

3. A Contracting State shall not change the income of an enterprise 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 which would be subject to such change would, but for the conditions referred to in paragraph 1, have accrued to that enterprise.

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

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:

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends;
- (b) notwithstanding the provisions of subparagraph (a), 10 per cent of the gross amount of the dividends if the dividends are paid by a non-resident-owned investment corporation that is a resident of Canada to a beneficial owner that is a company (other than a partnership) that is a resident of Luxembourg and that owns at least 25 per cent of the capital of the company paying the dividends; and
- (c) 15 per cent of the gross amount of the dividends in all other cases.

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

3. Notwithstanding the provisions of paragraph 2, dividends paid by a company that is a resident of Luxembourg shall not be taxable in Luxembourg if the beneficial owner of the dividends is a company that is a resident of Canada and that has had during an uninterrupted period of two years preceding the date of payment of the dividends, a direct shareholding of at least 25 per cent of the voting stock of the company paying the dividends. This provision only applies to dividends attributable to that part of the shareholding that has been owned without interruption by the beneficial owner during such two-year period. Furthermore, the provisions of this paragraph shall only apply if the distributed dividend is derived from the active conduct of a trade or business in Luxembourg (other than the business of making or managing investments, unless such business is carried on by a banking or insurance company) and if such dividends are exempt in Canada.

4. Notwithstanding the provisions of paragraph 2, dividends arising in a Contracting State and paid to an organization that was constituted and is operated in the other Contracting State exclusively to administer or provide benefits under one or more pension, retirement or other employee benefits plans shall be exempt from tax in the first-mentioned State provided that: