

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 in connection with which the indebtedness on which the interest is paid was incurred, and that interest is borne by that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 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 payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE XII

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 be taxed in the Contracting State in which they arise, and according to the law of that State; but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraph 2, approved industrial royalties derived from Malaysia by a resident of Canada who is the beneficial owner thereof shall be exempt from Malaysian tax.

4. 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, patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience. The term, however, does not include any royalty or other amount paid in respect of motion picture films or of tapes for radio or television broadcasting.

5. The term "approved industrial royalties" means royalties as defined in paragraph 4 which are approved and certified by the competent authority of Malaysia as payable for the purpose of promoting industrial development in Malaysia and which are payable by an enterprise which is wholly or mainly engaged in activities falling within one of the following classes:

- (a) manufacturing, assembling or processing;
- (b) construction, civil engineering or shipbuilding; or
- (c) electricity, hydraulic power, gas or water supply.