

2008

INCOME TAX

S.R.O. 6

Signed by Asgar Alley this 19th day of August 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of Guyana

Signed by Paul Roberts on this 6th day of July 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of Jamaica

Signed by Kennedy Simmonds this 6th day of July 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of St. Kitts and Nevis

Signed by _____ this day of _____ at _____ for the Government of Monsterrat

Signed by John Compton this 6th day of July 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of Saint Lucia

Signed by James Mitchell this 6th day of July 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of St. Vincent and the Grenadines

Signed by Kenneth Valley this 6th day of July 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of Trinidad and Tobago

Dated this 17th day of March 2008.

ROOSEVELT SKERRIT
Minister for Finance

DOMINICA

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2008

INCOME TAX

S.R.O. 6

COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS NO. 6 OF 2008

ORDER

MADE BY THE MINISTER UNDER SECTION 50 OF
THE INCOME TAX ACT CHAP 67:01.

(Gazetted 3rd April, 2008)

WHEREAS it is provided by section 50(1) of the Income Tax Act Chap 67:01 that the Minister may enter into an Agreement with the Government or Governments of any other country or group of countries with a view among other things for the avoidance of double taxation;

AND WHEREAS for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, profits or gains and capital gains and for the encouragement of regional trade and investment, an Agreement among the Governments of the Member States of the Caribbean Community has been entered into in 1994;

AND WHEREAS it is provided in subsection (3) of the afore-said section that any agreement entered into under subsection (1) or amendment or cancellation under subsection (2) shall come into force by Order made and published in the Gazette;

1. (1) This Order may be cited as the -
**CARIBBEAN COMMUNITY DOUBLE TAXATION
AGREEMENT ORDER, 2008**

Short title and
Commencement.

(2) This Order shall be deemed to have come into force on the 19th day of April, 1996.

Interpretation.

2. In this Order -
"Act" means the Income Tax Act Chap 67:01;

"Agreement" means the Agreement among the Governments of the Member States of the Caribbean Community for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, profits or gains and capital gains and for the encouragement of regional trade and investment (1994) set out in the schedule to this Order.

SCHEDULE

Agreement among the Governments of the Member States of the Caribbean Community for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, profits or gains and capital gains and for the encouragement of regional trade and investment (1994).

The Governments of the Member States of the Caribbean Community desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, profits or gains and capital gains and for the encouragement of Regional Trade and Investment:

Have agreed as follows:

SCOPE, TAXES AND DEFINITIONS

ARTICLE 1 SCOPE OF AGREEMENT

This agreement shall apply to any person who is a resident of Member State in respect of which it has entered into force in accordance with Article 28.

- (i) in Saint Lucia -
(i) Income Tax
- (j) in St. Vincent and the Grenadines -
(i) Income Tax
- (k) in Trinidad and Tobago -
(i) Income Tax
(ii) Corporation Tax
(iii) Unemployment Levy
(iv) Health Surcharge
(v) Petroleum Profits Tax
(vi) Supplemental Petroleum Tax
(vii) Business Levy

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed the present Agreement.

Signed by Lester Bird this 6th day of July 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of Antigua and Barbuda

Signed by Manuel Esquivel this 6th day of July 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of Belize

Signed by Edison C. James this 1st day of March 1996 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of Dominica

Signed by George Brizan this 6th day of July 1994 at Sherbourne Conference Centre, St. Michael, Barbados, for the Government of Grenada

- (b) in respect of other taxes, for the taxable years commencing on or after the first day of January next following the year in which the notice of termination is given.

SCHEDULE 1 TAXES COVERED

1. The Taxes which are the subject of this Agreement are -

- (a) in Antigua and Barbuda -
 - (i) Income Tax
 - (ii) Business Tax
- (b) in Belize -
 - (i) Income Tax
- (c) in Dominica -
 - (i) Income Tax
- (d) in Grenada -
 - (i) Income Tax
- (e) in Guyana -
 - (i) Income Tax
 - (ii) Corporation Tax
 - (iii) Capital Gains Tax
- (f) in Jamaica -
 - (i) Income Tax
 - (ii) Transfer Tax in relation to Capital Gains
- (g) in Montserrat -
 - (i) Income Tax
- (h) in St. Kitts and Nevis -
 - (i) Income Tax

ARTICLE 2 TAXES COVERED

1. This Agreement shall apply to taxes on income, profits or gains and capital gains arising in a Member State in respect of which the Agreement has entered into force in accordance with Article 28 and which are listed in Schedule 1.

However, a Member State which introduces taxes on income, profits or gains and capital gains after the entry into force of this Agreement shall, by notification to the Secretariat, list in Schedule 1 those taxes which will be subject to this Agreement.

2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by a Member State after the date of signature of this Agreement in addition to, or in place of, those referred to in paragraph 1 of this Article.

3. The competent authorities of Member States shall notify all others of any substantial change in their laws relating to the taxes which are the subject of this Agreement, within three (3) months after such change.

ARTICLE 3 GENERAL DEFINITIONS

1. In this Agreement unless the context otherwise requires -

- (a) the word "company" means a body corporate or any entity which is treated as a body corporate for tax purposes;
- (b) the term "competent authority" means the Minister responsible for Finance or his duly authorised representative;
- (c) the term "enterprise of a Member State" means an enterprise that is carried on by a resident of a Member State;

- (d) the term "international traffic" means any transportation by a ship or aircraft operated by an enterprise of a Member State, except when the ship or aircraft is operated solely between places in one country and includes traffic between places in one country in the course of a journey which extends over more than one country;
- (e) the term "Member State" means one of the States listed in Schedule II and shall include the territorial waters of any such member State and any area outside such territorial waters over which the State has sovereign rights or jurisdiction in accordance with international law.
- (f) the word "national" means -
- (i) a citizen of a Member State; or
 - (ii) a person who has a connection with that State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native, resident or believer of the State for the purposes of such laws thereof relating to immigration as are for the time being in force; or
 - (iii) a company or other legal person deriving its status as such from the laws in force in a Member State or constituted in the Member State in conformity with the law thereof that such State regards as belonging to it;
- (g) the word "person" includes an individual, a company and any other body of persons;

2. In the application of this Agreement by a Member State any word or term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws of that Member State relating to the taxes which are the subject of this Agreement.

- (b) in respect of other taxes, for the taxable years beginning on or after the first day of January next following the deposit of its instrument of ratification.

ARTICLE 29 ACCESSION

1. A Member State of the Caribbean Community which is not listed in Schedule II to this Agreement may accede to this Agreement by depositing with the Caribbean Community Secretariat an instrument of accession which shall also specify the taxes to which this Agreement shall apply in respect of that Member State and references in this Agreement to a Member State shall, unless the context otherwise requires, include such an acceding Member State.

2. The Caribbean Community shall transmit a certified copy of the instrument of accession to the Government of each Member State which is a party to this Agreement.

ARTICLE 30 TERMINATION

1. This Agreement shall remain in force indefinitely, but a Member State which is a party to this Agreement may on or before 30th June in any calendar year beginning after the expiration of a period of three years from the date of its entry into force, give to the other Member States, through diplomatic channels, written notice of termination.

2. In such event this Agreement shall cease to have effect in relation to that Member State -

- (a) in respect of taxes withheld at source on amounts paid or credited to a person, from the first day of January next following the year in which the notice of termination is given;

ARTICLE 26
SIGNATURE

This Agreement shall be open for signature by any Member State.

ARTICLE 27
RATIFICATION

This Agreement and any amendments thereto shall be subject to ratification by the Member States in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Caribbean Community Secretariat which shall transmit certified copies to the Government of each Member State.

ARTICLE 28
ENTRY INTO FORCE

1. This Agreement shall enter into force on the deposit of the second instrument of ratification in accordance with Article 27 and shall thereupon take effect –

- (a) in respect of taxes withheld at the source, on amounts paid or credited to a person, on the first day of the calendar month next following the month of deposit of the second instrument of ratification;
- (b) in respect of other taxes, for the taxable years beginning on or after the first day of January next following the deposit of the second instrument of ratification.

2. Where a State ratifies this Agreement after it has entered into force, the Agreement shall take effect in relation to that State –

- (a) in respect of the taxes mentioned in paragraph 1(a), on the first day of the calendar month next following the deposit of its instrument of ratification;

ARTICLE 4
RESIDENCE

1. For the purposes of this Agreement, the term “resident of a Member State” means any person who under the law of that State is liable to tax therein by reason of that person’s domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of more than one Member State, then the status of that individual shall be determined as follows –

- (a) he shall be deemed to be a resident of the Member State in which he has a permanent home available to him; if he has a permanent home available to him in more than one Member State, he shall be deemed to be a resident of the Member State with which his personal and economic relations are closest (thereinafter referred to as his “centre of vital interests”);
- (b) if the Member State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in an Member State, he shall be deemed to be a resident of the Member State in which he has an habitual abode;
- (c) if he has an habitual abode in more than one Member State or in none of them, he shall be deemed to be a resident of the Member State of which he is a national;
- (d) if he is a national of more than one Member State or of none of them, the competent authorities of the Member States concerned shall determine the question by agreement.

3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual would be a resident of more than one Member State, then such person shall, for the

purposes of this Agreement, be deemed to be a resident of the Member State in which its place of effective management is situated.

TAXES ON INCOME

ARTICLE 5 TAX JURISDICTION

Irrespective of the nationality or State of residence of a person, income of whatever nature accruing to or derived by such person shall be taxable only by the Member State in which the income arises, except for the cases specified in this Agreement.

ARTICLE 6 INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property shall be taxable only in the Member State in which such property is situated.

2. The term "immovable property" shall be construed in accordance with the law of the Member 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 or 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 rights to work, mineral deposits, sources and other natural resources; but ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enter-

ARTICLE 24 EXCHANGE OF INFORMATION

1. The competent authorities of the Member States shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Member States concerning taxes covered by this Agreement in so far as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall only be disclosed to persons or authorities including Courts and other administrative bodies concerned with the assessment or collection of the taxes which are the subject of this Agreement. Such persons or authorities shall use the information only for such purposes and may disclose the information in public court proceedings or judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Member States the obligation:

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Member States;
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Member States;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process the disclosure of which would be contrary to public policy.

ARTICLE 25 DIPLOMATS AND CONSULAR OFFICIALS

Nothing in this Agreement 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.

connected therewith which is other or more burdensome than the taxation and connected requirements to which the nationals of that other Member State in the same circumstances are or may be subjected.

2. The provisions of this Article shall not be construed as obliging a Member State to grant to residents of another Member State those personal allowances, credits and reliefs for tax purposes which are by law available only to residents of the first-mentioned Member State.

3. In this Article the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 23 CONSULTATION

1. Where a person who is a resident of a Member State considers that the actions of one or more of the Member States result or will result in taxation not in accordance with this Agreement, such persons may, notwithstanding the remedies provided by the laws of those States, present a case to the competent authority of the Member State of which he is a resident.

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 an appropriate solution, to resolve that case by agreement with the competent authority of the other Member State, with a view to the avoidance of taxation not in accordance with this Agreement.

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

4. The competent authorities of the Member States may communicate directly with each other for the purpose of reaching an agreement in accordance with the provisions of the preceding paragraphs.

prise and to income from immovable property used for the performance of professional services.

ARTICLE 7 CAPITAL GAINS

1. Except as otherwise provided in this Article, gains derived from the alienation of real property situated in a Member State shall be taxed only in that State.

2. For the purposes of this Article real property includes -

- (i) immovable property referred to in Article 6;
- (ii) shares or similar rights in a company, the assets of which consist wholly or principally of immovable property; and
- (iii) an interest in a partnership trust or estate, the assets of which consist wholly or principally of immovable property.

3. Gains derived by an enterprise of a Member State from the alienation of ships, aircraft, or containers operated in international traffic shall be taxable only in that Member State.

4. Gains from the alienation of property other than property referred to in paragraphs 1 and 3 shall be taxable only in the Member State in which the gains arise.

ARTICLE 8 BUSINESS PROFITS

1. Profits resulting from business activities shall be taxable only by the Member State wherein such business activities are undertaken.

2. A business enterprise shall be regarded as undertaking activities in the territory of a Member State when it has in such Member State any of, but not limited to, the following:

- (a) an office, or place of business management;
- (b) a factory, plant, industrial workshop or assembly shop;
- (c) a construction project in progress;
- (d) a place or facility wherein natural resources are extracted or exploited, such as a mine, well, quarry, plantation or fishing boat;
- (e) an agency, or premises, for the purchase or sale of goods;
- (f) a depository, storage facility, warehouse or any similar establishment used for receiving, storing or delivering goods;
- (g) any other premises, office or facilities, the purposes of which are preparatory or auxiliary to the business activities of the enterprise;
- (h) an agent or representative.

3. In determining the profits from a business activity there shall be allowed as deductions expenses which are incurred for the purposes of that activity in accordance with the laws of the Member State in which such activity is undertaken.

4. Where an enterprise carries on business activities in more than one Member State, each State may tax profits from sources within its territory. If the activities are undertaken through representatives, or through the use of facilities such as those indicated in paragraph 1 of this Article, the profits earned shall be attributed to such representatives or facilities provided that such representatives or facilities are totally independent from the business enterprise.

5. Where the business profits include items of income which are dealt with separately in other Articles of this Agreement, the provisions of those Articles shall, except as otherwise provided therein, supersede the provisions of this Article.

ARTICLE 21 STUDENTS AND TRAINEES

1. An individual who is a resident of a Member State immediately before his visit to another Member State and who is temporarily present in that other Member State for the primary purpose of -

- (i) studying in that other Member State at a University or other educational institution approved by the appropriate educational authority of that Member State;
- (ii) securing training required to qualify him to practice a profession or a professional speciality; or
- (iii) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organisation, or as a participant in other sponsored programmes, and

shall not be taxable in respect of -

- (a) gifts from a broad for the purpose of his maintenance, education, study, research or training;
- (b) the grant, allowance or award; and
- (c) remuneration for employment in that other member State provided that the remuneration constitutes earnings reasonably necessary for the maintenance and education of such person.

2. The benefits under paragraph 1 shall only extend for such period of time as may be reasonable or customarily required to effectuate the purpose of the visit.

GENERAL PROVISIONS

ARTICLE 22 NON-DISCRIMINATION

1. The nationals of a Member State shall not be subjected in any other Member State to any taxation or any requirement

2. Any pensions paid by a Member State or local authority or under any Social Security or National Insurance Scheme established under the laws of a Member State shall be taxable only in that Member State.

3. In this Article, the word "pensions" means periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received in connection with past employment.

4. In this Article, the word "annuities" means a stated sum paid periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make payments in return for adequate and full consideration in money or money's worth.

5. In this Article, the word "alimony" means periodic payments made pursuant to a decree of divorce or of separate maintenance or of separation.

ARTICLE 20 GOVERNMENT SERVICE

1. (a) Remuneration other than pensions paid by a member State or local authority thereof to any individual in respect of services rendered to that Member State authority shall be taxable only in that Member State.

(b) However such remuneration shall be taxable only in another Member State if the services are rendered in that other State and the individual is a resident of that State who -

(i) is a national of that State; or

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

2. The provisions of this article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by a Member State or local authority thereof.

ARTICLE 9 SHIPPING AND AIR TRANSPORT

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

2. Profits derived from the operation of ships or aircraft used principally to transport passengers or goods exclusively between places in a member State shall be taxed only in that State.

3. The provisions of paragraph 1 of this Article shall also apply to profits derived by an enterprise of a Member State from the participation in a pool, a joint business or in an international operating agency;

4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits derived from the rental of ships or aircraft if operated in international traffic by the lessee.

5. Profits of an enterprise of a Member State from the use, maintenance or rental of containers (including trailers, barges and related equipment for the transport of containers) shall be taxable only in that State to the extent that such containers are used for the transport of goods or merchandise in international traffic.

ARTICLE 10 ASSOCIATED ENTERPRISES

1. Where -

(a) an enterprise of a Member State participates directly or indirectly in the management, control or capital of an enterprise of another Member State; or

(b) the same persons participate, directly or indirectly in the management, control or capital of an enterprise of a Member State and an enterprise of another Member State,

and in either case conditions are made or imposed between the 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.

ARTICLE 11 DIVIDENDS

1. Dividends paid by a company which is a resident of a Member State to a resident of another Member State shall be taxed only in the first-mentioned State.

2. The rate of tax on the gross dividends shall be zero per cent.

3. The provisions of paragraph 1 of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. In this Article, the word "dividends" means income from shares, mining shares, founders' shares or other rights, not being preference shares or debt claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

5. The rate of tax on gross dividends from preference shares shall not exceed the rate specified in Article 12.

ARTICLE 12 INTEREST

1. Interest arising in a Member State and paid to a resident of another Member State shall be taxed only by the first mentioned State.

2. The rate of tax shall not exceed fifteen per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, interest derived from sources within a Member State shall be exempt from tax in that Member State if it is beneficially

State shall be taxed only in that Member State of which the payer is a resident.

ARTICLE 18 ENTERTAINERS AND ATHLETES

1. Notwithstanding anything contained in this Agreement, income derived by entertainers, including theatre, motion picture, radio or television artistes and musicians, and by athletes, from their personal activities as such shall be taxed only in the Member State in which those activities are performed.

2. Where income in respect of personal activities of any entertainer or athlete as such accrues not to that entertainer or athlete himself but to another person, that income shall, notwithstanding anything contained in this Agreement, be taxed only in the Member State in which the activities of the entertainer or athlete are performed.

3. The provisions of paragraphs 1 and 2 shall not apply to -

- (a) income derived from activities performed in a Member State by entertainers or athletes if the visit to that Member State is substantially supported by public funds of the other Member State, including any political subdivision, local authority or statutory body thereof;
- (b) a non-profit organisation no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, or
- (c) an entertainer or athlete in respect of services provided to an organisation referred to in subparagraph (b).

ARTICLE 19 PENSIONS AND ANNUITIES

1. Pensions, annuities, alimony and other periodic payment of a similar character paid by a resident of a Member State to an individual who is a resident of another Member State shall be taxable only by the State from which the payment of such income is liable to be made.

- (c) such remuneration is not deducted in arriving at the profits of a trade, business, profession or vocation which is carried on by the employer in the other Member State.

3. Notwithstanding the preceding the provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operating in international traffic shall be taxed only in the Member State in which the person operating the ship or aircraft is a resident.

ARTICLE 16 INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual, who is a resident of a Member State engaged in rendering professional services of an independent character shall be taxable only by the Member State wherein such services are rendered.

2. Where a resident of a Member State derives income from another Member State in respect of professional services or other independent activities of a similar character, such person shall be subject to tax in that other Member State but only in respect of such income as is attributable to the services or activities performed in that other Member State. In determining the income attributable to such services or activities there shall be allowed as a deduction such expenses wherever incurred as would be deductible in accordance with the laws of that other Member State.

3. In this Article, the term "professional services" includes, but is not restricted to, independent scientific, technical, literary, artistic, educational and teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 17 DIRECTORS' FEES

1. Directors' fees and similar payments derived by a resident of a Member State in his capacity as a member of the Board of Directors of a Company which is a resident of another Member

owned by the Government of another Member State, or by an agency or other entity of that Government.

4. For the purpose of this Article, interest shall be deemed to arise in the Member State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. However, where the person paying the interest carries on business through an office, branch or agency in a Member State, and such interest is borne by that office, branch or agency, such interest shall be deemed to arise in the Member State in which the office, branch or agency is situated.

5. Where, owing to a special relationship between the payer and the recipient of the interest or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim in respect of which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the laws of the Member State in which the interest shall be deemed to arise.

6. In this Article, the word "interest" means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

7. The word "interest" shall not include any item of income which is treated as a distribution by the tax laws of a Member State.

ARTICLE 13 ROYALTIES

1. Royalties arising in a Member State and paid to a resident of another Member State shall be taxed only in the first-mentioned State.

2. The rate of tax shall not exceed fifteen per cent of the gross amount of the royalties.

3. In this Article, the word “royalties” means payments of any kind received as 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 of radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process or other like property or rights, or for the use of or the right to use industrial, commercial or scientific plant or equipment, or for information concerning industrial, commercial or scientific experience; but does not include royalties or other amounts paid in respect of the operations of mines or quarries or in respect of the extraction or removal of natural resources.

4. Royalties shall be deemed to arise in a Member State in which the copyright, patent, trade mark, design, model, plan, secret formula, process or non-patented technical knowledge or other similar intangible property is used.

5. Where, owing to a special relationship between the payer and the recipient of the royalties or between both of them and some other person, the amount of the royalties paid having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship the provisions of this Article shall apply only to the last-mentioned amount. In that case the excess part of the payment shall remain taxable according to the laws of the Member State in which the royalty is deemed to arise.

ARTICLE 14 MANAGEMENT FEES

1. Management fees arising in a Member State and paid to a resident of another Member State shall be taxed only in the first mentioned State.

2. The rate of tax shall not exceed fifteen per cent of the management fees.

3. In this Article, the term “management fees” means payments of any kind to any person, for or in respect of the provision of industrial or commercial advice or for management or technical services or similar services or facilities, but does not include payments for professional services mentioned in Article 16.

4. Management fees shall be deemed to arise in a member State when the payer is that Member State itself, a local authority or a resident of that Member State.

5. Where owing to a special relationship between the payer and the recipient of the management fees or between both of them and some other person, the amount of the management fees paid, having regard to the advice or services for which they are paid, exceeds the amount which would have been agreed upon by the payer and recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case the excess part of the payment shall remain taxable according to the laws of the Member State in which the management fees arise.

ARTICLE 15 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 17, 19, and 20, salaries, wages and other similar remuneration derived by a resident of a Member State in respect of an employment shall be taxed only in the Member State in which the employment is exercised.

2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Member State in respect of an employment exercised in another Member State shall be taxed only in the first-mentioned State if:

- (a) the recipient is present in the other State for a period or periods not exceeding an aggregate 183 days in the tax year; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and