CONVENTIE
INTRE
ROMANIA SI REPUBLICA ESTONIA
PENTRU EVITAREA DUBLEI IMPUNERI
SI PREVENIREA EVAZIUNII FISCALE
CU PRIVIRE LA IMPOZITELE PE VENIT SI PE CAPITAL

România si Republica Estonia, dorind sa promoveze si sa stranga relatiile economice prin incheierea unei conventii pentru evitarea dublei impuneri si prevenirea evaziunii fiscale cu privire la impozitele pe venit si pe capital, au convenit dupa cum urmeaza:

Articolul 1

Persoane vizate

Prezenta Conventie se aplica persoanelor care sunt rezidente ale unuia sau ale ambelor State Contractante.

Articolul 2

Impozite vizate

1. Prezenta Conventie se aplica impozitelor pe venit si pe capital stabilite in numele unui Stat Contractant sau al autoritatilor sale locale ori al unitatilor sale administrativ-teritoriale, indiferent de modul in care sunt percepute.

2. Sunt considerate impozite pe venit si pe capital toate impozitele stabilite pe venitul total, pe capitalul total sau pe elementele de venit sau de capital, inclusiv impozitele pe câstigurile provenite din instrainarea proprietatii mobiliare sau imobiliare, precum si impozitele asupra cresterii capitalului.

3. Impozitele existente asupra carora se aplica prezenta Conventie sunt in special:

a) In cazul României :

(i) impozitul pe venitul realizat de persoane fizice;

(ii) impozitul pe profit;

(iii) impozitul pe salarii si alte remuneratii similare;

(iv) impozitul pe venitul agricol;

(v) impozitul pe dividende;

(vi) impozitul pe cladiri;

(vii) impozitul pe teren;

(denumite in continuare "impozit român").

b) In cazul Estoniei:

(i) impozitul pe venit;

(ii) impozitul pe teren;

(denumite in continuare "impozit estonian").

4. Conventia se va aplica de asemenea, oricaror impozite identice sau in esenta similare, care sunt stabilite dupa data semnarii acestei Conventii, in plus, sau in locul impozitelor existente. Autoritatile competente ale Statelor Contractante se vor informa reciproc asupra oricaror modificari importante aduse in legislatiile lor fiscale respective.

Articolul 3

Definitii generale

1. In sensul prezentei Conventii, in masura in care contextul nu cere o interpretare diferita:

a) expresiile "un Stat Contractant" si "celalalt Stat Contractant," inseamna România sau Estonia, dupa cum cere contextul;

b) termenul "România" inseamna teritoriul de stat al României, inclusiv marea sa teritoriala si spatiul aerian de deasupra teritoriului si marii teritoriale asupra carora România isi exercita suveranitatea, precum si zona contigua, platoul continental si zona economica exclusiva asupra carora România isi exercita, in conformitate cu legislatia sa si potrivit normelor si principiilor dreptului international, drepturi suverane si jurisdictia;

c) termenul "Estonia" inseamna Republica Estonia si, cand este folosit in sens geografic, inseamna teritoriul Estoniei si orice alta zona adiacenta apelor teritoriale ale Estoniei asupra careia, potrivit legislatiei Estoniei si in concordanta cu legislatia internationala, pot fi exercitate drepturile Estoniei cu privire la fundul marii si subsolul acesteia si la resursele lor naturale;

d) termenul "persoana" include o persoana fizica, o societate si orice alta asociere de persoane;

e) termenul "societate" inseamna orice persoana juridica sau orice entitate care este considerata ca o persoana juridica in scopul impozitarii;

f) expresiile "intreprindere a unui Stat Contractant" si "intreprindere a celuilalt Stat Contractant" inseamna, dupa caz, o intreprindere exploatata de un rezident al unui Stat Contractant si o intreprindere exploatata de un rezident al celuilalt Stat Contractant;

g) expresia "transport international" inseamna orice transport efectuat cu o nava sau aeronava exploatate de o intreprindere a unui Stat Contractant, cu exceptia cazului când asemenea nava sau aeronava este exploatata numai intre locuri situate in celalalt Stat Contractant;

h) expresia "autoritate competenta" inseamna :

(i) in cazul României, Ministrul Finantelor Publice sau reprezentantul sau autorizat;

(ii) in cazul Estoniei, Ministrul Finantelor sau reprezentantul sau autorizat;

i) termenul "national" inseamna:

(i) in cazul României orice persoana fizica având cetatenia României si orice persoana juridica, asociere de persoane si orice alta entitate având statutul juridic in conformitate cu legislatia in vigoare in România;

(ii) in cazul Estoniei, orice persoana fizica avand nationalitatea Estoniei si orice persoana juridica, parteneriat sau asociatie avand statutul juridic in conformitate cu legislatia in vigoare in Estonia;

2. In ceea ce priveste aplicarea acestei Conventii, in orice moment, de un Stat Contractant, orice termen care nu este definit in Conventie va avea, daca contextul nu cere o interpretare diferita, intelesul pe care il are la acel moment in cadrul legislatiei acelui stat cu privire la impozitele la care prezenta Conventie se aplica, orice inteles pe care il are in legile fiscale aplicabile ale acelui stat prevaland intelesului pe care termenul il are in cadrul altor legi ale acelui stat.

Articolul 4

Rezident

1. In sensul prezentei Conventii, expresia "rezident al unui Stat Contractant" inseamna orice persoana care potrivit legislatiei acestui stat, este supusa impunerii in acest stat datorita domiciliului sau, rezidentei sale, sediului

conducerii, locului inregistrarii sau oricarui alt criteriu de natura similara si include de asemenea acest stat si orice autoritate locala sau unitate administrativ-teritoriala a acestuia. Aceasta expresie, totusi, nu include o persoana care este supusa impozitarii in acest stat numai pentru faptul ca realizeaza venituri din surse sau capital, situate in acest stat.

2. Când, in conformitate cu prevederile paragrafului 1, o persoana fizica este rezidenta a ambelor State Contractante, atunci statutul sau se determina dupa cum urmeaza :

a) aceasta va fi considerata rezidenta numai a statului in care are o locuinta permanenta la dispozitia sa; daca dispune de o locuinta permanenta la dispozitia sa in ambele state, va fi considerata rezidenta numai a statului cu care legaturile sale personale si economice sunt mai strânse (centrul intereselor vitale);

b) daca statul in care aceasta persoana are centrul intereselor sale vitale, nu poate fi determinat sau daca ea nu dispune de o locuinta permanenta la dispozitia sa in nici unul dintre state, ea va fi considerata rezidenta numai a statului in care locuieste in mod obisnuit;

c) daca aceasta persoana locuieste in mod obisnuit in ambele state sau in nici unul dintre ele, ea va fi considerata rezidenta numai a statului al carui national este;

d) daca aceasta persoana este national al ambelor state sau a nici unuia dintre ele, autoritatile competente ale Statelor Contractante vor rezolva problema de comun acord.

3. Când, potrivit prevederilor paragrafului 1, o persoana, alta decât o persoana fizica, este rezidenta a ambelor State Contractante, autoritatile competente ale Statelor Contractante se vor stradui sa rezolve problema de comun acord si sa determine modul de aplicare a acestei Conventii in cazul unei astfel de persoane.

Articolul 5

Sediu Permanent

1. In sensul prezentei Conventii, expresia "sediu permanent" inseamna un loc fix de afaceri prin care intreprinderea isi desfasoara in intregime sau in parte activitatea sa.

2. Expresia "sediu permanent" include indeosebi:

a) un loc de conducere ;

b) o sucursala;

c) un birou ;

d) o fabrica;

e) un atelier; si

f) o mina, un put petrolier sau de gaze, o cariera sau orice alt loc de extractie a resurselor naturale.

3. Un santier de constructii, un proiect de constructii, de asamblare sau de instalare ori activitatile de supraveghere ori consultanta legate de acestea, constituie sediu permanent dar numai când asemenea santier, proiect sau activitate dureaza o perioada mai mare de sase luni.

4. Independent de prevederile anterioare ale acestui articol, expresia "sediu permanent" se considera ca nu include :

a) folosirea de instalatii numai in scopul depozitarii, expunerii sau livrarii de produse sau marfuri apartinând intreprinderii;

b) mentinerea unui stoc de produse sau marfuri apartinând intreprinderii numai in scopul depozitarii, expunerii sau livrarii;

c) mentinerea unui stoc de produse sau marfuri apartinând intreprinderii, numai in scopul prelucrarii de catre o alta intreprindere;

d) mentinerea unui loc fix de afaceri numai in scopul cumpararii de produse sau marfuri sau colectarii de informatii pentru intreprindere;

e) mentinerea unui loc fix de afaceri numai in scopul desfasurarii, pentru intreprindere, a oricarei alte activitati cu caracter pregatitor sau auxiliar;

f) mentinerea unui loc fix de afaceri numai pentru orice combinare de activitati mentionate in subparagrafele a) la e), cu conditia ca intreaga activitate a locului fix de afaceri ce rezulta din aceasta combinare sa aiba un caracter pregatitor sau auxiliar.

5. O intreprindere a unui Stat Contractant nu va fi considerata ca are un sediu permanent in celalalt Stat Contractant numai pentru ca aceasta vinde produse sau marfuri apartinand intreprinderii, care au fost expuse in cadrul unui targ temporar sau expozitii, la inchiderea targului sau expozitiei mentionate.

6. Independent de prevederile paragrafelor 1 si 2, atunci când o persoana - alta decât un agent cu statut independent caruia i se aplica prevederile paragrafului 7 - actioneaza in numele unei intreprinderi si are si exercita in mod obisnuit intr-un Stat Contractant imputernicirea de a incheia contracte in numele intreprinderii, aceasta intreprindere se considera ca are un sediu permanent in acel stat in privinta oricaror activitati pe care persoana le exercita pentru intreprindere, in afara de cazul când activitatile acestei persoane sunt limitate la cele mentionate in paragrafele 4 si 5 care, daca sunt exercitate printr-un loc fix de afaceri, nu fac din acest loc fix de afaceri un sediu permanent potrivit prevederilor acelui paragraf.

7. O intreprindere nu se considera ca are un sediu permanent intr-un Stat Contractant numai prin faptul ca aceasta isi exercita activitatea de afaceri in acel stat printr-un broker, agent comisionar general sau orice alt agent cu statut independent, cu conditia ca aceste persoane sa actioneze in cadrul activitatii lor obisnuite.

8. Faptul ca o societate care este rezidenta a unui Stat Contractant controleaza sau este controlata de o societate care este rezidenta a celuilalt Stat Contractant sau care isi exercita activitatea de afaceri in celalalt stat (printr-un sediu permanent sau in alt mod), nu este suficient pentru a face una din aceste societati un sediu permanent al celeilalte.

Articolul 6

Venituri din proprietati imobiliare

1. Veniturile realizate de un rezident al unui Stat Contractant din proprietati imobiliare (inclusiv veniturile din agricultura sau din exploatari forestiere) situate in celalalt Stat Contractant pot fi impuse in celalalt stat.

2. Expresia "proprietati imobiliare" are intelesul care este atribuit de legislatia Statului Contractant in care proprietatile in cauza sunt situate. Expresia include, in orice caz, accesoriile proprietatii imobiliare, inventarul viu si echipamentul utilizat in agricultura si exploatari forestiere, drepturile asupra carora se aplica prevederile dreptului comun cu privire la proprietatea funciara, uzufructul proprietatilor imobiliare si drepturile la rente variabile sau fixe pentru exploatarea sau concesionarea exploatarii zacamintelor minerale, izvoarelor si a altor resurse naturale. Navele si aeronavele nu sunt considerate proprietati imobiliare.

3. Prevederile paragrafului 1 se aplica veniturilor obtinute din exploatarea directa, din inchirierea sau din folosirea in orice alta forma a proprietatii imobiliare.

4. Cand detinerea unor actiuni sau a altor parti sociale la o societate da dreptul detinatorului acestor actiuni sau parti sociale de a beneficia de proprietati imobiliare detinute de societate, venitul din folosirea directa, inchirierea sau folosirea in orice alta forma a unor asemenea drepturi, poate fi impus in Statul Contractant in care este situata proprietatea imobiliara.

5. Prevederile paragrafelor 1, 3 si 4 se aplica, de asemenea, veniturilor provenind din proprietati imobiliare ale unei intreprinderi si veniturilor din proprietati imobiliare utilizate pentru exercitarea unor profesii independente.

Articolul 7

Profiturile intreprinderii

1. Profiturile unei intreprinderi a unui Stat Contractant sunt impozabile numai in acel stat, in afara de cazul când intreprinderea exercita activitate de afaceri in celalalt Stat Contractant printr-un sediu permanent situat acolo.

Daca intreprinderea exercita activitate de afaceri in acest mod, profiturile intreprinderii pot fi impuse in celalalt stat, dar numai acea parte din ele care este atribuibila acelui sediu permanent.

2. Sub rezerva prevederilor paragrafului 3, când o intreprindere a unui Stat Contractant, exercita activitate de afaceri in celalalt Stat Contractant printr-un sediu permanent situat acolo, atunci se atribuie in fiecare Stat Contractant, acelui sediu permanent, profiturile pe care le-ar fi putut realiza, daca ar fi constituit o intreprindere distincta si separata, exercitând activitati identice sau similare in conditii identice sau similare si tratând cu toata independenta cu intreprinderea al carui sediu permanent este.

3. La determinarea profiturilor unui sediu permanent sunt admise ca deductibile cheltuielile ce pot fi dovedite ca fiind efectuate pentru scopurile urmarite de acest sediu permanent, inclusiv cheltuielile de conducere si cheltuielile generale de administrare efectuate, indiferent de faptul ca s-au efectuat in statul in care se afla situat sediul permanent sau in alta parte. Aceste prevederi sunt aplicabile sub rezerva restrictiilor prevazute de legislatia interna a Statului Contractant in care sediul permanent este situat.

4. In masura in care intr-un Stat Contractant, se obisnuieste ca profitul care se atribuie unui sediu permanent sa fie determinat prin repartizarea profitului total al intreprinderii in diversele sale parti componente, nici o prevedere a paragrafului 2 nu impiedica acest Stat Contractant sa determine profitul impozabil in conformitate cu repartitia uzuala; metoda de repartizare adoptata trebuie, totusi, sa fie aceea prin care rezultatul obtinut sa fie in concordanta cu principiile enuntate in prezentul articol.

5. Nici un profit nu se atribuie unui sediu permanent numai pentru faptul ca acest sediu permanent cumpara produse sau marfuri pentru intreprindere.

6. In vederea aplicarii prevederilor paragrafelor precedente, profitul care se atribuie unui sediu permanent se determina in fiecare an prin aceeasi metoda, in afara de cazul când exista motive temeinice si suficiente de a proceda altfel.

7. Când profiturile includ elemente de venit care sunt tratate separat in alte articole ale prezentei Conventii, prevederile acelor articole nu sunt afectate de prevederile prezentului articol.

Articolul 8

Transporturi navale si aeriene

1. Profiturile unei intreprinderi a unui Stat Contractant obtinute din exploatarea navelor sau aeronavelor in trafic international, sunt impozabile numai in acest stat.

2. Prevederile paragrafului 1 se aplica, de asemenea, profiturilor obtinute din participarea la un pool, la o exploatare in comun sau la o agentie internationala de transporturi.

Articolul 9

Intreprinderi asociate

1. Când

a) o intreprindere a unui Stat Contractant participa, direct sau indirect, la conducerea, controlul sau la capitalul unei intreprinderi a celuilalt Stat Contractant, sau

b) aceleasi persoane participa, direct sau indirect, la conducerea, controlul sau la capitalul unei intreprinderi a unui Stat Contractant si a unei intreprinderi a celuilalt Stat Contractant,

si, in orice caz, cele doua intreprinderi sunt legate in relatiile lor financiare sau comerciale prin conditii acceptate sau impuse, care difera de acelea care ar fi fost stabilite intre intreprinderi independente, atunci profiturile, care fara aceste conditii ar fi fost obtinute de una din intreprinderi, dar nu au putut fi obtinute in fapt datorita acestor conditii, pot fi incluse in profiturile acelei intreprinderi si impuse in consecinta.

2. Când un Stat Contractant include in profiturile unei intreprinderi apartinând acelui -stat si impune in consecinta- profiturile asupra carora o intreprindere a celuilalt Stat Contractant a fost supusa impozitarii in celalalt stat si profiturile astfel incluse sunt profituri care ar fi revenit intreprinderii

primului stat mentionat daca conditiile stabilite intre cele doua intreprinderi ar fi fost acelea care ar fi fost convenite intre intreprinderi independente, atunci celalalt stat va proceda la modificarea corespunzatoare a sumei impozitului stabilit asupra acestor profituri. La efectuarea acestei modificari, se tine seama de celelalte prevederi ale prezentei Conventii si, daca este necesar, autoritatile competente ale Statelor Contractante se vor consulta reciproc.

Articolul 10

Dividende

1. Dividendele platite de o societate care este rezidenta a unui Stat Contractant unui rezident al celuilalt Stat Contractant pot fi impuse in celalalt stat.

2. Totusi, aceste dividende pot fi de asemenea impuse in Statul Contractant in care este rezidenta societatea platitoare de dividende si potrivit legislatiei acestui stat, dar daca beneficiarul efectiv al dividendelor este rezident al celuilalt Stat Contractant, impozitul astfel stabilit nu va depasi 10 la suta din suma bruta a dividendelor.

Prezentul paragraf nu afecteaza impunerea societatii in ce priveste profiturile din care se platesc dividendele.

3. Termenul "dividende" folosit in acest articol inseamna veniturile provenind din actiuni sau alte drepturi, care nu sunt titluri de creanta, din participarea la profituri, precum si veniturile din alte drepturi (inclusiv parti sociale) care sunt supuse aceluiasi regim de impunere ca veniturile din actiuni, de catre legislatia statului in care este rezidenta societatea distribuitoare a dividendelor.

4. Prevederile paragrafelor 1 si 2 nu se aplica daca beneficiarul efectiv al dividendelor, fiind rezident al unui Stat Contractant, desfasoara activitate de afaceri in celalalt Stat Contractant, in care societatea platitoare de dividende este rezidenta, printr-un sediu permanent situat acolo, sau desfasoara in celalalt stat profesii independente printr-o baza fixa situata acolo si detinerea drepturilor generatoare de dividende in legatura cu care dividendele sunt

platite, este efectiv legata de acest sediu permanent sau baza fixa. In aceasta situatie se aplica prevederile articolului 7 sau ale articolului 15, dupa caz.

5. Când o societate rezidenta a unui Stat Contractant realizeaza profituri sau venituri din celalalt Stat Contractant, celalalt stat nu poate percepe nici un impozit asupra dividendelor platite de acea societate, cu exceptia cazului când asemenea dividende sunt platite unui rezident al celuilalt stat sau când detinerea drepturilor generatoare de dividende in legatura cu care dividendele sunt platite este efectiv legata de un sediu permanent sau baza fixa situate in celalalt stat, nici sa supuna profiturile nedistribuite ale societatii unui impozit asupra profiturilor nedistribuite ale societatii, chiar daca dividendele platite sau profiturile nedistribuite reprezinta in intregime sau in parte profituri sau venituri provenind din celalalt stat.

Articolul 11

Dobânzi

1. Dobânzile provenind dintr-un Stat Contractant si platite unui rezident al celuilalt Stat Contractant pot fi impuse in celalalt stat.

2. Totusi, aceste dobânzi pot fi, de asemenea, impuse in Statul Contractant din care provin, potrivit legislatiei acestui stat, dar daca beneficiarul efectiv al dobânzilor este rezident al celuilalt Stat Contractant, impozitul astfel stabilit nu va depasi 10 la suta din suma bruta a dobânzilor.

3. Independent de prevederile paragrafului 2, dobânzile provenind dintr-un Stat Contractant, obtinute si detinute efectiv de Guvernul celuilalt Stat Contractant, inclusiv de autoritatile sale locale sau de unitatile sale administrativ-teritoriale, de Banca Nationala sau de orice institutie financiara detinuta in intregime de acel Guvern, sau dobanzile realizate la imprumuturile garantate de acel Guvern, sunt scutite de impozit in primul stat mentionat.

4. Termenul "dobânzi" astfel cum este folosit in prezentul articol inseamna veniturile din titluri de creanta de orice natura insotite sau nu de garantii ipotecare si in special veniturile din efecte publice si venituri din titluri de creanta sau obligatiuni inclusiv primele si premiile legate de asemenea efecte,

titluri de creanta sau obligatiuni. Penalitatile pentru plata cu intârziere nu sunt considerate dobânzi in sensul prezentului articol.

5. Prevederile paragrafelor 1, 2 si 3 nu se aplica daca beneficiarul efectiv al dobânzilor, fiind un rezident al unui Stat Contractant, desfasoara activitate de afaceri in celalalt Stat Contractant din care provin dobânzile, printr-un sediu permanent situat acolo, sau presteaza in celalalt stat profesii independente printr-o baza fixa situata acolo, iar creanta in legatura cu care sunt platite dobânzile este efectiv legata de un asemenea sediu permanent sau baza fixa. In aceasta situatie se aplica prevederile articolului 7 sau ale articolului 15, dupa caz.

6. Dobânzile se considera ca provin dintr-un Stat Contractant când platitorul este un rezident al acestui stat.Totusi, când persoana platitoare a dobânzilor, fie ca este sau nu rezident al unui Stat Contractant are intr-un Stat Contractant un sediu permanent sau o baza fixa in legatura cu care a fost contractata creanta generatoare de dobânzi si aceste dobânzi se suporta de acest sediu permanent sau baza fixa, atunci aceste dobânzi se considera ca provin din statul in care este situat sediul permanent sau baza fixa.

7. Când datorita relatiilor speciale existente intre platitor si beneficiarul efectiv sau intre ambii si o alta persoana, suma dobânzilor, tinând seama de creanta pentru care sunt platite, depaseste suma care s-ar fi convenit intre platitor si beneficiarul efectiv in lipsa unor astfel de relatii, prevederile prezentului articol se aplica numai la aceasta ultima suma mentionata. In acest caz, partea excedentara a platilor este impozabila potrivit legislatiei fiecarui Stat Contractant, tinând seama de celelalte prevederi ale prezentei Conventii.

Articolul 12

Comisioane

1. Comisioanele provenind dintr-un Stat Contractant si platite unui rezident al celuilalt Stat Contractant pot fi impuse in celalalt stat.

2. Totusi, aceste comisioane pot fi, de asemenea, impuse in Statul Contractant din care provin, potrivit legislatiei acestui stat, dar daca beneficiarul efectiv al comisioanelor este rezident al celuilalt Stat Contractant, impozitul astfel stabilit nu va depasi 2 la suta din suma bruta a comisioanelor.

3. Termenul "comisioane" folosit in prezentul articol, inseamna plati facute catre un broker, agent comisionar general sau oricarei alte persoane asimilate unui broker sau unui agent, de catre legislatia fiscala a Statului Contractant din care provin asemenea plati.

4. Prevederilor paragrafelor 1 si 2 nu se aplica daca beneficiarul efectiv al comisioanelor, fiind un rezident al unui Stat Contractant desfasoara o activitate de afaceri in celalalt Stat Contractant din care provin comisioanele, printr-un sediu permanent situat acolo sau presteaza in celalalt stat profesii independente printr-o baza fixa situata acolo, iar activitatile pentru care se platesc comisioanele sunt efectiv legate de un asemenea sediu permanent sau baza fixa. In aceasta situatie se aplica prevederile articolului 7 sau ale articolului 15, dupa caz.

5. Comisioanele se considera ca provin dintr-un Stat Contractant cand platitorul este un rezident al acestui stat. Totusi, cand platitorul comisioanelor, fie ca este sau nu rezident al unui Stat Contractant, are intr-un Stat Contractant un sediu permanent sau o baza fixa de care sunt legate activitatile care genereaza obligatia de a plati comisioanele si aceste comisioane se suporta de acest sediu permanent sau baza fixa, atunci aceste comisioane se considera ca provin din Statul Contractant in care este situat sediul permanent sau baza fixa.

6. Cand, datorita relatiilor speciale existente intre platitor si beneficiarul efectiv sau intre ambii si o alta persoana, suma comisioanelor, tinand seama de activitatile pentru care sunt platite, depaseste suma care s-ar fi convenit intre platitor si beneficiarul efectiv in lipsa unor astfel de relatii, prevederile prezentului articol se aplica numai la aceasta ultima suma mentionata. In acest caz, partea excedentara a platilor este impozabila potrivit legislatiei

fiecarui Stat Contractant, tinand seama de celelalte prevederi ale prezentei Conventii.

Articolul 13

Redevente

1. Redeventele provenind dintr-un Stat Contractant si platite unui rezident al celuilalt Stat Contractant pot fi impuse in celalalt stat.

2. Totusi, aceste redevente pot fi, de asemenea, impuse in Statul Contractant din care provin, potrivit legislatiei acestui stat, dar daca beneficiarul efectiv al redeventelor este rezident al celuilalt Stat Contractant, impozitul astfel stabilit nu va depasi 10 la suta din suma bruta a redeventelor.

3. Termenul "redevente" folosit in prezentul articol inseamna plati de orice fel primite pentru folosirea sau dreptul de a folosi orice drept de autor asupra unei opere literare, artistice sau stiintifice (inclusiv asupra filmelor de cinematograf si filmelor sau benzilor folosite pentru emisiunile de radio sau televiziune, transmisiilor destinate publicului prin satelit, cablu, fibre optice sau tehnologie similara), orice patent, marca de comert, desen sau model, plan, formula sau procedeu de fabricatie secrete sau pentru utilizarea sau dreptul de a utiliza orice echipament industrial, comercial sau stiintific, ori pentru informatii referitoare la experienta in domeniul industrial, comercial sau stiintific.

4. Prevederile paragrafelor 1 si 2 nu se aplica daca beneficiarul efectiv al redeventelor, fiind un rezident al unui Stat Contractant, desfasoara activitate de afaceri in celalalt Stat Contractant din care provin redeventele, printr-un sediu permanent situat acolo sau presteaza in celalalt stat profesii independente printr-o baza fixa situata acolo, iar dreptul sau proprietatea pentru care se platesc redeventele sunt efectiv legate de un asemenea sediu permanent sau baza fixa. In aceasta situatie se aplica prevederile articolului 7 sau ale articolului 15, dupa caz.

5. Redeventele se considera ca provin dintr-un Stat Contractant când platitorul este un rezident al acestui stat. Totusi, când platitorul redeventelor,

fie ca este sau nu rezident al unui Stat Contractant, are intr-un Stat Contractant un sediu permanent sau o baza fixa de care este legata obligatia de a plati redeventele si aceste redevente sunt suportate de acest sediu permanent sau baza fixa, atunci aceste redevente se considera ca provin din Statul Contractant in care este situat sediul permanent sau baza fixa.

6. Când, datorita relatiilor speciale existente intre platitor si beneficiarul efectiv sau intre ambii si o alta persoana, suma redeventelor, având in vedere utilizarea, dreptul sau informatia pentru care sunt platite, depaseste suma care s-ar fi convenit intre platitor si beneficiarul efectiv in lipsa unor astfel de relatii, prevederile prezentului articol se aplica numai la aceasta ultima suma mentionata. In acest caz, partea excedentara a platilor este impozabila potrivit legislatiei fiecarui Stat Contractant, tinând seama de celelalte prevederi ale prezentei Conventii.

Articolul 14

Câstiguri de capital

1. Câstigurile sau veniturile realizate de un rezident al unui Stat Contractant din instrainarea proprietatilor imobiliare, astfel cum sunt definite la articolul 6, situate in celalalt Stat Contractant sau actiunile la o societate al carei capital consta in principal in asemenea proprietati pot fi impuse in celalalt stat.

2. Câstigurile provenind din instrainarea proprietatii mobiliare facând parte din activul unui sediu permanent pe care o intreprindere a unui Stat Contractant il are in celalalt Stat Contractant sau a proprietatii mobiliare tinând de o baza fixa de care dispune un rezident al unui Stat Contractant in celalalt Stat Contractant pentru exercitarea unor profesii independente, inclusiv câstigurile provenind din instrainarea unui asemenea sediu permanent (singur sau cu intreaga intreprindere) sau a acelei baze fixe, pot fi impuse in celalalt stat.

3. Câstigurile realizate de o intreprindere a unui Stat Contractant din instrainarea navelor sau aeronavelor exploatate in trafic international, de acea

intreprindere sau a proprietatilor mobiliare necesare exploatarii acestor nave sau aeronave sunt impozabile numai in acest stat.

4. Câstigurile obtinute din instrainarea oricaror proprietati, altele decât cele la care se face referire in paragrafele 1, 2 si 3, sunt impozabile numai in Statul Contractant in care este rezident cel care instraineaza.

Articolul 15

Profesii independente

1. Veniturile realizate de o persoana fizica care este rezidenta a unui Stat Contractant din exercitarea unei profesii independente sau a altor activitati cu caracter independent sunt impozabile numai in acest Stat Contractant. Dar aceste venituri pot fi impuse, de asemenea, in celalalt Stat Contractant:

a) daca are o baza fixa in mod obisnuit la dispozitia sa in celalalt Stat Contractant in scopul exercitarii activitatilor sale; dar numai acea parte din venit care este atribuibila acelei baze fixe;

b) daca sta in celalalt Stat Contractant o perioada sau perioade ce depasesc in total 183 de zile in orice perioada de 12 luni incepand sau sfarsind in anul fiscal vizat; in acest caz, numai acea parte din venit care este obtinuta din activitatile sale desfasurate in celalalt Stat Contractant.

2. Expresia "profesii independente" cuprinde in special activitatile independente de ordin stiintific, literar, artistic, educativ sau pedagogic, precum si exercitarea independenta a profesiilor de medic, avocat, inginer, arhitect, dentist si contabil.

Articolul 16

Profesii dependente

1. Sub rezerva prevederilor articolelor 17, 19, 20 si 22, salariile si alte remuneratii similare obtinute de un rezident al unui Stat Contractant pentru o activitate salariata sunt impozabile numai in acel stat, in afara de cazul când activitatea salariata este exercitata in celalalt Stat Contractant. Daca

activitatea salariata este astfel exercitata, remuneratiile primite pentru aceasta activitate, pot fi impuse in celalalt stat.

2. Independent de prevederile paragrafului 1, remuneratiile obtinute de un rezident al unui Stat Contractant pentru o activitate salariata exercitata in celalalt Stat Contractant sunt impozabile numai in primul stat mentionat daca :

a) beneficiarul este prezent in celalalt stat pentru o perioada sau perioade care nu depasesc in total 183 de zile in orice perioada de 12 luni, incepând sau sfârsind in anul fiscal vizat; si

b) remuneratiile sunt platite de o persoana sau in numele unei persoane care angajeaza si care nu este rezidenta a celuilalt stat; si

c) remuneratiile nu sunt suportate de un sediu permanent sau de o baza fixa pe care cel care angajeaza le are in celalalt stat.

3. Independent de prevederile precedente ale acestui articol, remuneratiile primite pentru o activitate salariata exercitata la bordul unei nave sau aeronave exploatate in trafic international de o intreprindere a unui Stat Contractant pot fi impuse in acest stat.

Articolul 17

Remuneratiile membrilor Consiliului de Administratie

Remuneratiile si alte plati similare primite de un rezident al unui Stat Contractant in calitatea sa de membru al consiliului de administratie sau al oricarui alt organ similar al unei societati care este rezidenta a celuilalt Stat Contractant pot fi impuse in celalalt stat.

Articolul 18

Artisti si sportivi

1. Independent de prevederile articolelor 15 si 16, veniturile obtinute de un rezident al unui Stat Contractant in calitate de artist de spectacol cum este artistul de teatru, de film, de radio sau televiziune, ori ca interpret muzical, sau ca sportiv, din activitatile sale personale desfasurate in aceasta calitate in celalalt Stat Contractant, pot fi impuse in celalalt stat.

2. Când veniturile in legatura cu activitatile personale desfasurate de un artist de spectacol sau de un sportiv in aceasta calitate, nu revin artistului de spectacol sau sportivului ci unei alte persoane, acele venituri, independent de prevederile articolelor 7, 15 si 16 pot fi impuse in Statul Contractant in care sunt exercitate activitatile artistului de spectacol sau ale sportivului.

3. Prevederile paragrafelor 1 si 2 nu se aplica veniturilor obtinute din activitatile exercitate intr-un Stat Contractant de un artist de spectacol sau de un sportiv daca vizita in acel stat este in intregime sau in principal suportata din fonduri publice ale unuia sau ale ambelor State Contractante sau ale autoritatilor lor locale ori ale unitatilor lor administrativ-teritoriale. In acest caz, veniturile vor fi impozabile numai in Statul Contractant in care artistul de spectacol sau sportivul este rezident.

Articolul 19

Pensii

1. Sub rezerva prevederilor paragrafului 2 al articolului 20, pensiile, anuitatile si alte remuneratii similare platite unui rezident al unui Stat Contractant pentru munca salariata desfasurata in trecut sunt impozabile numai in acest stat.

2. Independent de prevederile paragrafului 1, pensiile si alte plati similare facute in cadrul legislatiei referitoare la asigurarile sociale a unui Stat Contractant sunt impozabile numai in acest stat.

3. Termenul "anuitate" inseamna o suma determinata, platibila unei persoane fizice, in mod periodic la scadente fixe in timpul vietii sau in timpul unei perioade specificate sau determinabile, in virtutea unui angajament, cu obligatia de a face in schimb plati pentru deplina si corespunzatoare recompensare in bani sau in echivalent banesc.

Articolul 20

Functii publice

1. a) Salariile si alte remuneratii similare, altele decât pensiile, platite de un Stat Contractant sau de o autoritate locala sau de o unitate

administrativ-teritoriala a acestuia unei persoane fizice pentru serviciile prestate acestui stat sau autoritati sau unitati sunt impozabile numai in acest stat.

b) Totusi, aceste salarii si alte remuneratii similare sunt impozabile numai in celalalt Stat Contractant, daca serviciile sunt prestate in acel stat si persoana fizica este rezidenta a acelui stat, si

(i) este un national al acelui stat, sau

(ii) nu a devenit rezidenta a acelui stat numai in scopul prestarii serviciilor.

2. a) Pensiile platite de, sau din fonduri create de un Stat Contractant sau de o autoritate locala sau de o unitate administrativ-teritoriala a acestuia unei persoane fizice pentru serviciile prestate acestui stat sau acestei autoritati ori acestei unitati sunt impozabile numai in acest stat.

b) Totusi, aceste pensii sunt impozabile numai in celalalt Stat Contractant, daca persoana fizica este rezidenta si national al acelui stat.

3. Prevederile articolelor 16, 17 si 19 se aplica salariilor si altor remuneratii similare si pensiilor platite pentru serviciile prestate in legatura cu o activitate de afaceri desfasurata de un Stat Contractant sau de o autoritate locala sau de o unitate administrativ-teritoriala a acestuia.

Articolul 21

Studenti si practicanti

Sumele pe care le primeste pentru intretinere, educare sau pregatire un student sau un practicant sau un stagiar care este sau a fost rezident al celuilalt Stat Contractant imediat anterior venirii sale intr-un Stat Contractant si care este prezent in primul Stat mentionat numai in scopul educarii sau pregatirii sale, nu sunt impozabile in acel stat, cu conditia ca astfel de sume sa provina din surse aflate in afara acelui stat.

Articolul 22

Profesori si cercetatori

1. O persoana fizica care viziteaza un Stat Contractant pentru a preda sau a desfasura activitati de cercetare la o universitate, colegiu sau alta unitate de invatamant recunoscuta in acel Stat Contractant si care este sau a fost imediat inainte de aceasta vizita, un rezident al celuilalt Stat Contractant, va fi scutita de impozit in primul Stat Contractant mentionat pentru remuneratiile obtinute pentru predare sau cercetare, pentru o perioada care nu depaseste 2 ani de la data primei sale sosiri in scopul de a preda sau a cerceta.

2. Prevederile paragrafului 1 nu se aplica venitului din cercetare, daca asemenea cercetare nu este intreprinsa in interes public ci in interesul obtinerii unui câstig in folosul unei anumite persoane sau al unui grup de persoane.

Articolul 23

Alte venituri

1. Elementele de venit ale unui rezident al unui Stat Contractant, indiferent de unde provin, care nu sunt tratate la articolele precedente ale prezentei Conventii sunt impozabile numai in acel stat.

2. Prevederile paragrafului 1 nu se vor aplica asupra veniturilor, altele decât veniturile provenind din proprietatile imobiliare asa cum sunt definite in paragraful 2 al articolului 6, daca primitorul unor astfel de venituri, fiind rezident al unui Stat Contractant, desfasoara activitate de afaceri in celalalt Stat Contractant printr-un sediu permanent situat acolo, sau exercita in celalalt stat profesii independente printr-o baza fixa situata acolo si dreptul sau proprietatea in legatura cu care veniturile sunt platite este efectiv legat de un asemenea sediu permanent sau baza fixa. In aceasta situatie se aplica prevederile articolului 7 sau ale articolului 15, dupa caz.

Articolul 24

Capital

1. Capitalul constituit din proprietati imobiliare la care se face referire la articolul 6, detinut de un rezident al unui Stat Contractant si care este situat in celalalt Stat Contractant poate fi impus in celalalt stat.

2. Capitalul reprezentat de proprietati mobiliare facând parte din activul unui sediu permanent pe care o intreprindere a unui Stat Contractant il are in celalalt Stat Contractant sau de proprietati mobiliare apartinând unei baze fixe pe care un rezident al unui Stat Contractant o are in celalalt Stat Contractant pentru exercitarea unei profesii independente, poate fi impus in celalalt stat.

3. Capitalul constituit din nave si aeronave exploatate de o intreprindere a unui Stat Contractant in trafic international si de proprietatile mobiliare tinând de exploatarea unor asemenea nave si aeronave sunt impozabile numai in acest stat.

4. Toate celelalte elemente de capital ale unui rezident al unui Stat Contractant sunt impozabile numai in acest stat.

Articolul 25

Eliminarea dublei impuneri

1. In cazul României, dubla impunere va fi eliminata dupa cum urmeaza:

Când un rezident al României realizeaza venituri sau detine capital care, in conformitate cu prevederile acestei Conventii pot fi impozitate in Estonia, România va acorda:

a) ca o deducere din impozitul pe venitul acelui rezident, o suma egala cu impozitul pe venit platit in Estonia;

b) ca o deducere din impozitul pe capitalul acelui rezident, o suma egala cu impozitul pe capital platit in Estonia.

Totusi, aceasta deducere nu va depasi in nici un caz, acea parte a impozitului pe venit sau a impozitului pe capital, astfel cum este calculata inainte ca deducerea sa fie acordata, care este atribuibila, dupa caz, venitului sau capitalului care poate fi impozitat in Estonia.

2. In cazul Estoniei, dubla impunere va fi eliminata dupa cum urmeaza:

a) Când un rezident al Estoniei realizeaza venituri sau detine capital care, in conformitate cu acesta Conventie pot fi impozitate in România, in afara cazului in care in legislatia sa interna se prevede un tratament mai favorabil, Estonia va acorda:

i) ca o deducere din impozitul pe venitul acelui rezident, o suma egala cu impozitul pe venit platit in Romania;

ii) ca o deducere din impozitul pe capitalul acelui rezident, o suma egala cu impozitul pe capital platit in Romania.

Totusi, aceasta deducere nu va depasi in nici un caz, acea parte a impozitului pe venit sau a impozitului pe capital in Estonia, astfel cum este calculata inainte ca deducerea sa fie acordata, care este atribuibila, dupa caz, venitului sau capitalului care poate fi impozitat in Romania.

b) In sensul subparagrafului a), cand o societate care este rezidenta a Estoniei primeste un dividend de la o societate care este rezidenta a Romaniei in care detine cel putin 10% din actiunile sale avand drepturi depline de vot, impozitul platit in Romania va include nu numai impozitul platit pe dividend, ci si partea aferenta impozitului platit pe profiturile companiei din care a fost platit dividendul.

Articolul 26

Nediscriminarea

1. Nationalii unui Stat Contractant nu vor fi supusi in celalalt Stat Contractant la nici o impozitare sau obligatie legata de aceasta, diferita sau mai impovaratoare decât impozitarea si obligatia la care sunt sau pot fi supusi nationalii celuilalt stat aflati in aceeasi situatie, mai ales in ceea ce priveste rezidenta. Aceasta prevedere, independent de prevederile articolului 1, se aplica de asemenea persoanelor care nu sunt rezidente ale unuia sau ale ambelor State Contractante.

2. Impunerea unui sediu permanent pe care o intreprindere a unui Stat Contractant il are in celalalt Stat Contractant nu va fi stabilita in conditii mai

putin favorabile in celalalt Stat Contractant, decât impunerea stabilita intreprinderilor ceuilalt stat care desfasoara aceleasi activitati. Aceasta prevedere nu va fi interpretata ca obligând un Stat Contractant sa acorde rezidentilor celuilalt Stat Contractant nici o deducere personala, inlesnire sau reducere in ce priveste impunerea, pe considerente privind statutul civil ori responsabilitatile familiale pe care le acorda rezidentilor sai.

3. Cu exceptia cazului când se aplica prevederile paragrafului 1 al articolului 9, paragrafului 7 al articolului 11, paragrafului 6 al articolului 12 ori paragrafului 6 al articolului 13, dobânzile, comisioanele, redeventele si alte plati facute de o intreprindere a unui Stat Contractant unui rezident al celuilalt Stat Contractant se vor deduce, in scopul determinarii profiturilor impozabile ale unei asemenea intreprinderi, in aceleasi conditii ca si cum ar fi fost platite unui rezident al primului stat mentionat. In mod similar, orice datorii ale unei intreprinderi a unui Stat Contractant fata de un rezident al celuilalt Stat Contractant vor fi deductibile, in vederea determinarii capitalului impozabil al acestei intreprinderi, in aceleasi conditii ca si când ar fi fost contractate fata de un rezident al primului stat mentionat.

4. Intreprinderile unui Stat Contractant, al caror capital este integral sau partial detinut sau controlat in mod direct sau indirect, de unul sau de mai multi rezidenti ai celuilalt Stat Contractant, nu vor fi supuse in primul stat mentionat, nici unei impuneri sau nici unei obligatii legata de aceasta, care sa fie diferita sau mai impovaratoare decât impunerea si obligatiile legate de aceasta, la care sunt sau pot fi supuse alte intreprinderi similare ale primului stat mentionat.

5. Prevederile prezentului articol se aplica, independent de prevederile articolului 2, impozitelor de orice fel si natura.

Articolul 27

Procedura amiabila

1. Când o persoana considera ca datorita masurilor luate de unul sau de ambele State Contractante rezulta sau va rezulta pentru ea o impozitare care

nu este conforma cu prevederile prezentei Conventii, ea poate, indiferent de caile de atac prevazute de legislatia interna a acestor state, sa supuna cazul sau autoritatii competente a Statului Contractant al carui rezident este sau, daca situatia sa se incadreaza in prevederile paragrafului 1 al articolului 26, acelui Stat Contractant al carui national este. Cazul trebuie prezentat in trei ani de la prima notificare a actiunii din care rezulta o impunere contrara prevederilor Conventiei.

2. Autoritatea competenta se va stradui, daca reclamatia ii pare intemeiata si daca ea insasi nu este in masura sa ajunga la o solutionare corespunzatoare, sa rezolve cazul pe calea unei intelegeri amiabile cu autoritatea competenta a celuilalt Stat Contractant, in vederea evitarii unei impozitari care nu este in conformitate cu Conventia. Orice intelegere realizata va fi aplicata indiferent de perioada de prescriptie prevazuta in legislatia interna a Statelor Contractante.

3. Autoritatile competente ale Statelor Contractante se vor stradui sa rezolve pe calea intelegerii amiabile orice dificultati sau dubii rezultate ca urmare a interpretarii sau aplicarii acestei Conventii. De asemenea, se pot consulta reciproc pentru evitarea dublei impuneri in cazurile neprevazute de Conventie.

4. Autoritatile competente ale Statelor Contractante pot comunica direct intre ele, in scopul realizarii unei intelegeri, in sensul paragrafelor precedente. Când, pentru a se ajunge la o intelegere apare necesar un schimb oral de opinii, un atare schimb poate avea loc prin intermediul unei comisii formata din reprezentanti ai autoritatilor competente ale Statelor Contractante.

Articolul 28

Schimb de informatii

1. Autoritatile competente ale Statelor Contractante vor face schimb de informatii necesare aplicarii prevederilor prezentei Conventii sau ale legislatiilor interne ale Statelor Contractante privitoare la impozitele vizate de Conventie, in masura in care impozitarea la care se refera nu este contrara

prevederilor Conventiei. Schimbul de informatii nu este limitat de prevederile articolului 1. Orice informatie obtinuta de un Stat Contractant va fi tratata ca secret in acelasi mod ca si informatia obtinuta conform prevederilor legislatiei interne a acestui stat si va fi dezvaluita numai persoanelor sau autoritatilor (inclusiv la instante judecatoresti si organe administrative) insarcinate cu stabilirea sau incasarea, aplicarea ori urmarirea impozitelor sau solutionarea contestatiilor cu privire la impozitele care fac obiectul Conventiei. Asemenea persoane sau autoritati vor folosi informatia numai in aceste scopuri. Acestea pot dezvalui informatia in procedurile judecatoresti sau deciziile judiciare.

2. Prevederile paragrafului 1 nu vor fi interpretate ca impunând unui Stat Contractant obligatia:

a) de a lua masuri administrative contrare propriei legislatii si practicii administrative a acelui sau a celuilalt Stat Contractant;

b) de a furniza informatii care nu pot fi obtinute pe baza legislatiei proprii sau in cadrul practicii administrative normale a acelui sau a celuilalt Stat Contractant;

c) de a furniza informatii care ar dezvalui un secret comercial, de afaceri, industrial, profesional sau un procedeu comercial ori informatii a caror divulgare ar fi contrara ordinii publice (ordre public).

Articolul 29

Membrii misiunilor diplomatice si ai posturilor consulare

Prevederile prezentei Conventii nu vor afecta privilegiile fiscale de care beneficiaza membrii misiunilor diplomatice sau ai posturilor consulare in virtutea regulilor generale ale dreptului international, sau a prevederilor unor acorduri speciale.

Articolul 30

Intrarea in vigoare

Prezenta Conventie va intra in vigoare la data ultimei notificari prin care Statele Contractante se informeaza reciproc asupra indeplinirii procedurilor legale interne necesare intrarii sale in vigoare. Prevederile acestei Conventii vor incepe sa produca efecte:

a) In cazul României:

(i) in ceea ce priveste impozitele retinute prin stopaj la sursa, la venitul realizat la sau dupa prima zi a lunii ianuarie a anului calendarisitic imediat urmator anului in care Conventia intra in vigoare;

(ii) in ceea ce priveste celelalte impozite pe profit, venit si pe capital, pentru impozitele percepute in fiecare an fiscal incepand la sau dupa prima zi a lunii ianuarie a anului calendaristic imediat urmator anului in care Conventia intra in vigoare;

b) In cazul Estoniei:

(i) in ceea ce priveste impozitele retinute prin stopaj la sursa, la venitul realizat la sau dupa prima zi a lunii ianuarie a anului calendarisitic imediat urmator anului in care Conventia intra in vigoare;

(ii) in ceea ce priveste celelalte impozite pe venit si impozite pe capital, pentru impozitele percepute in fiecare an fiscal incepand la sau dupa prima zi a lunii ianuarie a anului calendaristic imediat urmator anului in care Conventia intra in vigoare.

Articolul 31

Denuntarea

Prezenta conventie va ramâne in vigoare pana cand va fi denuntata de un Stat Contractant. Fiecare Stat Contractant poate denunta conventia pe cai diplomatice, prin remiterea unei note de denuntare scrisa cu cel putin 6 luni inainte de sfarsitul oricarui an calendaristic. In aceasta situatie prezenta Conventie va inceta sa aiba efect:

a) In cazul României:

(i) in ceea ce priveste impozitele retinute prin stopaj la sursa la venitul realizat la sau dupa prima zi a lunii ianuarie a anului calendaristic imediat urmator anului in care a fost remisa nota de denuntare;

(ii) in ceea ce priveste celelalte impozite pe profit, venit si pe capital, pentru impozitele percepute in fiecare an fiscal incepand la sau dupa prima zi a lunii ianuarie a anului calendaristic imediat urmator anului in care a fost remisa nota de denuntare;

b) In cazul Estoniei:

(i) in ceea ce priveste impozitele retinute prin stopaj la sursa la venitul realizat la sau dupa prima zi a lunii ianuarie a anului calendaristic imediat urmator anului in care a fost remisa nota de denuntare;

(ii) in ceea ce priveste celelalte impozite pe venit si impozite pe capital, pentru impozitele percepute in fiecare an fiscal incepand la sau dupa prima zi a lunii ianuarie a anului calendaristic imediat urmator anului in care a fost remisa nota de denuntare.

DREPT CARE, subsemnatii, autorizati in buna si cuvenita forma au semnat prezenta Conventie.

Semnata la Bucuresti, la 23 octombrie 2003 in doua exemplare originale in limbile româna, estoniana si engleza, toate textele fiind egal autentice. In caz de divergente in interpretare, textul in limba engleza va prevala.

Pentru Romania
Ministrul Finantelor Publice

Mihai Nicolae Tanasescu

Pentru Republica Estonia
Secretar de Stat in subordinea Premierului

Heiki Loot

Conform cu originalul semnat,

ROMANIA
Ministerul Finantelor Publice
Directia Generală de Politici si Legislatie privind Veniturile Bugetului General Consolidat

CONVENTION

BETWEEN ROMANIA AND THE REPUBLIC OF ESTONIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

Romania and The Republic of Estonia, desiring to promote and strengthen the economic relations by concluding 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

PERSONS COVERED

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 a Contracting State or of its local authorities or its administrative-territorial units, 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 elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) in the case of Romania:

(i) the tax on income derived by individuals;
(ii) the tax on profit;
(iii) the tax on salaries and other similar remuneration;
(iv) the tax on agricultural income;
(v) the tax on dividends;
(vi) the tax on buildings;
(vii) the tax on land;
(hereinafter referred to as "Romanian tax").

b) in the case of Estonia:

(i) the income tax (tulumaks);
(ii) the land tax (maamaks);
(hereinafter referred to as "Estonian tax");

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial 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 "a Contracting State" and "the other Contracting State" mean Romania or Estonia as the context requires;

b) the term "Romania" means the state territory of Romania, including its territorial sea and air space over the territory and the territorial sea over which Romania exercises sovereignty,as well as the contiguous zone and the continental shelf and the exclusive economic zone over which Romania exercises, in accordance with its legislation and with the rules and principles of international law, sovereign rights and jurisdiction;

c) the term "Estonia" means the Republic of Estonia and, when used in the geographical sense, means the territory of Estonia and any other area adjacent to the territorial waters of Estonia within which under the laws of Estonia and in accordance with international law, the rights of Estonia may be exercised with respect to the sea bed and its sub-soil and their natural resources;

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

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 or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

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h) the term "competent authority" means:

(i) in the case of Romania, the Minister of Finance or his authorised representative;
(ii) in the case of Estonia, the Minister of Finance or his authorised representative;

i) the term "national" means:

(i) in the case of Romania, any individual possessing the citizenship of Romania and any legal person, body of persons and any other entity deriving its status as such from the laws in force in Romania;
(ii) in the case of Estonia, any individual possessing the nationality of Estonia and any legal person, partnership or association deriving its status as such from the laws in force in Estonia.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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, place of incorporation or any other criterion of a similar nature, and also includes that State and any local authority or administrative-territorial unit thereof. This term, however, 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 only 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 only of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which he has his centre 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 only 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 only of the State of which he is a national;

d) if he is a national 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, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement and determine the mode of application of the Convention to such person.

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

3. A building site, a construction, assembly or installation project or a supervisory or consultancy activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than six 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 of 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) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it sells goods or merchandise belonging to the enterprise displayed in the frame of a temporary fair or exhibition at the closing of the said fair or exhibition.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 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 paragraphs 4 and 5 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.

7. 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.

8. 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 and aircraft shall not be regarded as immovable property.

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

4. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1, 3 and 4 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. This provision shall apply subject to limitations under domestic law of the Contracting State in which the permanent establishment is situated.

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

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

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

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 made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then 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 charged to tax 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 made between the two enterprises had been those which would have been made 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other rights (including 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 business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such 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 whi it arises and according to the laws of that State, but if the beneficial owner of interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State, derived and beneficially owned by the Government of the other Contracting State, including its local authorities or administrative-territorial units, the Central Bank or any financial institution wholly owned by that Government, or interest derived on loans guaranteed by that Government shall be exempt from tax in the first-mentioned 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 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 business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such 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 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

COMMISSION

1. Commission arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such commission may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the commission is a resident of the other Contracting State, the tax so charged shall not exceed 2 per cent of the gross amount of the commission.

3. The term "commission" as used in this Article means a payment made to a broker, a general commission agent or to any other person considered to be a broker or agent by the taxation law of the Contracting State in which such payment arises.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the commission, being a resident of a Contracting State, carries on business in the other Contracting State in which the commissions arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the activities in respect of which the commission 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.

5. Commission shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the commission, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the activities for which the payment is made was incurred, and such commission is borne by such permanent establishment or fixed base, then such commission 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 the commission, having regard to the activities 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 13

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent 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, and films or tapes for radio or television broadcasting, transmission to the public by satellite, cable, optic fibre or similar technology), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, any industrial, commercial 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 business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or perfoms 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 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 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 the royalties, 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 14

CAPITAL GAINS

1. Gains or income 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 or shares in a company the assets of which consist mainly of such property 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 derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic by that enterprise or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

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 an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State. But such income may also be taxed in the other Contracting State:

a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; but only so much of the income as is attributable to that fixed base;

b) if his stay in the other Contracting State is for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other Contracting State.

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 Article 17, 19, 20 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 any twelve month period commencing or ending 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 remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

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 any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 18

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or their local authorities or administrative-territorial units. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

Article 19

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 20, pensions, annuities 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 similar payments made under the social security legislation of a Contracting State shall be taxable only in that State.

3. The term "annuity" means a stated sum payable to an individual periodically at stated times during his life or during a specified or ascertainable period of time under a commitment with an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 20

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a local authority or an administrative-territorial unit thereof to an individual in respect of services rendered to that State or authority or unit shall be taxable only in that State.

   b) However, such salaries, wages and other similar 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 of that State; or
      (ii) did not become a resident of that State solely for the purpose of rendering the services.

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

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

3. The provisions of Articles 16, 17 and 19 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a local authority or an administrative-territorial unit thereof.

Article 21

STUDENTS AND TRAINEES

Payments which a student or an apprentice or a trainee 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, provided that such payments arise from sources outside that State.

Article 22

PROFESSORS AND RESEARCHERS

1. An individual who visits a Contracting State for the purpose of teaching or carrying out research at a university, college or other recognized educational institution in that Contracting State and who is or was immediately before that visit a resident of the other Contracting State , shall be exempted from taxation in the first-mentioned Contracting State on remuneration for such teaching or research for a period not exceeding two years from the date of his first visit for that purpose.

2. The provisions of paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

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 business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such 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 and aircraft operated in international traffic by an enterprise of a Contracting State, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 25

ELIMINATION OF DOUBLE TAXATION

1. In the case of Romania double taxation shall be eliminated as follows:

   Where a resident of Romania derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Estonia, Romania shall allow:

   a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Estonia;

   b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Estonia.

   Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Estonia.

2. In the case of Estonia double taxation shall be eliminated as follows:

   a) Where a resident of Estonia derives income or owns capital which, in accordance with this Convention, may be taxed in Romania, unless a more favourable treatment is provided in its domestic law, Estonia shall allow:

      (i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in Romania;
      (ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid thereon in Romania.

   Such deduction in either case shall not, however, exceed that part of the income tax or capital tax in Estonia as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Romania.

b) For the purpose of subparagraph a), where a company that is a resident of Estonia receives a dividend from a company that is a resident of Romania in which it owns at least 10 per cent of its shares having full voting rights, the tax paid in Romania shall include not only the tax paid on the dividend, but also the appropriate portion of the tax paid on the underlying profits of the company out of which the dividend was paid.

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, in particular with respect to residence, are or 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 favourably 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 or paragraph 6 of Article 13, apply, interest, commission, 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 of 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. 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 endeavour, 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 endeavour 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 in the sense of 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) concerned with 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 trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 29

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

Article 30

ENTRY INTO FORCE

The Convention shall enter into force on the date of the later of the notifications indicating that the constitutional requirements for the entry into force of this Convention in each Contracting State have been complied with. The provisions of the Convention shall have effect:

a) in the case of Romania:

(i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

(ii) in respect of other taxes on profit, income and on capital, for taxes chargeable for any tax year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

b) in the case of Estonia:

(i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

(ii) in respect of other taxes on income, and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

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 written notice of termination at least six months before the end of any calendar year. In such event, the Convention shall cease to have effect:

a) in the case of Romania:

(i) in respect of taxes withheld at the source, on income derived on or after the first day of January in the calendar year next following the year in which the notice has been given;

(ii) in respect of other taxes on profit, income and on capital, for taxes chargeable for any tax year beginning on or after the first day of January in the calendar year next following the year in which the notice has been given.

b) in the case of Estonia:

(i) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice has been given;

(ii) in respect of other taxes on income, and taxes on capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice has been given;

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Bucharest, this 23rd day of October 2003 in two original versions in the Romanian, Estonian and English languages, all texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

For Romania	For the Republic of Estonia
Mihai Nicolae Tanasescu	Heiki Loot

ROMANIA
Direcţie Generală de Politici şi Legislaţie privind Veniturile Bugetului General Consolidat
MINISTERUL FINANŢELOR PUBLICE

Rumeenia
ja
Eesti Vabariigi
vaheline
tulu- ja kapitalimaksudega topeltmaksustamise vältimise ning maksudest hoidumise tõkestamise leping

Rumeenia ja Eesti Vabariik, soovides edendada ja tugevdada majandussuhteid ning sõlmides selleks tulu- ja kapitalimaksudega topeltmaksustamise vältimise ja maksudest hoidumise tõkestamise lepingu, on kokku leppinud järgmises.

Artikkel 1
Lepingu subjekt

Leping kehtib selle isiku kohta, kes on ühe või mõlema lepinguosalise riigi resident.

Artikkel 2
Lepingu ese

1. Leping kehtib lepinguosalise riigi ja selle kohaliku omavalitsuse või muu haldusüksuse kehtestatud tulu- ja kapitalimaksude kohta, sõltumata nende sissenõudmise viisist.

2. Tulu- ja kapitalimaksuna käsitatakse tulult või kapitalilt või nende osadelt võetavat maksu, mis hõlmab vallas- või kinnisvara võõrandamisest saadud kasult võetava maksu ning vara väärtuse kasvult võetava maksu.

3. Maksud, mille kohta leping eelkõige kehtib, on:

a) Rumeenias:

(i) füüsilise isiku tulumaks;
(ii) kasumimaks;
(iii) maks palgalt ja muult tasult;
(iv) maks põllumajandustulult;
(v) dividendimaks;
(vi) ehitisemaks;
(vii) maamaks;
(edaspidi Rumeenia maks);

b) Eestis:

(i) tulumaks;
(ii) maamaks;
(edaspidi Eesti maks).

4. Lepingut kohaldatakse ka samasele või sama laadi maksule, mis kehtestatakse olemasoleva maksu asemele või sellele lisaks pärast lepingu allakirjutamist. Lepinguosaliste riikide pädevad ametiisikud teevad teineteisele teatavaks asjaomaste maksuseaduste iga tähtsa muudatuse.

Artikkel 3
Põhimõisted

1. Kui kontekst ei nõua teisiti, kasutatakse selles lepingus mõisteid järgmises tähenduses:

a) lepinguosaline riik ja teine lepinguoaline riik on kontekstist olenevalt kas Rumeenia või Eesti;

b) Rumeenia tähendab Rumeenia territooriumi ja Rumeenia territoriaalmerd ning õhuruumi maa ja mere kohal, majandusvööndit, ning mandrilava ja sellega külgnevaid alasid, kus Rumeenia võib Rumeenia seaduste ja rahvusvahelise õiguse kohaselt teostada oma õigust;

c) Eesti tähendab Eesti Vabariiki ja geograafilises mõttes Eesti territooriumi ning Eesti territoriaalvetega külgnevaid alasid, kus Eesti võib Eesti seaduste ja rahvusvahelise õiguse kohaselt teostada oma õigust merepõhja ja maapõue ning seal leiduvate loodusvarade suhtes;

d) isik on füüsiline isik, äriühing või muu isikute ühendus;

e) äriühing on juriidiline isik või muu iseseisev majandusüksus, keda maksustatakse kui juriidilist isikut;

f) lepinguosalise riigi ettevõtja ja teise lepinguosalise riigi ettevõtja on kontekstist olenevalt kas ühe või teise lepinguosalise riigi residendist ettevõtja;

g) rahvusvaheline transport on lepinguosalise riigi ettevõtja mere- või õhutransport, välja arvatud juhul, kui mere- või õhuvedu toimub ainult teises lepinguosalises riigis;

h) pädev ametiisik on:

(i) Rumeenias rahandusminister või tema volitatud esindaja;
(ii) Eestis rahandusminister või tema volitatud esindaja;

i) kodanik on:

(i) Rumeenias Rumeenia kodakondsusega füüsiline isik, juriidiline isik, isikute ühendus või muu majandusüksus, mis on asutatud Rumeenia seaduste alusel;

(ii) Eestis Eesti kodakondsusega füüsiline isik, juriidiline isik või muu isikute ühendus, mis on asutatud Eesti seaduste alusel.

2. Kui lepinguosaline riik lepingut kohaldades kasutab lepingus määratlemata mõistet ja kui kontekstist ei tulene teisiti, lähtub ta lepingus käsitletud maksudega seotud mõistet tõlgendades selle riigi seadustes kasutatud määratlusest, arvestades, et maksuseadustes määratletud mõisted on ülimuslikud teistes seadustes määratletud mõistete suhtes.

Artikkel 4
Resident

1. Selles lepingus tähistab mõiste lepinguosalise riigi resident isikut, kes on selle riigi seaduste alusel maksukohustuslane elu- või asukoha, juhtkonna asukoha või asutamise koha või muu sellise kriteeriumi järgi. Mõiste hõlmab ka riiki ja selle kohalikku omavalitsust või muud haldusüksust. Mõiste ei hõlma isikut, kes on selles riigis maksukohustuslane üksnes seetõttu, et tema tuluallikas või vara asub selles riigis.

2. Kui lõike 1 kohaselt on füüsiline isik mõlema lepinguosalise riigi resident, määratakse tema õiguslik seisund järgmiselt:

a) ta on selle riigi resident, kus tal on kodu; kui tal on kodu mõlemas riigis, siis on ta selle riigi resident, millega tal on tihedamad isiklikud ja majanduslikud sidemed (edaspidi eluliste huvide keskus);

b) kui eluliste huvide keskust ei ole võimalik kindlaks määrata või kui isikul ei ole kodu kummaski riigis, siis on ta selle riigi resident, kus ta tavaliselt viibib;

c) kui isik viibib tavaliselt mõlemas riigis või kui ta ei viibi tavaliselt kummaski neist, siis on ta selle riigi resident, mille kodanik ta on;

d) kui isik on mõlema lepinguosalise riigi kodanik või kui ta ei ole kummagi lepinguosalise riigi kodanik, lahendatakse küsimus lepinguosaliste riikide pädevate ametiisikute kokkuleppel.

3. Kui lõike 1 kohaselt on isik mõlema lepinguosalise riigi resident, otsustavad lepinguosaliste riikide pädevad ametiisikud tema suhtes lepingu kohaldamise kokkuleppe teel; see ei kehti füüsilise isiku kohta.

Artikkel 5
Püsiv tegevuskoht

1. Selles lepingus tähendab mõiste *püsiv* tegevuskoht äritegevuse kindlat kohta, mille kaudu täielikult või osaliselt toimub ettevõtja äritegevus.

2. Püsivaks tegevuskohaks peetakse esmajoones:

a) juhtkonna asukohta;

b) filiaali;

c) kontorit;

d) tehast;

e) töökoda;

f) kaevandust, nafta- ja gaasipuurauku, karjääri ning loodusvarade kaevandamise kohta.

3. Ehitusplatsi või montaaþi- ja seadmestamistööde kohta ning nende üle teostatud järelevalvet või nendega seotud nõustamistegevust käsitatakse püsiva tegevuskohana ainult juhul, kui tegevus selles kohas kestab üle kuue kuu.

4. Eelmistest lõigetest olenemata ei peeta püsivaks tegevuskohaks ettevõtja äritegevuse kindlat kohta, kus:

a) ettevõtja kasutab rajatist talle kuuluva kauba ja materjali ladustamiseks, väljapanekuks või kohaletoimetamiseks;

b) ettevõtja hoiab oma kaubavaru ainult ladustamiseks, väljapanekuks või kohaletoimetamiseks;

c) ettevõtja hoiab endale kuuluvat ja teisele ettevõtjale töötlemiseks antavat kaupa;

d) ostetakse ainult ettevõtjale vajalikku kaupa või kogutakse talle vajalikku teavet;

e) tehakse muid ainult ettevõtjale vajalikke ettevalmistus- või abitöid;

f) tehakse ettevõtjale vajalikke ettevalmistus- või abitöid mitmel punktides a–e loetletud eesmärgil.

5. Lepinguosalise riigi ettevõtjal ei ole teises lepinguosalises riigis püsivat tegevuskohta, kui ta ajutise näituse või laada lõpus müüb ära seal eksponeeritud kaubad.

6. Kui isik tegutseb ettevõtja nimel ning on volitatud sõlmima ja tavaliselt sõlmib lepinguosalises riigis tema nimel lepinguid, siis lõigetest 1 ja 2 olenemata on ettevõtjal selles riigis püsiv tegevuskoht nende tehingute kaudu, mis on teinud tema nimel tegutsev isik; sätet ei kohaldata, kui isiku tegevus piirdub lõigetes 4 ja 5 loetletud eesmärkidel tehtavate toimingutega, mis ei muuda tegevust selle lõike tähenduses püsivas tegevuskohas toimuvaks. See lõige ei kehti lõikes 7 nimetatud isikute kohta.

7. Ettevõtjal ei ole teises lepinguosalises riigis püsivat tegevuskohta, kui tema äritegevus selles riigis toimub ainult maakleri, komisjonäri või muu sõltumatu vahendaja kaudu ja selle isiku tegevust võib käsitada tema tavapärase äritegevusena.

8. Kui lepinguosalise riigi residendist äriühingul on teise lepinguosalise riigi residendist äriühingus enamusosalus või kui äriühingu tegevus toimub püsiva tegevuskoha kaudu või muul viisil teises riigis, ei anna see alust käsitada üht äriühingut teise äriühingu püsiva tegevuskohana.

Artikkel 6
Kinnisvaratulu

1. Tulu, sealhulgas põllumajandusest või metsandusest saadud tulu, mida lepinguosalise riigi resident saab teises lepinguosalises riigis asuvast kinnisvarast, võib maksustada selles teises riigis.

2. Mõiste kinnisvara määratletakse vara asukoha riigi seaduste alusel. Kinnisvarana käsitatakse kinnisasja päraldist, eluskarja, põllumajanduses ja metsanduses kasutatavat seadet, maaomandit käsitleva seadusega sätestatud õigust ja kinnisvara kasutusvaldust ning õigust saada tasu maavara leiukoha ja loodusvara kasutamise või kasutusõiguse omandamise eest. Kinnisvarana ei käsitata laeva ega õhusõidukit.

3. Lõige 1 kehtib kinnisvara isiklikust kasutamisest, rendile- või üürileandmisest või muul viisil kasutamisest saadud tulu kohta.

4. Kui osalus äriühingus annab selle omanikule õiguse kasutada äriühingu kinnisvara, võib selle õiguse isiklikust kasutamisest, rendileandmisest või muul viisil kasutamisest saadud tulu maksustada selles lepinguosalises riigis, kus kinnisvara asub.

5. Lõiked 1, 3 ja 4 kehtivad ka ettevõtluses ja kutsetegevuses kasutatavast kinnisvarast saadud tulu kohta.

Artikkel 7
Ärikasum

1. Lepinguosalise riigi ettevõtja kasum maksustatakse ainult selles riigis. Kui ettevõtja tegutseb püsiva tegevuskoha kaudu ka teises lepinguosalises riigis, võib seal maksustada selle kasumiosa, mida saab omistada püsivale tegevuskohale.

2. Lõiget 3 arvestades käsitavad lepinguosalised riigid püsivale tegevuskohale omistatava kasumina seda kasumit, mida püsiv tegevuskoht eeldatavasti saaks, tegutsedes iseseisvalt samadel või sama laadi tingimustel samal või sama laadi tegevusalal kui teise lepinguosalise riigi ettevõtja, kelle püsiv tegevuskoht ta on.

3. Püsivale tegevuskohale omistatavat kasumit arvutades võib tuludest maha arvata juhtimis- ja halduskulud ning püsiva tegevuskohaga seotud muud kulud, sõltumata sellest, kas need tekivad püsiva tegevuskoha asukoha riigis või mujal. Selle sätte kohaldamisel arvestatakse püsiva tegevuskoha asukoha riigi seaduses sätestatud piiranguid.

4. Kui lepinguosalises riigis on püsivale tegevuskohale omistatavat kasumit kindlaks määrates tavaliselt jaotatud ettevõtja kogukasum ettevõtja osade vahel proportsionaalselt, ei ole lõikega 2 vastuolus lepinguosalise riigi õigus kasutada nimetatud meetodit juhul, kui meetodi rakendamise tulemus on kooskõlas selle artikli põhimõtetega.

5. Kasumit ei omistata püsivale tegevuskohale, kui ettevõtja ostab selle kaudu kaupa ainult oma tarbeks.

6. Eelmistes lõigetes käsitletud kasumit arvutades rakendatakse igal aastal sama meetodit, kui ei ole küllaldast põhjust seda muuta.

7. Kui kasum hõlmab lepingu teistes artiklites käsitletud tulu, kohaldatakse teisi asjakohaseid sätteid.

Artikkel 8
Mere- ja õhutransport

1. Lepinguosalise riigi ettevõtja rahvusvahelistest mere- ja õhuvedudest saadud kasum maksustatakse ainult selles riigis.

2. Lõige 1 kehtib ka kasumi kohta, mis saadakse osalusest puulis või muud liiki ühises äritegevuses või rahvusvahelises transpordiorganisatsioonis.

Artikkel 9
Seotud ettevõtjad

1. Kui

a) lepinguosalise riigi ettevõtja otse või kaudselt osaleb teise lepinguosalise riigi ettevõtja juhtimises või kontrollib ettevõtjat või kui tal on osalus ettevõtja osa- või aktsiakapitalis või

b) samad isikud otse või kaudselt osalevad mõlema riigi ettevõtja juhtimises või kontrollivad ettevõtjaid või kui neil on osalus mõlema ettevõtja osa- või aktsiakapitalis
ning kui ettevõtjad järgivad omavahelistes äri- ja rahandussuhetes iseseisvate ettevõtjate vahel kokkulepitust erinevaid tingimusi, mille tõttu jääb ettevõtja kasum eeldatavast väiksemaks, loetakse ettevõtja kasumiks eeldatav kasum ja see maksustatakse asjakohaselt.

2. Kui lepinguosaline riik arvab oma ettevõtja tulu hulka ja asjakohaselt maksustab tulu, mis on teises lepinguosalises riigis maksustatud selle riigi ettevõtja tuluna ja mille oleks saanud esimesena nimetatud riigi ettevõtja, kui ettevõtjad oleksid omavahelistes suhetes järginud sama laadi tingimusi nagu iseseisvad ettevõtjad, korrigeerib teine riik tulult tasutavat maksusummat, kui ta leiab, et selle täpsustamine on õigustatud. Maksusummat korrigeerides arvestatakse lepingu teisi sätteid ja lepinguosaliste riikide pädevad ametiisikud konsulteerivad vajaduse korral teineteisega.

Artikkel 10
Dividend

1. Dividendi, mida lepinguosalise riigi residendist äriühing maksab teise lepinguosalise riigi residendile, võib maksustada selles teises riigis.

2. Dividendi võib maksustada ka selles lepinguosalises riigis, mille residendist äriühing dividendi maksab; kui dividendi saaja on teise lepinguosalise riigi resident, võib dividendilt maksu võtta kuni 10 protsenti dividendi brutosummast.

Lõiget ei kohaldata äriühingu selle kasumi maksustamisel, millest dividendi makstakse.

3. Selles artiklis käsitatakse dividendina tulu aktsiatest, osadest või muust kasumi saamise õigusest, mis ei ole võlanõue, ning teistest õigustest saadavat tulu, mida käsitatakse dividendina või muu kasumijaotisena seda maksva äriühingu residendiriigi seaduste kohaselt.

4. Lõikeid 1 ja 2 ei kohaldata, kui lepinguosalise riigi residendist dividendi saaja äritegevus toimub püsiva tegevuskoha või kindla koha kaudu teises lepinguosalises riigis, mille resident dividendi maksev äriühing on, ja kus ta saab dividendi seoses püsiva tegevuskoha või kindla koha kaudu toimuva äritegevusega. Sel juhul kohaldatakse artiklit 7 või 15.

5. Kui lepinguosalise riigi residendist äriühing saab tulu teisest lepinguosalisest riigist, ei või see teine riik maksustada äriühingu makstavat dividendi ega jaotamata kasumit, kuigi need sisaldavad tulu, mis on tekkinud selles teises riigis; see ei kehti teise lepinguosalise riigi residendile makstava dividendi kohta ega sellelt osaluselt makstava dividendi kohta, mis on seotud selles teise riigis asuva püsiva tegevuskohaga või kindla kohaga.

Artikkel 11
Intress

1. Intressi, mis tekib lepinguosalises riigis ja mida makstakse teise lepinguosalise riigi residendile, võib maksustada selles teises riigis.

2. Nimetatud intressi võib oma seaduste kohaselt maksustada ka see lepinguosaline riik, kus intress tekib; kui intressi saaja on teise lepinguosalise riigi resident, võib intressilt maksu võtta kuni 10 protsenti intressi brutosummast.

3. Lõikest 2 olenemata ei maksustata lepinguosalises riigis selles riigis tekkinud intressi, mille saaja on teise lepinguosalise riigi valitsus, kohalik omavalitsus või muu haldusüksus või keskpank või täielikult valitsusele kuuluv finantsasutus; sama kehtib valitsuse tagatud laenudelt makstud intressi kohta.

4. Selles artiklis käsitatakse intressina tulu, mida saadakse tagatud või tagamata võlanõudest või valitsuse väärtpaberitest või võlakohustusest ja nendega seotud maksetest. Hilinenud makse eest võetavat viivist intressina ei käsitata.

5. Lõikeid 1, 2 ja 3 ei kohaldata, kui lepinguosalise riigi residendist intressisaaja äritegevus toimub püsiva tegevuskoha või kindla koha kaudu teises lepinguosalises riigis, kus intress tekib ja kus ta saab intressi püsiva tegevuskoha või kindla koha kaudu toimuva äritegevusega seotud võlanõudelt. Sel juhul kohaldatakse artiklit 7 või 15.

6. Intress on tekkinud lepinguosalises riigis, kui intressi maksab selle riigi resident. Kui võlgnevus, millelt intressi makstakse, on seotud püsivas tegevuskohas või äritegevuse kindlas kohas toimuva tegevusega ning intressi maksmise kulu kannab püsiv tegevuskoht või äritegevuse kindel koht, on intress tekkinud püsiva tegevuskoha või äritegevuse kindla koha riigis.

7. Kui intressi maksja ja intressi saaja või nende mõlema ning muu isiku erisuhte tõttu ületab võlanõude eest makstava intressi summa selle summa, milles oleksid intressi maksja ja intressi saaja kokku leppinud ilma sellise suhteta, kohaldatakse seda artiklit ainult viimati nimetatud summa suhtes. Enammakstud intress maksustatakse kummagi lepinguosalise riigi seaduste kohaselt, arvestades lepingu teisi sätteid.

Artikkel 12
Komisjonitasu

1. Komisjonitasu, mis tekib lepinguosalises riigis ja mida makstakse teise lepinguosalise riigi residendile, võib maksustada selles teises riigis.

2. Nimetatud komisjonitasu võib oma seaduste kohaselt maksustada ka see lepinguosaline riik, kus komisjonitasu tekib; kui komisjonitasu saaja on teise lepinguosalise riigi resident, võib komisjonitasult maksu võtta kuni 2 protsenti komisjonitasu brutosummast.

3. Selles artiklis käsitatakse komisjonitasuna väljamakseid maaklerile, komisjonärile või muule isikule, keda käsitatakse maakleri või vahendajana väljamakseid tegeva riigi maksuseaduste kohaselt.

4. Lõikeid 1 ja 2 ei kohaldata, kui lepinguosalise riigi residendist komisjonitasu saaja äritegevus toimub püsiva tegevuskoha või kindla koha kaudu teises riigis, kus komisjonitasu tekib ja kus ta saab komisjonitasu seoses püsiva tegevuskoha või kindla koha kaudu toimuva äritegevusega. Sel juhul kohaldatakse artiklit 7 või 15.

5. Komisjonitasu on tekkinud lepinguosalises riigis, kui komisjonitasu maksab selle riigi resident. Kui komisjonitasu maksmise kohustus on seotud püsivas tegevuskohas või äritegevuse kindlas kohas toimuva tegevusega ning kui komisjonitasu maksmise kulu kannab püsiv tegevuskoht või äritegevuse kindel koht, on komisjonitasu tekkinud püsiva tegevuskoha või äritegevuse kindla koha riigis.

6. Kui komisjonitasu maksja ja komisjonitasu saaja või nende mõlema ning muu isiku erisuhte tõttu ületab teenuse eest makstava komisjonitasu summa selle summa, milles oleks komisjonitasu maksja ja komisjonitasu saaja kokku leppinud ilma sellise suhteta, kohaldatakse seda artiklit ainult viimati nimetatud summa suhtes. Enammakstud komisjonitasu maksustatakse kummagi lepinguosalise riigi seaduste kohaselt, arvestades lepingu teisi sätteid.

Artikkel 13
Litsentsitasu

1. Litsentsitasu, mis tekib lepinguosalises riigis ja mida makstakse teise lepinguosalise riigi residendile, võib maksustada selles teises riigis.

2. Nimetatud litsentsitasu võib oma seaduste kohaselt maksustada ka see lepinguosaline riik, kus litsentsitasu tekib; kui litsentsitasu saaja on teise lepinguosalise riigi resident, võib litsentsitasult maksu võtta kuni 10 protsenti litsentsitasu brutosummast.

3. Selles artiklis käsitatakse litsentsitasuna makset, mida saadakse kirjandus- või kunstiteose või teadustöö autoriõiguse (sealhulgas kino- või telefilmi või raadio- või televisioonisaate salvestise; satelliidi, kaabli, optilise fiibri või muu sellise tehnoloogia abil avalikkusele edastatud ülekannete) kasutamise eest või kasutamise õiguse eest, patendi, kaubamärgi, disaini või mudeli, plaani või salajase valemi või tehnoloogilise protsessi või tööstusliku, kaubandusliku või teadusalase sisseseade ja oskusteabe kasutamise eest või kasutamise õiguse eest.

4. Lõikeid 1 ja 2 ei kohaldata, kui lepinguosalise riigi residendist litsentsitasu saaja äritegevus toimub püsiva tegevuskoha või kindla koha kaudu teises lepinguosalises riigis, kus litsentsitasu tekib, ja kus ta saab litsentsitasu püsiva tegevuskoha või kindla koha kaudu toimuvas äritegevuses kasutatavast õigusest või varast. Sel juhul kohaldatakse artiklit 7 või 15.

5. Litsentsitasu on tekkinud lepinguosalises riigis, kui tasu maksja on selle riigi resident. Kui litsentsitasu maksmise kohustus on seotud püsivas tegevuskohas või äritegevuse kindlas kohas toimuva tegevusega ning litsentsitasu maksmise kulu kannab püsiv tegevuskoht või äritegevuse kindel koht, on litsentsitasu tekkinud püsiva tegevuskoha või äritegevuse kindla koha riigis.

6. Kui litsentsitasu maksja ja litsentsitasu saaja või nende mõlema ja muu isiku erisuhte tõttu ületab asja kasutamise või kasutamise õiguse või oskusteabe eest makstava litsentsitasu summa selle summa, milles oleksid litsentsitasu maksja ja litsentsitasu saaja kokku leppinud ilma sellise suhteta, kohaldatakse seda artiklit ainult viimati nimetatud summa suhtes. Enammakstud litsentsitasu maksustatakse kummagi lepinguosalise riigi seaduse kohaselt, arvestades lepingu teisi sätteid.

Artikkel 14
Kasu vara võõrandamisest

1. Kui lepinguosalise riigi resident saab kasu artiklis 6 määratletud ja teises lepinguosalises riigis asuva kinnisvara võõrandamisest või osaluse võõrandamisest sellises äriühingus, kelle vara koosneb põhiliselt teises lepinguosalises riigis asuvast kinnisvarast, võib kasu maksustada selles teises riigis.

2. Kui lepinguosalise riigi resident saab kasu sellise vallasvara võõrandamisest, mida kasutatakse teises lepinguosalises riigis püsiva tegevuskoha äritegevuses, kindlas kohas oma kutsealal tegutsedes, või püsiva tegevuskoha (eraldi või koos ettevõttega) või kindla koha võõrandamisest, võib kasu maksustada selles teises riigis.

3. Kui lepinguosalise riigi ettevõtja saab kasu rahvusvahelises transpordis kasutatava laeva või õhusõiduki või nende juurde kuuluva vallasvara võõrandamisest, maksustatakse kasu ainult selles riigis.

4. Lõigetes 1, 2 ja 3 käsitlemata vara võõrandamisest saadud kasu maksustatakse ainult vara võõrandaja residendiriigis.

Artikkel 15
Kutsetegevus

1. Lepinguosalise riigi residendist füüsilise isiku kutsetegevusest või ettevõtlusest saadud tulu maksustatakse ainult selles riigis. Sellist tulu võib maksustada ka teises lepinguosalises riigis, kui:

a) isik tegutseb teises lepinguosalises riigis asuvas kindlas kohas; sel juhul maksustatakse ainult see tuluosa, mis on omistatav sellele kindlale kohale või

b) isik viibib teises lepinguosalises riigis rohkem kui 183 päeva sellel majandusaastal algava või lõppeva kaheteistkümnekuuse perioodi jooksul; sel juhul maksustatakse ainult see tuluosa, mida isik saab sel ajal selles teises riigis tegutsedes.

2. Selles lepingus käsitatakse kutsetegevusena eraviisilist teadus- ja haridustööd, kirjandus- ja kunstialast tegevust ning arsti, juristi, inseneri,

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arhitekti, hambaarsti ja raamatupidaja erapraksist või muud seda laadi tegevust.

Artikkel 16
Palgatöö

1. Arvestades artikleid 17, 19, 20 ja 22, maksustatakse lepinguosalise riigi residendi palk ja töösuhtest saadud muu tasu ainult selles riigis. Kui lepinguosalise riigi resident on töötanud ka teises lepinguosalises riigis, võib nimetatud tasu maksustada selles teises riigis.

2. Lõikega 1 ei ole vastuolus maksustada ainult lepinguosalises riigis tasu, mida selle riigi resident saab töösuhtest teises lepinguosalises riigis, kui:

a) tasu saaja viibib teises lepinguosalises riigis kokku kuni 183 päeva sellel majandusaastal algava või lõppeva kaheteistkümnekuuse perioodi vältel;

b) tasu maksab tööandja või tasu makstakse selle tööandja nimel, kes ei ole teise lepinguosalise riigi resident;

c) tööandja ei maksa tasu teises riigis asuva püsiva tegevuskoha või kindla koha kaudu.

3. Eelmiste lõigetega ei ole vastuolus maksustada lepinguosalises riigis selle riigi ettevõtja rahvusvahelises transpordis kasutataval mere- või õhusõidukil töötamise eest saadud tasu.

Artikkel 17
Juhatuse liikme töötasu

Juhatuse liikme töötasu ja muud seda laadi tasu, mida lepinguosalise riigi resident saab teise lepinguosalise riigi residendist äriühingu juhatuse või muu sellise organi liikmena, võib maksustada selles teises riigis.

Artikkel 18
Loometöötaja ja sportlase tulu

1. Artiklitest 15 ja 16 olenemata võib lepinguosalise riigi residendi tulu, mida ta saab teises lepinguosalises riigis teatris, filmis, raadios või televisioonis esinemise eest või muusiku või sportlasena tegutsedes, maksustada selles teises riigis.

2. Artiklitega 7, 15 ja 16 ei ole vastuolus, kui loometöötaja või sportlase teenitud tulu, mis laekub tema asemel teisele isikule, maksustatakse riigis, kus loometöötaja või sportlane tegutseb.

3. Lõikeid 1 ja 2 ei kohaldata, kui loometöötaja või sportlane saab tulu lepinguosalises riigis toimuvast tegevusest, mida rahastatakse põhiliselt lepinguosalise riigi või selle kohaliku omavalitsuse või muu haldusüksuse vahenditest. Sel juhul maksustatakse tulu ainult loometöötaja või sportlase residendiriigis.

Artikkel 19
Pension

1. Lepinguosalise riigi residendi pension või annuiteet või varasema töötamise eest saadud muu seda laadi tasu maksustatakse ainult selles riigis; säte ei kehti artikli 20 lõikes 2 nimetatud pensioni kohta.

2. Lõikest 1 olenemata maksustatakse lepinguosalise riigi sotsiaalkindlustusseaduste alusel makstud pension või muu seda laadi tasu ainult selles riigis.

3. Termin annuiteet tähendab isikule tema eluajal perioodiliselt või teatavas ajavahemikus makstavat kindlaksmääratud summat, mille maksmine tuleneb kohustusest teha rahalisi või mitterahalisi väljamakseid vastutasuna küllaldaste sissemaksete eest.

Artikkel 20
Riigiteenistus

1. a) Palk ja töösuhtest saadud muu tasu, mida lepinguosaline riik või selle kohalik omavalitsus või muu haldusüksus maksab isikule riigi või selle

kohaliku omavalitsuse või muu, haldusüksuse ametiasutuses töötamise eest, maksustatakse ainult selles riigis; sätet ei kohaldata pensionile.

b) Selline palk ja muu tasu maksustatakse ainult teises lepinguosalises riigis, kui isik on töötanud selles riigis ning:

(i) ta on selle riigi resident ja kodanik;
(ii) residentsus tuleneb ka muust asjaolust kui töötamine.

2. a) Pension, mida lepinguosaline riik või selle kohalik omavalitsus või muu haldusüksus maksab või mida nende loodud fondidest makstakse isikule riigi või selle kohaliku omavalitsuse või muu haldusüksuse ametiasutuses töötamise eest, maksustatakse ainult selles riigis.

b) Selline pension maksustatakse ainult teises lepinguosalises riigis, kui pensioni saaja on teise riigi resident ja kodanik.

3. Lepinguosalise riigi või selle kohaliku omavalitsuse või muu haldusüksuse äritegevusega seotud töö eest saadud palga ja muu tasu ning pensioni kohta kehtivad artiklid 16, 17 ja 19.

Artikkel 21
Üliõpilase ja praktikandi tulu

Lepinguosaline ei maksusta tema riigis õpingutel või praktikal viibiva üliõpilase ülalpidamiseks, õpinguteks või praktikaks tehtavaid väljamakseid, kui üliõpilane on teise lepinguosalise riigi resident või oli seda vahetult enne õppima või praktikale asumist ja väljamakse tehakse väljaspool õppimiskoha riiki asuvast allikast.

Artikkel 22
Teadlase tulu

1. Kui lepinguosalise riigi ülikoolis või kolledþis või muus tunnustatud õppe- või teadusasutuses õpetab või teeb uurimistööd isik, kes on teise lepinguosalise riigi resident või oli seda vahetult enne lepinguosalisse riiki tulekut, vabastatakse ta lepinguosalises riigis saadud tasult maksu tasumisest, kui ta on õpetamiseks või uurimistöö tegemiseks riiki tulekust alates viibinud seal alla kahe aasta.

2. Lõige 1 ei kehti, kui uurimistööd on tehtud isiklikes, mitte avalikkuse huvides.

Artikkel 23
Muu tulu

1. Lepinguosalise riigi residendi tulu, mida lepingu eelmistes artiklites ei ole käsitletud, maksustatakse tulu tekkimise kohast olenemata ainult selles riigis.

2. Lõige 1 ei kehti selle tulu kohta, mida lepinguosalise riigi resident saab teises lepinguosalises riigis püsiva tegevuskoha kaudu tegutsedes või selles teises riigis asuvas kindlas kohas toimuvast kutsetegevusest, kui õigused või vara, millest tulu on tekkinud, on seotud püsiva tegevuskohaga või kindla kohaga; sellistel juhtudel kohaldatakse artiklit 7 või 15. Lõige ei kehti artikli 6 lõikes 2 määratletud kinnisvarast saadud tulu kohta.

Artikkel 24
Kapital

1. Artiklis 6 määratletud kinnisvarast koosnevat vara, mis kuulub lepinguosalise riigi residendile ja asub teises lepinguosalises riigis, võib maksustada selles teises riigis.

2. Vallasvara, mis on osa lepinguosalise riigi residendi teises lepinguosalises riigis püsiva tegevuskoha äritegevuses kasutatavast varast või kindla koha kaudu toimuvas kutsetegevuses kasutatavast varast, võib maksustada selles teises riigis.

3. Lepinguosalise riigi ettevõtja laev või õhusõiduk ja selle juurde kuuluv vallasvara, mida lepinguosalise riigi ettevõtja kasutab rahvusvahelises transpordis, maksustatakse ainult selles riigis.

4. Lepinguosalise riigi residendi muu vara maksustatakse ainult selles riigis.

Artikkel 25
Topeltmaksustamise vältimine

1. Rumeenia residendi puhul välditakse topeltmaksustamist järgmiselt:

Kui Rumeenia resident saab tulu või kui tal on vara, mida selle lepingu kohaselt võib maksustada Eestis, ja Rumeenia seadused ei sisalda soodsamaid sätteid, lubab Rumeenia:

a) residendi tulumaksust maha arvata summa, mis võrdub Eestis tasutud tulumaksuga;

b) residendi kapitalimaksust maha arvata summa, mis võrdub Eestis tasutud kapitalimaksuga.

Mahaarvatud summa ei ületa Rumeenia tulu- või kapitalimaksu seda osa, mis on arvutatud enne tasutud maksusumma mahaarvamist tulult või varalt, mida võib maksustada Eestis.

2. Eesti residendi puhul välditakse topeltmaksustamist järgmiselt:

a) Kui Eesti resident saab tulu, mida selle lepingu kohaselt võib maksustada Rumeenias, ja Eesti seadused ei sisalda soodsamaid sätteid, lubab Eesti:

(i) residendi tulumaksust maha arvata summa, mis võrdub Rumeenias makstud tulumaksuga;
(ii) residendi kapitalimaksust maha arvata summa, mis võrdub Rumeenias makstud kapitalimaksuga.

Mahaarvatud summa ei ületa Eesti tulu- ja kapitalimaksu seda osa, mis on arvutatud enne tasutud maksusumma mahaarvamist tulult või varalt, mida võib maksustada Rumeenias.

b) Kui Eesti residendist äriühing saab punkti a kohaselt dividendi Rumeenia residendist äriühingult, kelle hääleõiguslikest aktsiatest kuulub talle vähemalt 10 protsenti, sisaldab Rumeenias tasutud maks peale dividendilt tasutud maksu ka dividendi maksmise aluseks olevalt kasumiosalt tasutud maksu.

Artikkel 26
Võrdne kohtlemine

1. Lepinguosaline riik maksustab teise lepinguosalise riigi kodaniku ja kohaldab talle maksustamisega kaasnevaid nõudeid samadel alustel nagu oma kodanikule, eelkõige seoses residentsusega. Artikliga 1 ei ole vastuolus kohaldada seda sätet isikule, kes ei ole kummagi lepinguosalise riigi resident.

2. Lepinguosalise riigi ettevõtja teises lepinguosalises riigis asuv püsiv tegevuskoht maksustatakse samadel alustel kui teise lepinguosalise riigi samal tegevusalal tegutsev ettevõtja. Seda lõiget ei tõlgendata kui lepinguosalise riigi kohustust võimaldada teise lepinguosalise riigi residendile tema perekonnaseisu või perekondlike kohustuste tõttu samasuguseid maksusoodustusi, -vabastusi või -vähendusi, mida ta võimaldab oma residendile.

3. Lepinguosalise riigi ettevõtja võib maksustatavat kasumit kindlaks määrates sellest maha arvata teise lepinguosalise riigi ettevõtjale makstud intressi, komisjonitasu, litsentsitasu või muu väljamakse samadel alustel nagu väljamakse oma riigi residendile; sätet ei kohaldata artikli 9 lõikes 1, artikli 11 lõikes 7, artikli 12 lõikes 6 ega artikli 13 lõikes 6 nimetatud juhtudel. Lepinguosalise riigi ettevõtja võib oma maksustatavast varast maha arvata kohustused teise lepinguosalise riigi residendi ees samadel tingimustel nagu kohustused oma riigi residendi ees.

4. Lepinguosalise riigi ettevõtjat, milles teise lepinguosalise riigi residentidel on otsene või kaudne osalus, ei maksustata kõrgemalt ega esitata talle maksustamisega seotud lisanõudeid võrreldes sama riigi teise ettevõtjaga.

5. Artikliga 2 ei ole vastuolus kohaldada seda artiklit kõigile maksudele.

Artikkel 27
Vastastikuse kokkuleppe menetlus

1. Kui isik arvab, et lepinguosalise riigi tegevus põhjustab või võib põhjustada tema sellist maksustamist, mis ei ole lepinguga kooskõlas, võib ta lepinguosaliste riikide seadustest sõltumata esitada kaebuse oma residendiriigi pädevale ametiisikule. Kui tema kaebuse suhtes tuleb kohaldada artikli 26 lõiget 1, esitab ta asja menetlemiseks selle

lepinguosalise riigi pädevale ametiisikule, mille kodanik ta on. Kaebus esitatakse menetlemiseks kolme aasta jooksul alates päevast, millal on lepingut rikkuvat maksustamist põhjustavast tegevusest teada saadud.

2. Kui kaebus on pädeva ametiisiku arvates õigustatud ja ta rahuldavat lahendust ei leia, püüab ametiisik kaebuse lahendada vastastikusel kokkuleppel teise lepinguosalise riigi pädeva ametiisikuga, järgides põhimõtet, et lepingut rikkuvat maksustamist tuleb vältida. Saavutatud kokkulepe täidetakse lepinguosaliste riikide seadustes ettenähtud ajapiirangut kohaldamata.

3. Lepinguosaliste riikide pädevad ametiisikud püüavad lepingu tõlgendamisel ja kohaldamisel tekkivad küsimused lahendada vastastikusel kokkuleppel. Topeltmaksustamise vältimiseks võivad nad teineteisega konsulteerida ka lepingus käsitlemata juhtudel.

4. Lepinguosaliste riikide pädevad ametiisikud võivad eelmistes lõigetes käsitletud kokkuleppele jõudmiseks teineteisega vahetult suhelda. Kui kokkuleppe saavutamiseks tekib vajadus suulise mõttevahetuse järele, võivad pädevad ametiisikud üksteisega suhelda nende esindajatest moodustatud komisjoni kaudu.

Artikkel 28
Teabevahetus

1. Lepinguosaliste riikide pädevad ametiisikud vahetavad lepingu järgimiseks ja lepinguosaliste riikide seaduste täitmiseks teavet lepinguosalises riigis kehtestatud maksude kohta tingimusel, et maksustamine ei ole lepinguga vastuolus. Artikkel 1 teabevahetust ei piira. Lepinguosaline riik käsitab teisest lepinguosalisest riigist saadud teavet saladusena samamoodi nagu oma seaduste alusel saadud teavet; teave antakse isikule ja ametivõimule (sealhulgas kohtud ja haldusasutused), kes esimeses lauses nimetatud makse määrab või neid kogub või sisse nõuab või kes lahendab maksudega seotud kaebusi. Teavet kasutatakse ainult eelloetletud eesmärkidel. Teavet võib avaldada üksnes avalikul kohtuistungil või kohtuotsuses.

2. Lõiget 1 ei tõlgendata lepinguosalise riigi kohustusena:

a) kasutada haldusabinõusid, mis on vastuolus lepinguosaliste riikide õigus- ja halduspraktikaga;

b) anda teavet, mis ei ole lepinguosaliste riikide seaduste alusel või tavapärases haldusmenetluses kättesaadav;

c) anda teavet, mis sisaldab äri- või kutsesaladust või tootmisprotsessi käsitlevaid salajasi andmeid, või teavet, mille avaldamine on vastuolus avaliku korraga (ordre public).

Artikkel 29
Diplomaatilise esinduse liige ja konsulaarasutuse liige

Lepingut ei kohaldata diplomaatilise esinduse ega konsulaarasutuse liikme rahalistele soodustustele, mis on ette nähtud rahvusvahelise õiguse üldtunnustatud põhimõtete ja erikokkulepete alusel.

Artikkel 30
Lepingu jõustumine

Leping jõustub päeval, millal lepinguosalised riigid on vahetanud teated lepingu jõustumiseks vajalike põhiseaduslike nõuete täitmise kohta ning lepingut kohaldatakse:

a) Rumeenias:

(i) maksule, mis peetakse kinni alates lepingu jõustumisele järgneva kalendriaasta 1. jaanuarist saadavalt tulult;
(ii) kasumi-, tulu- ja kapitalimaksule, mis makstakse lepingu jõustumisele järgneva aasta 1. jaanuaril või pärast seda algaval maksuaastal;

b) Eestis:

(i) maksule, mis peetakse kinni alates lepingu jõustumisele järgneva kalendriaasta 1. jaanuarist saadavalt tulult;
(ii) tulu- ja kapitalimaksule, mis makstakse lepingu jõustumisele järgneva aasta 1. jaanuaril või pärast seda algaval majandusaastal.

ROMANIA
Direcţia Generală de Politici şi Legislaţie privind Veniturile Bugetului General Consolidat
MINISTERUL FINANŢELOR PUBLICE

Artikkel 31
Lepingu lõpetamine

Leping kehtib, kuni lepinguosaline riik selle lõpetab. Lepinguosaline riik võib lepingu lõpetada, kui ta on sellest diplomaatiliste kanalite kaudu kirjalikult ette teatanud vähemalt kuus kuud enne kalendriaasta lõppu. Sel juhul lakkab leping kehtimast:

a) Rumeenias:

(i) tulult kinnipeetava maksu kohta selle kalendriaasta 1. jaanuaril, mis järgneb lepingu lõpetamise kohta teate edastamise aastale;
(ii) kasumi-, tulu- ja kapitalimaksu kohta selle kalendriaasta 1. jaanuaril, mis järgneb lepingu lõpetamise kohta teate edastamise aastale.

b) Eestis:

(i) tulult kinnipeetava maksu kohta selle kalendriaasta 1. jaanuaril, mis järgneb lepingu lõpetamise teate edastamise aastale;
(ii) tulu- ja kapitalimaksu kohta selle kalendriaasta 1. jaanuaril, mis järgneb lepingu lõpetamise teate edastamise aastale.

Selle kinnituseks on volitatud isikud lepingule alla kirjutanud.

Sõlmitud 23 oktoobril 2003, aastal Bukarestis kahes eksemplaris rumeenia, eesti ja inglise keeles. Tekstid on võrdselt autentsed. Tõlgendamiserinevuse korral võetakse aluseks ingliskeelne tekst.

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