory provisions applicable to the notification and collection of said taxes in this second State, the notification and collection of the tax claims discussed in paragraph 1, that are payable in the first State. These claims shall profit from no special privilege in the requested State and this State shall not be obliged to apply any means of execution that are not authorized by the legal or statutory dispositions of the requesting State.
3. The requests discussed in paragraph 2 are supported by an official copy of the instruments for enforcement, accompanied, where appropriate, by an official copy of any administrative or judiciary decisions reached upon the judged matter.

4. Concerning tax claims that are open to appeal, the competent authority of one Contracting State may, for the safeguarding of its rights, request that the competent authority of the other Contracting State take those protective measures provided for by its legislation; the provisions of paragraphs 1 and 3 are applicable mutatis mutandis (with the necessary changes in points of detail) to these measures.

5. The dispositions of article 27, paragraph 1, apply also to any information brought, by virtue of the present article, to the awareness of the competent authority of a Contracting State.

Article 29 Members of Diplomatic Missions and Consular Posts

The provisions of the present Convention will not undermine the tax privileges from which the members of diplomatic missions and consular posts benefit, either by virtue of general rules of international law, or by virtue of the provisions of special agreements.

Article 30 Entry Into Force

1. Each Contracting States will notify the other Contracting State of the completion of those procedures required by its legislation in order to enter the present Convention into force. This will enter into force the 30th day following the date of the last of these notices.

2. The provisions of the Convention will apply:

a) to taxes due at source on income that is allocated or payable on or after the first of January of the year that immediately follows the year in which the Convention enters into force;

b) to other taxes assessed on income from taxable periods that commence on or after the first of January of the year that immediately follows the year in which the Convention enters into force;

c) to wealth taxes assessed on those elements of capital existing on the first of January of any year that follows the year in which the Convention enters into force.

3. The provisions of the Convention between the Government of the Kingdom of Belgium and the Government of the Socialist Republic of Romania for the avoidance of double taxation with respect to taxes on income and on capital, signed in Bucharest on October 14, 1976, will cease to apply to any Romanian or Belgian tax to which the present Convention applies in compliance with the provisions of paragraph 2.

Article 31 Termination

1. The present Convention will remain in force indefinitely.

2. Each of the Contracting States will however be able, up to and including June 30 of any calendar year beginning the fifth year following that in which the Convention enters into force, to terminate it, in writing and through the diplomatic channel, to the other Contracting State. In case of such a termination, the Convention will cease to apply:

a) to taxes due at source on income that is allocated or payable on or after the first of January of the year that immediately follows the year in the course of which the other Contracting State has been notified of the termination;

b) to other taxes assessed on income from taxable periods that commence on or after the first of January of the year that immediately follows the year in the course of which the other Contracting State has been notified of the termination;

c) to wealth taxes assessed on those elements of capital existing on the first of January of the year that immediately follows the year in the course of which the other Contracting State has been notified of the termination.

In witness whereof, the undersigned, duly authorized to this effect by their respective Governments, have signed the present Convention.

Done in Brussels, on March 4, 1996, in duplicate, in the French, Dutch, and Romanian languages, the three texts being equally authentic. In the case of divergence, the text in French will prevail.

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM:

Ph. Maystadt

Minister of Finance and Foreign Trade

FOR THE GOVERNMENT OF ROMANIA:

D. I. Popescu

Minister of Trade