

THE ADVANCED DIPLOMA IN INTERNATIONAL TAXATION

December 2022

MODULE 2.03 – CYPRUS OPTION

ADVANCED INTERNATIONAL TAXATION (JURISDICTION)

TIME ALLOWED – 3¼ HOURS

This exam paper has **three** parts: **Part A**, **Part B** and **Part C**.

You need to answer **five** questions in total. You will **not** receive marks for any additional answers.

You must answer:

- **Both** questions in **Part A** (25 marks each)
- **The** question in **Part B** (20 marks)
- **Two** questions from **Part C** (15 marks each)

Further instructions

- All workings should be made to the nearest month and in Euros, unless otherwise stated.
- You must provide appropriate line breaks between each question, and clearly indicate the start of each new question using the formatting tools available.
- Marks may be allocated for clarity of presentation of your answers.
- The time you spend answering questions should correspond broadly to the number of marks available for that question. You should therefore aim to spend approximately half of your time answering Part A, and the other half answering questions in Parts B and C.
- There is no separate reading time, so you can start typing your answers as soon as the exam begins. However, we recommend that you set aside some time to thoroughly read each question and plan each of your answers.

For your information this paper includes:

Cyprus-Poland Double Tax Agreement

PART A

You are required to answer BOTH questions from this Part.

1. The XML Holdings group operates through offices which it maintains in 25 jurisdictions around the world, including Cyprus, and engages in the production and distribution of wines and spirits, holding of investments, and provision of financing.

The ultimate shareholder (UBO) of the group is an individual who is tax resident in Switzerland.

The group structure is organised under two parent companies:

- XML Holdings Cyprus Ltd (XML CY), a company incorporated and tax resident in Cyprus. Its main activities are the holding of investments and provision of financing to related and unrelated parties. The company operates through its fully fledged owned office premises in Cyprus.
- XML Belgium Ltd (XML BE), a company incorporated and tax resident in Belgium.

In 2021 the group decided to reorganise its global operations, particularly the holding and financing operations, and took the following practical steps in sequence:

- 1) XML BE contributed a loan receivable from a Dutch tax resident group company, XML Netherlands Ltd (XML NL), to XML CY. The contribution was made in exchange for the issue of shares in XML CY. The receivable generates interest income on an arm's length basis.
- 2) XML BE contributed the shares held in XML CY to the Swiss UBO of the group, in settlement of a debt owed by XML BE to the UBO.
- 3) The UBO contributed the shares held in XML CY to a BVI trust, whose sole beneficiary is the UBO.
- 4) XML NL settled the loan payable to XML CY, by transferring to XML CY the investment held in another group company, XML France Ltd (XML FR), tax resident in France. The fair market value of the shares of XML FR is significantly higher than the fair market value of the loan payable.

In 2021 the group also expanded into property development in Poland, by acquiring a piece of land in order to construct a commercial building and then sell it at a profit. The land is directly owned by XML Poland Ltd (XML PL), a company incorporated and tax resident in Poland. XML PL is directly owned by XML CY.

The after-effects of the Covid-19 pandemic, together with current geopolitical concerns in the wider Baltic region, has contributed to a difficult economic environment which has made it harder for the Group to find a suitable buyer for the commercial property in Poland. As a result, the group now intends to either rent out the property and distribute any profits to XML CY, or liquidate XML PL.

You are required to:

- 1) **Identify and describe any Cyprus Income Tax and Capital Gains Tax implications for the XML Holdings group companies for the 2021 tax year, citing any necessary assumptions, resulting from the transactions described above. In particular, your answer should address:**
 - a) **the loan receivable to XML CY;** (5)
 - b) **the new issue of share capital and share premium; and** (4)
 - c) **the contribution of shares by the companies as described.** (10)
- 2) **Describe the Income Tax and Special Defence Contribution implications for XML CY of the proposed Polish dividend distribution and liquidation proceedings.** (6)

Total (25)

2. The SPI group is a multinational enterprise with group companies in four jurisdictions, including Cyprus. The Cyprus companies of the group are:

- SPI Holdings Ltd, a company incorporated and tax resident in Cyprus. It is primarily engaged in the holding of investments and exploitation of intellectual property. SPI Holdings Ltd holds 79% of shares in Services Cyprus Ltd and 80% of shares in Highlands Ltd.
- Services Cyprus Ltd, which has its legal seat in Jersey but is resident in Cyprus for tax purposes. Its main activity is the provision of consulting services.
- Highlands Ltd, a company incorporated and resident in Cyprus for tax purposes. It is primarily engaged in the exploitation of owned hotels in Cyprus and Jamaica.

The following information is available in relation to the 2021 tax year:

	<u>SPI Holdings Ltd</u> €	<u>Services Cyprus Ltd</u> €	<u>Highlands Ltd</u> €
Taxable income as per tax computation	2,100,000	250,000	3,500,000
<u>Other information</u>			
<u>Taxable income</u>			
Income subject to the CFC rule	-	-	1,000,000
Interest income	900,000	300,000	100,000
<u>Interest expense</u>			
Tax deductible	2,000,000	350,000	1,250,000
Includes interest expense in relation to loans concluded prior to 17/6/2016)	500,000	-	100,000
Non-tax deductible	250,000	50,000	180,000
Wear & tear allowances	80,000	20,000	500,000
Deductions claimed in accordance with Article 9(I) of the Income Tax Law	200,000		
Loss b/f from previous tax year		(300,000)	
Equity of consolidated group			18,000,000
Combined equity of Cyprus companies			2,000,000
Total assets of consolidated group			24,000,000
Total assets of Cyprus companies			4,500,000

No intercompany balances were due at 31 December 2021.

You are required to determine the amount of tax deductible, exceeding borrowing costs, for each of the three Cyprus tax resident companies for the 2021 tax year. (25)

PART B

You are required to answer THIS question.

3. **You are required to explain the meaning of hybrid and reverse hybrid mismatches, and the underlying aim of the Anti-Tax Avoidance Directive (ATAD) hybrid mismatch rules. Identify and describe the main, relevant provisions of the Cyprus Income Tax Law. (20)**

PART C

You are required to answer TWO questions from this Part.

4. Anna Soyer is a Polish citizen and is registered in Poland as a private entrepreneur. She files her annual income tax returns with the Polish tax authorities and pays any personal income tax due in Poland.

Ms Soyer's primary activity in Poland is the renting and leasing out of residential and commercial real estate in Poland to companies and individuals. Her business operates through owned office premises in Poland, and employs ten employees who are responsible for the management, operation, repairs and administration of the properties.

Ms Soyer also receives a monthly pension in relation to her past employment by a Polish real estate company, amounting to €15,000 per annum.

From 1 January 2021, alongside the above activities, Ms Soyer decided to embark on additional business activities in Cyprus. On 15 November 2021 she set up a Cyprus company which engages in real estate consulting and in which she is the sole shareholder and one of the directors. The company employs four individuals who undertake a number of responsibilities, as Ms Soyer is not able to stay in Cyprus throughout the whole year.

While in Cyprus, Ms Soyer stays in a private residence in Limassol, which she had purchased a few years previously. In 2021 she resided in Cyprus between 1 February and 31 March, and between 15 November and 31 December.

During the course of 2021, Ms Soyer travelled extensively in the hope of finding the perfect place to live upon her retirement. In this regard, she resided in Malta during the summer holidays, from 1 June until 31 August. Ms Soyer was not tax resident in any of the countries which she visited in 2021.

No other income was earned by Ms Soyer during 2021.

You are required to:

- 1) **Analyse Ms Soyer's tax residency implications for the 2021 tax year.** (5)
- 2) **Analyse the Income Tax implications for Ms Soyer for the 2021 tax year.** (10)

Total (15)

5. Samuel Andreou is a Cypriot citizen and tax resident in Cyprus.

Following the completion of his studies in the United Kingdom, Mr Andreou worked in London until July 2010 before returning to Cyprus, in August 2010, for family reasons. He remained in Cyprus for two years as an employee of IT Ltd, a Cyprus tax resident company, and in August 2012 moved back to London to take up a new employment opportunity.

In October 2020, Mr Andreou relocated to Cyprus, becoming a Cyprus tax resident individual, and took up employment with a Cyprus tax resident company, ABZ Complex Ltd, as its CEO. It was agreed that, for the period between 1 November 2020 and 31 December 2021 Mr Andreou shall be remunerated with a base salary of €75,000 per annum and an annual performance-related bonus of €80,000. These amounts are expected to remain the same for the foreseeable future.

In September 2021, recognising Mr Andreou's very strong performance, the board of directors of ABZ Complex Ltd decided to award him a package of 5,000 share options in the company. The rights could be exercised after a two-month period, beginning on the date they were allotted, on 1 September 2021, at a cost of €0.75 per share. At the end of the two-month vesting period, the market value of the shares was €5.75.

You are required to analyse the Income Tax implications for Mr Andreou for the 2021 tax year. (15)

6. In order to combat tax evasion through automatic information exchange, the European Union enacted Council Directive 2011/16/EU1 (Directive on Administrative Cooperation or 'DAC'). This was amended repeatedly, culminating in Council Directive (EU) 2018/8222 ('DAC6'), which entered into force on 25 June 2018.

Compulsory DAC6 reporting was introduced in Cyprus from 1 March 2022, with monthly reports submitted in XML format through the Cyprus Government's website, 'Ariadni'.

Among other things, DAC6 refers to the 'main benefit test' (MBT) and to 'hallmarks' which trigger the mandatory reporting obligation.

You are required to:

- 1) Explain how the 'main benefit test' (MBT) is conducted within the context of DAC6. (6)
- 2) Identify, with brief explanation, those hallmarks which are specifically linked to the MBT. You should refer only to category A and category B hallmarks. (9)

Total (15)

7. You are required to answer the following questions, regarding the supply of services under the applicable laws in Cyprus.

- 1) State the place of supply of the type of services listed below for VAT purposes, with reasons in support of your answers:
 - a) Services connected to immovable property;
 - b) Passenger transport;
 - c) The short-term hiring of means of transport;
 - d) Cultural, artistic, sporting, scientific, educational, entertainment or similar activities; and
 - e) Restaurant and catering services on board ships, aircraft or trains. (8)
- 2) Outline the specific rules applicable to the following supplies of business-to-customer (B2C) services to non-taxable persons:
 - a) Services provided by intermediaries;
 - b) General B2C transport of goods (not intra-Community);
 - c) B2C intra-Community transport of goods;
 - d) Ancillary services to the transport of goods;
 - e) Services consisting of valuations of, or works on, movable tangible property; and
 - f) Electronically supplied services by suppliers established in a third country. (7)

Total (15)

AGREEMENT OF 4TH JUNE, 1992 AS AMENDED BY 22ND MARCH, 2012

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CYPRUS AND THE GOVERNMENT OF THE REPUBLIC OF POLAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL.

ARTICLE 1 PERSONAL SCOPE

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

ARTICLE 2 TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in Poland:
 - (i) the personal income tax;
 - (ii) the corporate income tax;(hereinafter referred to as “Polish tax”).
 - (b) in Cyprus:
 - (i) the income tax;
 - (ii) the corporate income tax;
 - (iii) the special contribution for the Defence of the Republic;
 - (iv) the capital gains tax;(hereinafter referred to as “Cyprus tax”).
4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes referred to in this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3 GENERAL DEFINITIONS

1. For the purpose of this Agreement unless the context otherwise requires:
 - (a) the term “Poland” means the territory of the Republic of Poland and includes the area outside the territorial sea, fishing zone, continental shelf, as an area within which Poland exercises jurisdiction in accordance with international law and with respect to internal laws of Poland;
 - (b) the term “Cyprus” means the Republic of Cyprus and, when used in a geographical sense, includes the national territory, the territorial sea thereof as well as any area outside the territorial sea, including the contiguous zone, the exclusive economic zone and the continental shelf, which has been or may hereafter be designated, under the laws of Cyprus and in accordance with international law, as an area within which Cyprus may exercise sovereign rights or jurisdiction;
 - (c) the terms “a Contracting State” and “the other Contracting State” mean Poland or Cyprus as the context requires;
 - (d) the term “national” means any individual possessing the nationality of a Contracting State and any legal person, partnership and association deriving its status as such from the law in force in a Contracting State;
 - (e) the term “person” includes an individual, a trust, a company or any other body of persons;
 - (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 “company” means any body corporate or any other entity which is treated as a body corporate for tax purposes;
 - (h) the term “fixed base” means a permanent place in which professional activities are exercised;

- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its registered office in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (j) the term “competent authority” means:
 - (i) in the case of Poland, the Minister of Finance or his authorised representative;
 - (ii) in the case of Cyprus, the Minister of Finance or his authorised representative.
2. As regards the application of this Agreement 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 laws of that State for the purposes of the taxes to which Agreement 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 Agreement, the term “resident of the Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, registered office or any other criterion of a similar nature. However, the term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 of this Article an Individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him;
 - (b) if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (c) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (d) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - (e) if the status of resident cannot be determined according to sub-paragraphs a-d, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purpose of this Agreement, 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;
 - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
 - (g) a building site or a construction, assembly, or installation project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 12 months.
3. Notwithstanding the provisions of the preceding paragraphs 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 for collecting information for the enterprise;

- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;
 - (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.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, where a person – other than an agent of an independent status to whom paragraph 5 applies – is acting on behalf of an enterprise and has and habitually exercises in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise unless the activities of such person are limited to those mentioned in paragraph 3 which if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
 5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
 6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that State, whether through a permanent establishment or otherwise, shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property, including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State.
2. (a) The term “immovable property” shall, subject to the provisions of sub-paragraphs (b) and (c), have the meaning which it has under the law of the Contracting State in which the property in question is situated.
(b) The term “immovable property” shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.
(c) Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 of this Article shall apply to income derived from the direct use, letting or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3 of this Article where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

SHIPPING, AND OTHER TRANSPORT

1. Profits from the operation of ships, aircraft or road vehicles in international traffic shall be taxable only in the Contracting State in which the registered office of the enterprise is situated.
2. For the purpose of this Article, profits from the operation in international traffic of ships and boats or aircraft include profits derived from the rental on a full or bareboat basis of ships and boats or aircraft if operated in international traffic by the lessee or if such rental profits are incidental to other profits described in paragraph 1.
3. Profits of an enterprise of a Contracting State from the use, maintenance, or rental of containers (including trailers, barges, and related equipment for the transport of containers) used for the transport in international traffic of goods or merchandise shall be taxable only in that State.
4. The provisions of paragraphs 1 and 3 of this Article shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where
 - (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
 - (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,
and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
2. Where a Contracting State includes in the profits of an enterprise of that State – and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to 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 beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:
 - (a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends for an uninterrupted period of twenty four months;
 - (b) 5 per cent of the gross amount of the dividends in all other cases.This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The term “dividends” as used in this Article means income from shares, or other rights not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of that State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State

independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Agreement, 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, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including political sub-divisions and local authorities thereof, the Central Bank or any statutory body of that other Contracting State with respect to loans or credits made or guaranteed by the Government of that other Contracting State including political sub-divisions and local authorities thereof, the Central Bank or any statutory body of that other Contracting State shall be exempt from tax in the first-mentioned Contracting State.
4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and from debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.
5. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Agreement, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright, patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use any industrial, commercial, or scientific equipment or for information (know-how) concerning industrial, commercial or scientific experience; this term also means payments of any kind received as a consideration for the use of, or the right to use, any copyright on cinematograph films, and films or tapes for radio or television broadcasting.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Agreement, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would be agreed upon between the payer and the recipient in the absence of such relationship, the provisions of this Article, shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13 CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment, alone or with the whole enterprise, or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships, aircraft or road vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or road vehicles, shall be taxable only in the Contracting State in which the registered office of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State, unless:
 - (a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State;
 - (b) his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve months period commencing or ending in the fiscal year concerned; in that case only so much of the income as is derived from his activities performed in that other Contracting State may be taxed in that other State.
2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20 of this Agreement, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and

- (b) the remuneration is paid by, or on behalf of a person who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, may be taxed in the Contracting State in which the registered office of the enterprise is situated.

ARTICLE 16
DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in the capacity as a member of the board of directors or of the supervisory board or of any other similar organ of a company which is a resident of the other Contracting State shall be taxed only in that first-mentioned State.

ARTICLE 17
ARTISTES, ATHLETES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15 of this Agreement, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, a musician, as an athlete or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer, an athlete or a sportsman, in his capacity as such accrues not to the entertainer, athlete or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Agreement, be taxed in the Contracting State in which the activities of the entertainer, athlete or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived in respect of the activities referred to in paragraph 1 of this Article within the framework of cultural or sports exchange programme agreed to by both Contracting States shall be exempted from taxation in the Contracting State in which these activities are exercised.

ARTICLE 18
PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in the Contracting State of which the recipient of the pension is a resident.

ARTICLE 19
GOVERNMENT SERVICE

1. Remuneration, other than pension, paid by a Contracting State or a political sub-division or a local authority thereof to any individual in respect of services rendered to that State or sub-division or local authority thereof shall be taxable only in that State.
However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient is a resident of that other Contracting State who:
 - (a) is a national of that State; or
 - (b) did not become a resident of that State solely for the purpose of performing the services; or
 - (c) is not subject to tax in respect of such remuneration in the Contracting State from which the remuneration is paid.
2. Any pension paid by, or out of funds created by, a Contracting State or a political sub-division or local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof shall be taxable only in that State.
However, such pension shall be taxable only in the other Contracting State if the recipient is a national of, and a resident of, that State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20

STUDENTS

1. Payments which a student, business apprentice or trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.
2. Income derived by a student, business apprentice or trainee in respect of activities exercised in a Contracting State in which he is present solely for the purpose of his education or training, shall not be taxable in that State unless it exceeds the amount necessary for his maintenance, education or training.

ARTICLE 21

PROFESSORS AND RESEARCHERS

1. An individual who visits a Contracting State for the purpose of teaching or carrying out research at a public university, public college or any other public educational institution in that Contracting State and who is or was immediately before that visit a resident of the other Contracting State, shall be exempted from taxation in the first-mentioned Contracting State on remuneration for such teaching or research for a period not exceeding two years from the date of his first visit for that purpose.
2. The provisions of paragraph 1 of this Article 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 22

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt within the foregoing Articles of this Agreement shall be taxable only in that State.
2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 23

CAPITAL

1. Capital represented by immovable property referred to in paragraph 2 of Article 6, owned by a resident of a Contracting State and situated in the other Contracting State may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services may be taxed in that other State.
3. Capital represented by ships, aircraft and road vehicles operated in international traffic and by movable property pertaining to the operation of such ships, aircraft and road vehicles, shall be taxable only in the Contracting State in which the registered office of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

ARTICLE 24

ELIMINATION OF DOUBLE TAXATION

1. In Poland, double taxation shall be avoided as follows:
 - (a) where a resident of Poland derives income, or owns capital, which, in accordance with the provisions of this Agreement, may be taxed in Cyprus, Poland shall, subject to the provisions of sub-paragraph (b) of this paragraph, exempt such income, or capital, from tax.
 - (b) where a resident of Poland derives income or capital gains which, in accordance with the provisions of Articles 7, 10, 11, 12 or 13, may be taxed in Cyprus, Poland shall allow as a deduction from the tax on the income or capital gains of that resident an amount equal to the tax paid in Cyprus. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such income or capital gains derived from Cyprus;
2. In Cyprus double taxation shall be avoided as follows: Subject to the provisions of the Law of Cyprus regarding the allowance as a credit against Cyprus tax of tax payable in a territory outside Cyprus, Polish tax payable under the laws of Poland, whether directly or by deductions in respect of profits, income or gains, from sources

within Poland shall be allowed as a credit against any Cyprus tax payable in respect of that profit, income or gains. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to such income derived in Poland.

3. Deleted
4. When in accordance with any provision of this Agreement income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.
5. Where under the provisions of this Agreement income is relieved from tax in one of the Contracting States and, under the law in force in the other Contracting State, a person, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof then the relief to be allowed under this Agreement in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State.

ARTICLE 25 NON DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which residents of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12 of this Agreement apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. The provisions of this Article shall apply to the taxes referred to in Article 2 of this Agreement.

ARTICLE 26 MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of paragraphs 1, 2 and 3 of this Article. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

ARTICLE 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to taxes, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State; or
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because the information relates to ownership interests in a person.
6. The requesting Contracting State shall provide the following information when making a request for information to demonstrate the foreseeable relevance of the information to the request:
 - (a) the identity of the person under examination or investigation;
 - (b) description of the information sought including its nature and the form in which the requesting Contracting State wishes to receive the information from the requested Contracting State;
 - (c) the tax purpose for which the information is sought;
 - (d) grounds for believing that the information requested is held in the requested Contracting State or is in the possession or control of a person within the jurisdiction of the requested Contracting State;
 - (e) to extent known, the name and address of any person believed to be in possession of the requested information;
 - (f) a statement that the request is in conformity with the law and administrative practices of the requesting Contracting State, that if the requested information was within the jurisdiction of the requesting Contracting State then the competent authority of the requesting Contracting State would be able to obtain the information under the laws of the requesting Contracting State or in the normal course of administrative practice and that it is in conformity with this Agreement;
 - (g) a statement that the requesting Contracting State has exhausted all means available in its own territory to obtain the information, except those that would cause excessive difficulties.
 - (h) a statement that the requesting Contracting State can provide information of the same nature under its own domestic law.

ARTICLE 28

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Agreement shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

ARTICLE 29
ENTRY INTO FORCE

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged in Nicosia as soon as possible.
2. This Agreement shall enter into force upon the exchange of instruments of ratification, and its provisions shall have effect in respect of the taxes on income and on capital for any fiscal year beginning on or after the first day of January 1992.

ARTICLE 30
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, at any time after five years from the date on which the Agreement enters into force, provided that at least six months prior notice has been given through diplomatic channels. In such case, the Agreement shall cease to have effect on income and on capital for any fiscal year beginning on or after the first day of January in the calendar year following that in which the notice of termination has been given.