

PROTOCOL
AMENDING THE CONVENTION BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND
THE GOVERNMENT OF THE REPUBLIC OF BULGARIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The Government of the United States of America and the Government of the Republic of Bulgaria, desiring to amend the Convention Between the Government of the United States of America and the Government of the Republic of Bulgaria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on February 23, 2007 (hereinafter referred to as "the Convention"),

Have agreed as follows:

ARTICLE I

With respect to Article 1 (General Scope), subparagraph a) of paragraph 5 shall be amended to read as follows:

- “5. The provisions of paragraph 4 shall not affect:
- a) the benefits conferred by a Contracting State under paragraph 2 of Article 9 (Associated Enterprises), paragraphs 2 and 5 of Article 17 (Pensions, Social Security Payments, Annuities, Alimony, and Child Support), and Articles 22 (Relief From Double Taxation), 23 (Non-Discrimination), and 24 (Mutual Agreement Procedure); and”

ARTICLE II

With respect to Article 11 (Interest), paragraph 8, the reference to “paragraph 1” shall be changed to “paragraphs 2 and 3” as follows:

- “8. Notwithstanding the provisions of paragraphs 2 and 3:”

ARTICLE III

With respect to Article 19 (Students, Trainees, Teachers and Researchers), paragraph 2 shall be amended to read as follows:

“2. An individual who is a resident of a Contracting State at the beginning of his visit to the other Contracting State and who is temporarily present in the other Contracting State for the purpose of teaching or carrying on research at a school, college, university or other recognized educational or research institution shall be exempt from tax in the other Contracting State, for a period not exceeding two years from the date of the individual's arrival in that other State on the remuneration received in consideration of teaching or carrying on research. This paragraph shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.”

ARTICLE IV

With respect to Article 21 (Limitation on Benefits), paragraphs 5 and 6 shall be renumbered as paragraphs 6 and 7, respectively, and a new paragraph 5 shall be added to read as follows:

“5. Notwithstanding the preceding provisions of this Article, where an enterprise of Bulgaria derives interest, or royalties from the United States, and the income consisting of such interest, or royalties is exempt from taxation in Bulgaria because it is attributable to a permanent establishment which that enterprise has in a third state, the tax benefits that would otherwise apply under the other provisions of the Convention will not apply to such income if the tax that is actually paid with respect to such income in the third state is less than 60 percent of the tax that would have been payable in Bulgaria if the income were earned in Bulgaria by the enterprise and were not attributable to the permanent establishment in the third state. Any interest or royalties to which the provisions of this paragraph apply may be taxed in the United States at a rate that shall not exceed 15 percent of the gross amount thereof. The provisions of this paragraph shall not apply if:

- a) in the case of interest, as defined in Article 11 (Interest), the income from the United States is derived in connection with, or is incidental to, the active conduct of a trade or business carried on by the permanent establishment in the third state (other than the business of making, managing, or simply holding investments for the enterprise's own account, unless these activities are banking, or securities activities carried on by a bank, or registered securities dealer); or
- b) in the case of royalties, as defined in Article 12 (Royalties), the royalties are received as compensation for the use of, or the right to use, intangible property produced or developed by the permanent establishment itself.”

ARTICLE V

1. This Protocol shall enter into force on the date of entry into force of the Convention.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

DONE at _____, in duplicate, this _____ day of _____, 2007, in the English and Bulgarian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF
THE REPUBLIC OF BULGARIA: