

No. 53262*

**Canada
and
Moldova**

Convention between the Government of Canada and the Government of the Republic of Moldova for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol and corrections). Chisinau, 4 July 2002

Entry into force: *13 December 2002 by notification, in accordance with article 27*

Authentic texts: *English, French and Moldovan*

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**Canada
et
Moldova**

Convention entre le Gouvernement du Canada et le Gouvernement de la République de Moldova en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole et corrections). Chisinau, 4 juillet 2002

Entrée en vigueur : *13 décembre 2002 par notification, conformément à l'article 27*

Textes authentiques : *anglais, français et moldave*

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[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION
BETWEEN
THE GOVERNMENT OF CANADA
AND
THE GOVERNMENT OF THE REPUBLIC OF MOLDOVA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

**THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE
REPUBLIC OF MOLDOVA,**

DESIRING to conclude a Convention for the avoidance of double taxation and the
prevention of fiscal evasion with respect to taxes on income,

HAVE AGREED as follows:

I. SCOPE OF THE CONVENTION

ARTICLE 1

Persons Covered

This Convention shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - (a) in the case of Canada, the income taxes imposed by the Government of Canada under the *Income Tax Act* (hereinafter referred to as "Canadian tax"); and
 - (b) in the case of Moldova, the income tax (hereinafter referred to as "Moldovan tax").
4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their respective taxation laws.

II. DEFINITIONS

ARTICLE 3

General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - (a) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Canada or Moldova;
 - (b) the term "Canada", used in a geographical sense, means the territory of Canada, including:
 - (i) any area beyond the territorial sea of Canada which, in accordance with international law and the laws of Canada, is an area within which Canada may exercise rights with respect to the seabed and subsoil and their natural resources, and
 - (ii) the sea and airspace above every area referred to in clause (i) in respect of any activity carried on in connection with the exploration for or the exploitation of the natural resources referred to therein;
 - (c) the term "Moldova" means the Republic of Moldova and, when used in a geographical sense, means its territory within its borders, consisting of soil, subsoil, waters and aerial space above soil and waters, over which the Republic of Moldova exercises its absolute and exclusive sovereignty and jurisdiction, in accordance with its internal legislation and international law;
 - (d) the term "person" includes an individual, a trust, a company, a partnership and any other body of persons;
 - (e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (g) the term "competent authority" means:
 - (i) in the case of Canada, the Minister of National Revenue or the Minister's authorized representative, and
 - (ii) in the case of Moldova, the Minister of Finance or the Minister's authorized representative;
 - (h) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State, and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State; and

- (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where the principal purpose is to transport passengers or property between places within the other Contracting State.
2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies.

ARTICLE 4

Resident

1. For the purposes of this Convention, the term "resident of a Contracting State" means:
- (a) any person who, under the laws of that State, is liable to tax therein by reason of the person's domicile, residence, place of management, place of registration, place of incorporation or any other criterion of a similar nature, but does not include any person who is liable to tax in that State in respect only of income from sources in that State, and
 - (b) that State or a political subdivision or local authority thereof or any agency or instrumentality of any such State, subdivision or authority.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the individual's status shall be determined as follows:
- (a) the individual shall be deemed to be a resident only of the State in which the individual has a permanent home available and if the individual has a permanent home available in both States, the individual shall be deemed to be a resident only of the State with which the individual's personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which the individual's centre of vital interests is situated cannot be determined, or if there is not a permanent home available to the individual in either State, the individual shall be deemed to be a resident only of the State in which the individual has an habitual abode;
 - (c) if the individual has an habitual abode in both States or in neither of them, the individual shall be deemed to be a resident only of the State of which the individual is a national; and
 - (d) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, then its status shall be determined as follows:
- (a) it shall be deemed to be a resident only of the State of which it is a national;
or
 - (b) if it is a national of neither of the States, it shall be deemed to be a resident only of the State in which its place of effective management is situated.

4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement endeavour to settle the question and to determine the mode of application of the Convention to such person. In the absence of such agreement, such person shall not be entitled to claim any relief or exemption from tax provided by the Convention.

ARTICLE 5

Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop; and
 - (f) a mine, an oil or gas well, a quarry or any other place relating to the exploration for or the exploitation of natural resources.
3. A building site, construction, assembly or installation project or supervisory activities in connection therewith constitute a permanent establishment only if such site, project or activities continue for a period of more than twelve months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; or
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e) provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.