

1993 Income and Capital Tax Convention (English Translation)

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This convention has been amended by a protocol signed October 4, 2011. The text as amended is also available.

CONVENTION BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND ROMANIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

[TRANSLATION]

The Grand Duchy of Luxembourg and the Government 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 on capital,
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. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State, its administrative-territorial units or its political subdivisions, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on items of income including taxes on gains from the alienation of movable or immovable property and taxes on capital gains.
3. The existing taxes to which the Convention shall apply are in particular:
 - a) in Luxembourg:
 - (i) l'impôt sur le revenu des personnes physiques (income tax on individuals);
 - (ii) l'impôt sur le revenu des collectivités (corporation tax);
 - (iii) l'impôt spécial sur les tantièmes (special tax on directors' fees);
 - (iv) l'impôt sur la fortune (capital tax) and
 - (v) l'impôt commercial communal d'après les bénéfices et capital d'exploitation (communal tax on profits and capital); ?(which shall be referred to hereinafter as "Luxembourg tax");
 - b) in Romania:
 - (i) l'impôt sur le revenu des personnes physiques (personal income tax);
 - (ii) l'impôt sur le profit (profits tax);
 - (iii) l'impôt sur les salaires (tax on salaries);
 - (iv) l'impôt sur le revenu des non résidents (income tax on non-residents);
 - (v) l'impôt sur les dividendes (the dividends tax) and
 - (vi) l'impôt sur le revenu agricole des personnes physiques (personal agricultural income tax);(which shall be referred to hereinafter as "Romanian tax").
4. This Convention shall also apply to any identical or similar taxes which could be imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

Article 3 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the terms "Contracting State" and "other Contracting State" mean, according to the context, Luxembourg or Romania;
 - b) the term "Luxembourg" means the Grand Duchy of Luxembourg and, used in its geographical sense, means the territory of the Grand Duchy of Luxembourg;
 - c) the term "Romania" means Romania, and, used in its geographical sense, means the territory of Romania, including its territorial waters, as well as the exclusive economic zone and continental

plateau where Romania exercises, in conformity with international law and its national legislation, sovereign rights for the purpose of the exploration and development of natural, biological and mineral resources, found in its waters, on its land and in its subsoil;

d) the term "person" includes an individual, a company and any other body of persons legally constituted in one of the two Contracting States;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State.

g) the term "international traffic" means any transport by a ship, an aircraft, railway or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft, railway or road vehicle is operated solely between places in the other Contracting State;

h) the term "competent authority" means:

(i) in Luxembourg, the Minister of Finance or his authorized representative;

(ii) in Romania, the Minister of Finance or his authorized representative;

i) the term "national" means:

(i) any individuals possessing the nationality of Luxembourg or the citizenship of Romania;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4 Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (center of vital interests);

b) if the State in which he has his center of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national or a citizen;

d) if he is a national of, or citizen of, both 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 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 an 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 store;

g) a plantation, farm or a vineyard, and

h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" also includes a building site or construction or installation project or monitoring or consulting activities exercised therein but only when this site or these activities last longer than nine months.

4. 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, display or delivery of goods or merchandise belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) goods and merchandise belonging to the enterprise and presented at a trade fair or at an exhibition which are sold by the enterprise at the conclusion of this fair or exhibition;

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

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person--other than an agent of an independent status to whom paragraph 6 applies--is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

Article 6 Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

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

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

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

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

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

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

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

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

Article 8 International Transport

1. Profits from the operation of ships, aircraft, railway or road vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, in the Contracting State of which the operator of the ship or boat is a resident.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9 Associated Enterprises

1. Where

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

2. Where a Contracting State includes in the profits of an enterprise of that State--and taxes accordingly--profits on which an enterprise of the other Contracting State has been taxed in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions agreed upon between the two enterprises had been those which would have been agreed upon between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10 Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other 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) 5 percent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 percent of the capital of the company paying the dividends;

b) 15 percent 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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights 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.

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 an industrial, agricultural or commercial activity 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 case the provisions of Article 7 or Article 15, 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 insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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 11 Interest

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other 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 10 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall not be taxed in the first-mentioned State, if the indebtedness on which such interest is paid is guaranteed, insured, or financed by the other State or by a financial institution which is a resident of that other 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, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on an industrial, agricultural or commercial activity 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 case the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative-territorial entity, 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 State in which the permanent establishment or fixed base is situated.

7. Where, by reason of 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 only to the last-mentioned amount. In such case, 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 12 Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other State.
2. However, these royalties shall also be taxable 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, the tax thus charged may not exceed 10 percent of the gross amount of the royalties.
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, films and recordings for radio and television broadcasts, as well as any other form of broadcast, any patent, trade mark or brand name, design or model, plan, secret formula or process, or for the use of, or right to use, industrial, agricultural, office, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on an industrial, agricultural or commercial activity in the other Contracting State in which the royalties arise, 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 royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative-territorial entity, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, 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 Commissions

1. Commissions arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other State.
2. However, these commissions shall also be taxable 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 commissions, the tax thus charged may not exceed 5 percent of the gross amount of the commissions.
3. The term "commissions" as used in this Article means remuneration paid to any person for services which such person has rendered in the capacity of an intermediary, general commission agent, or any other person classified as an intermediary or agent by the fiscal laws of the State in which the remuneration arises.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the commissions, being a resident of a Contracting State, carries on an industrial, agricultural, or commercial activity in the other Contracting State in which the commissions arise, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and such commissions are effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.
5. Commissions shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative-territorial entity, a local authority or a resident of that State. Where, however, the person paying the commissions, 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 commissions was incurred and such commissions are borne by such permanent establishment or fixed base, then such commissions shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of commissions paid, having regard to the services for which they are 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 only to the last-mentioned amount. In such case, the excess part of the commissions shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 14 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 from the alienation of ships, aircraft, railway or road vehicles operated in international traffic, boats engaged in inland waterways transport, or movable property pertaining to the operation of such ships, aircraft, railway or road vehicles, or boats, 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 any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 15 Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 16 Dependent Personal Services

1. Subject to the provisions of Articles 17, 19, 20, 21 and 22, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State, unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - c) the cost of 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, an aircraft, railway or road vehicle operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17 Directors' Fees

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 or supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 18 Artistes and Athletes

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of one Contracting State as an entertainer, such as a theater, 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 an 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, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities exercised by entertainers or athletes who are residents of a Contracting State shall be taxable only in that State when such activities are exercised in the other Contracting State in connection with cultural exchanges approved by the Governments of both Contracting States.

Article 19 Pensions

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made in pursuance of laws pertaining to the social security system of a Contracting State shall be taxable in that State.

Article 20 Government Service

1.

a) Remuneration, other than a pension, paid by a Contracting State or an administrative-territorial entity, or a local authority thereof to an individual in respect of services rendered to that State or entity 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 State and the individual is a resident of that State who:

(i) is a national or citizen of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering such services.

2.

a) Any pension paid directly by, or out of funds created by, a Contracting State or one of its administrative-territorial entities or a local authority thereof to an individual in respect of services rendered to that State or unit or local authority shall be taxable only in that State.

b) However, such pensions shall be taxable only in the other Contracting State if the individual is a resident of that State, and is a national, or citizen, of that State.

3. The provisions of Articles 16, 17 and 19 shall apply to remuneration and to pensions paid, in respect of services rendered in connection with an industrial, agricultural or commercial activity exercised by a Contracting State or an administrative-territorial entity or a local authority thereof.

Article 21 Students and Business Apprentices

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State.

2. Any individual who is a resident of one of the Contracting States or who was previously a resident of that State and is visiting the other Contracting State for the purpose of pursuing his education, conducting research or acquiring technical, professional, or business training or experience, and who exercises in that other Contracting State an employment for one or more periods not exceeding a total of two years, is exempt from taxation in that other State as regards remuneration received from such employment if said employment is directly connected with his education, research, training or acquisition of experience, and if such remuneration constitutes the income necessary for him to meet the financial requirements for his maintenance.

Article 22 Instructors and Researchers

1. Any remuneration paid to instructors and other members of the teaching profession who are residents of one of the Contracting States and who are temporarily visiting the other Contracting State for the purpose of teaching or conducting scientific research for a period not exceeding two years, in an officially-recognized university or other educational institution shall be taxable only in the first-mentioned State; after this period, the remuneration paid shall be taxable only in the other Contracting State.

2. This provision also applies to remuneration that any individual who is a resident of one Contracting State receives for research work performed in the other Contracting State, provided that such work was not primarily undertaken for the purpose of creating a special advantage for the benefit of an enterprise or a person, but is undertaken in the public interest.

Article 23 Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on industrial, agricultural or commercial activity 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 case the provisions of Article 7 or Article 15, as the case may be, shall apply.

Article 24 Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by 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 by 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, may be taxed in that other State.
3. Capital represented by ships, aircraft and railway or road vehicles operated in international traffic, by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft, railway or road vehicles, or boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 25 Methods for Elimination of Double Taxation

1. In Luxembourg, double taxation shall be avoided as follows:
 - a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Romania, Luxembourg shall, subject to the provisions of sub-paragraphs b) and c), exempt such income or capital from tax but may, in calculating the amount of tax on the remaining income or capital of such resident, apply the same tax rates as those which would have been applied if the income or elements of capital considered had not been exempt.
 - b) Where a resident of Luxembourg derives items of income which, in accordance with the provisions of Articles 10, 11, 12 and 13 may be taxed in Romania, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Romania. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Romania.
 - c) Where a company which is a resident of Luxembourg derives dividends from sources in Romania, Luxembourg shall exempt such dividends from tax, provided that such company which is a resident of Luxembourg has been directly holding, since the beginning of its trading year, at least 25 percent of the capital of the company paying such dividends. The aforementioned equities or shares of the Romanian company are, under the same conditions, exempt from the capital tax of Luxembourg.
2. In Romania, double taxation shall be avoided as follows:
 - a) Where a resident of Romania derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Luxembourg, Romania shall exempt such income or capital from tax, subject to the provisions of sub-paragraph b), but may, in calculating the amount of tax on the remaining income or capital of the resident, apply the same tax rates as those which would have been applied if such income or elements of capital had not been exempt.
 - b) Where a resident of Romania derives items of income which, in accordance with the provisions of Articles 10, 11, 12 and 13, may be taxed in Luxembourg, Romania shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Luxembourg. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to income derived from Luxembourg.

Article 26 Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12 and paragraph 6 of Article 13 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts owed by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 27 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 26, to that of the Contracting State of which he is a national or a citizen. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement as indicated in the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 28 Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

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

- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 29 Diplomatic Agents and Consular Officers

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

Article 30 Entry Into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible.
2. The Convention shall enter into force thirty days following the exchange of instruments of ratification and its provisions shall have effect:
 - a) upon withholding taxes levied on income attributed or paid as from January 1 of the year immediately following the year during which the instruments of ratification will have been exchanged;
 - b) upon other taxes levied for the fiscal years beginning on or after January 1 of the year immediately following the year during which the instruments of ratification will have been exchanged.

Article 31 Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any subsequent calendar year following the termination of a five-year period as from the date of its entry into force. In such case, the Convention shall cease to have effect:

- a) upon withholding taxes levied on income attributed or paid as from January 1 of the year immediately following that of the termination;
- b) upon other taxes levied for the fiscal years beginning on or after January 1 of the year immediately following that of the termination.

In witness whereof the undersigned, duly authorized to that effect, have signed this Convention. Done in duplicate at Luxembourg, this 14th day of December 1993, in the French and Romanian languages, each version being equally authentic.

FOR THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG:

FOR THE GOVERNMENT OF ROMANIA: