

PROTOCOL

At the moment of signing the Agreement between the Government of Canada and the Government of the Socialist Republic of Vietnam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the Agreement.

1. It is understood that the term "person" also includes an estate and a trust.
2. It is understood that the term "resident of a Contracting State" also includes the Government of that State or a political subdivision or local authority thereof or any agency or instrumentality of any such government, subdivision or authority.
3. Nothing in the Agreement shall be construed as preventing:
 - (a) Canada State from imposing on the earnings of a company attributable to a permanent establishment in Canada, a tax in addition to the tax which would be chargeable on the earnings of a company which is a national of Canada, provided that any additional tax so imposed shall not exceed 5 per cent of the amount of such earnings which have not been subjected to such additional tax in previous taxation years. This provision shall also apply with respect to earnings derived from the alienation of immovable property in Canada by a company carrying on a trade in immovable property, whether or not it has a permanent establishment in Canada, but only insofar as these earnings may be taxed in Canada under the provisions of Article 6 or paragraph 1 of Article 13;
 - (b) Vietnam from imposing the Vietnamese profit remittance tax, provided that the tax so imposed shall not exceed 10 per cent of the gross amount of the profits remitted.
4. The provisions of the Agreement shall not be construed to restrict in any manner any exemption, allowance, credit or other deduction accorded:
 - (a) by the laws of a Contracting State in the determination of the tax imposed by that State; or
 - (b) by any other agreement entered into by a Contracting State.
5. Nothing in the Agreement shall be construed as preventing a Contracting State from imposing a tax on amounts included in the income of a resident of that State with respect to a partnership, trust, or controlled foreign affiliate, in which he has an interest. For the purposes of this paragraph, the term "controlled foreign affiliate", at any time, of a person that is a resident of a Contracting State, means a foreign affiliate of that resident that was, at that time controlled by
 - (a) that resident;
 - (b) that resident and not more than four persons resident in that Contracting State;
 - (c) not more than four persons resident in that Contracting State, other than that resident;