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**Canada
and
Romania**

Convention between Canada and Romania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with corrections). Ottawa, 8 April 2004

Entry into force: *31 December 2004, in accordance with article 29*

Authentic texts: *English, French and Romanian*

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**Canada
et
Roumanie**

Convention entre le Canada et la Roumanie en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec corrections). Ottawa, 8 avril 2004

Entrée en vigueur : *31 décembre 2004, conformément à l'article 29*

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[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION
BETWEEN
CANADA
AND
ROMANIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME AND ON CAPITAL

CANADA AND ROMANIA desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

HAVE AGREED as follows:

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 and on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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 Romania:
 - (i) the tax on income;
 - (ii) the tax on profit;
 - (iii) the tax on agricultural income;(hereinafter referred to as "Romanian tax"); and
 - (b) in the case of Canada, the taxes imposed by the Government of Canada under the *Income Tax Act* (hereinafter referred to as "Canadian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which 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 which have been made in their respective taxation laws.

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 Romania or Canada, as the context requires;
 - (b) the term "Romania", used in a geographical sense, means the State territory of Romania, including its territorial sea and air space over the territory and the territorial sea over which Romania exercises sovereignty, as well as the contiguous zone and the continental shelf and the exclusive economic zone over which Romania exercises, in accordance with its legislation and with the rules and principles of international law, sovereign rights and jurisdiction;
 - (c) the term "Canada", used in a geographical sense, means the territory of Canada, including
 - (i) any area beyond the territorial sea of Canada that, in accordance with international law and the laws of Canada, is an area in respect of 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);
 - (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 "national" means
 - (i) any individual possessing the citizenship 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;
 - (h) the term "international traffic" means any voyage by a ship or aircraft operated by an enterprise of a Contracting State to transport passengers or property except where the principal purpose of the voyage is to transport passengers or property between places in the other Contracting State;

- (i) the term "competent authority" means:
 - (i) in the case of Romania, the Minister of Public Finances or the Minister's authorized representative, and
 - (ii) in the case of Canada, the Minister of National Revenue or the Minister's authorized representative.

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, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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 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 an administrative territorial unit thereof in the case of Romania, or a political subdivision or local authority thereof in the case of Canada or any agency or instrumentality of that State, unit, subdivision or authority as the case may be.
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 person other than an individual 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 shop;
 - (f) a workshop, and
 - (g) 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 or construction or installation project constitutes a permanent establishment only if it lasts 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 stock of goods or merchandise belonging to the enterprise, displayed during an occasional and temporary trade fair or exhibition, and which is sold by the enterprise after the closing of the said fair or exhibition;
 - (e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;