

7. Nothing in this Convention shall be construed as preventing Canada from imposing a tax on the earnings attributable to permanent establishments in Canada of a company which is a resident of New Zealand, in addition to the tax which would be chargeable on the earnings of a company which is a resident of Canada, provided that the rate of 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. For the purpose of this paragraph, the term "earnings" means profits attributable to such permanent establishments in Canada (including gains from the alienation of property forming part of the business property, referred to in paragraph 2 of Article 13, of such permanent establishments) in accordance with Article 7 in a year and previous years after deducting therefrom:

- (a) business losses attributable to such permanent establishments (including losses from the alienation of property forming part of the business property of such permanent establishments) in such year and previous years;
- (b) all taxes chargeable in Canada on such profits, other than the additional tax referred to herein;
- (c) the profits reinvested in Canada, provided that the amount of such deduction shall be determined in accordance with the existing provisions of the law of Canada regarding the computation of the allowance in respect of investment in property in Canada, and any subsequent modification of those provisions which shall not affect the general principle hereof; and
- (d) five hundred thousand Canadian dollars (\$500,000), less any amount deducted:
  - (i) by the company, or
  - (ii) by a person related thereto from the same or a similar business as that carried on by the company,

under this subparagraph (d); for the purposes of this subparagraph (d), a company is related to another company if one company directly or indirectly controls the other, or both companies are directly or indirectly controlled by the same person or persons, or if the two companies deal with each other not at arm's length.

8. The provisions of paragraph 7 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 paragraph 1 of Article 13.

9. No relief shall be available under this Article if it is the main purpose or one of the main purposes of any person concerned with an assignment of the dividends, or with the creation or assignment of the shares or other rights in respect of which the dividend is paid, or the establishment, acquisition or maintenance of the company that is the beneficial owner of the dividends and the conduct of its operations, to take advantage of this Article. In any case where a Contracting State intends to apply this paragraph, the competent authority of that State shall consult with the competent authority of the other Contracting State.