

Article 9

Associated Persons

1. Where

- a) a resident of a Contracting State participates directly or indirectly in the management, control or capital of a resident of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of a resident of a Contracting State and a resident of the other Contracting State,

and in either case conditions are made or imposed between the two persons in their commercial or financial relations which differ from those which would be made between independent persons, then any income or profits which would, but for those conditions, have accrued to one of the persons, but, by reason of those conditions, have not so accrued, may be included in the income or profits of that person and taxed accordingly.

2. Where a Contracting State includes in the income or profits of a resident of that State - and taxes accordingly - income or profits on which a resident of the other Contracting State has been charged to tax in that other State and the amount so included is income or profits which would have accrued to the first-mentioned person if the conditions made between the two persons had been those which would have been made between independent persons, then that other State shall where it agrees with the inclusion make an appropriate adjustment to the amount of tax charged therein on that income or 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.

3. A Contracting State shall not change the income or profits of a person in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its national laws and, in any case, after five years from the end of the year in which the income or profits which would be subject to such change would, but for the conditions referred to in paragraph 1, have accrued to that person.

4. The provisions of paragraphs 2 and 3 shall not apply in the case of fraud, wilful default or neglect.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed: