

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 of this Article after the expiry of the time limits provided in its national laws and, in any case, after more than six years from the end of the year in which the profits which would be subject to such change would have accrued to an enterprise of that State.

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

Article 10

DIVIDENDS

1. Dividends derived from a company which is a resident of a Contracting State by 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:

- (a) 12½ per cent of the gross amount of the dividends if the recipient is a company which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends;
- (b) 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 on the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, or any other item (other than interest relieved from tax under the provisions of Article 11) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply where the beneficial owner of the dividends, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment, or performs in that other State independent personal services from a fixed base situated therein, and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company and beneficially owned by persons who are not residents of the other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

6. Nothing in this Agreement shall be construed as preventing a Contracting State from imposing on the earnings of a company attributable to a permanent establishment in that State, tax in addition to the tax which would be chargeable on the earnings of a company which is a national of that State, provided that any additional tax so imposed shall not exceed 12½ 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 provision, the term "earnings" means the profits attributable to a permanent establishment in a Contracting State in a year and previous years after deducting therefrom all taxes, other than the additional tax referred to herein, imposed on such profits by that State.

7. The provisions of this Article shall not apply if the right or property giving rise to the dividend was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.