

TREATY USA - TUNISIA

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE TUNISIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, TOGETHER WITH A RELATED EXCHANGE OF NOTES, SIGNED AT WASHINGTON ON JUNE 17, 1985

GENERAL EFFECTIVE DATE UNDER ARTICLE 28: 1 JANUARY 1990

SUPPLEMENTARY PROTOCOL TO THE CONVENTION

ARTICLE VIII

Article 25 (Mutual Agreement Procedure) is amended as follows:

Paragraph 4 is deleted;

Paragraph 5 is renumbered 4; and

Paragraphs 5, 6 and 7 are added as follows:

"5. A person (other than an individual) which is a resident of a Contracting State and derives income from the other Contracting State shall be entitled to the benefits provided for by this Convention in that other State only if such person satisfies the requirements of subparagraph (a) or (b) or (c) as follows:

“(a) (i) more than 50 percent of the beneficial interest in such person (or, in the case of a company, more than 50 percent of the number of shares of each class of the company's shares) is owned, directly or indirectly, by one or more individual residents of one of the Contracting States, one of the Contracting States or its political subdivisions or local authorities, or citizens of the United States; and "(ii) the income of such person is not used in substantial part, directly or indirectly, to meet liabilities (including liabilities for interest or royalties) to persons who are not residents of one of the Contracting States, one of the Contracting States or its political subdivisions or local authorities, or citizens of the United States;

"(b) the income derived from the other Contracting State is derived in connection with, or is incidental to, the active conduct by such person of a trade or business in that State (other than the business of making or managing investments, unless these activities are carried on by a bank or insurance company);

"(c) the person deriving the income is a company which is a resident of a Contracting State in whose principal class of shares there is substantial and regular trading on a recognized stock exchange. For purposes of the preceding sentence, the term "recognized stock exchange" means:

"(i) the NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the Securities and Exchange Commission as a national securities exchange for purposes of the Securities Exchange Act of 1934;

"(ii) the Tunisian stock exchange (Bourse de Valeurs Mobilieres); and

"(iii) any other stock exchange designated by the competent authorities of the Contracting States.

"6. Before a resident of a Contracting State is denied relief from taxation in the other Contracting State by reason of paragraph 5, the competent authorities of the Contracting States shall consult with each other.

"7. A person that is not entitled to the benefits of this Convention pursuant to the provisions of paragraph 5 may, nevertheless, be granted the benefits of the Convention if the competent authority of the State in which the income in question arises so determines."