



# Analysis of the treatment of rent and royalty payments under the provisions of tax treaties

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Session 5

Capacity Building Unit  
Financing for Development Office  
Department of Economic and Social Affairs

<http://www.un.org/esa/ffd/>

## Overview

- Provisions of the UN and OECD Models dealing with the taxation of rent and royalties
- Provisions of the UN and OECD Models that are relevant to the question of deductions for rent and royalties

Provisions that deal with

## Provisions of the UN & OECD Models dealing with the taxation of

- Treaty provisions that may be relevant to a non-resident derives rent and royalties
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- ( ) rt\* / , 0usiness profits.
- ( ) rt\* 1 -nternational %rans ort.

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-nco ! e derived "y a resident of a Contracting State from property, including income from agriculture or fishing, in the other Contracting State shall also be taxed in that State.

shall also apply to income derived from any other form of intellectual property.

## Meaning of income from immovable property

- Article 22, 23, and 24 of the UN Convention provide models for a State to tax income from immovable property, such as rental value of owned residential house, and letting or use in any form of immovable property situated in the State.

Distinguish between income derived from immovable property and income derived from movable property.

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## Definition of immovable property

The term 'immovable property' shall have the meaning assigned to it under the law of the Contracting State in which the question is situated. The term shall in any case include:  
- immovable property  
- accessory to immovable property  
- livestock and equipment used in agriculture and forestry  
- rights to which the provisions of general law applicable to immovable property apply in usufruct of immovable property  
- interests as consideration for the lease of immovable property  
- mineral deposits  
- sources and other rights in water  
- aircraft shall not be regarded as immovable property.

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## Computation of income from immovable property

- Article 22 does not provide rules for the computation of income from immovable property or the amount of such income; these are matters of domestic law.
- Para 2 of the Commentary on Article 22, UN Convention states that in computing income from immovable property, the object should be the taxation of profits rather than gross income incurred in earning income from immovable property. Should it be taken into account that immovable property may have been connected with the renting of such property, such as interest on funds used to pay taxes on immovable property.

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## Computation of income from immovable property

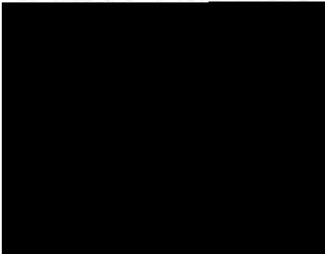
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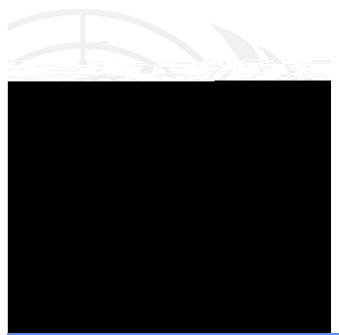
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## Example

- State ) has tax rate of #AB
- Resident company has rental income of 7A' associated expenses of 2AAC7A D #AB E 27 tax



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## Example

- Oco will instead require ) Co to "ear ) withholding tax
- %his will "e acco ! lished "y grossin the a ! ount of the rent aid "y ) Co so that OCo receives 2&AAA after Country ) withholding tax ,that is& an a ! ount Co attri"uta "le to the transaction

Provisions of the UN & OECD Models  
relevant to deductions for

- 3 relevant provisions'

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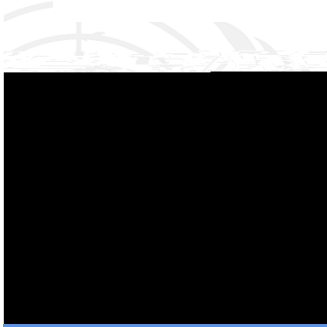
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( ) rt\* 24

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Other "ilateral treaty provisions dealing  
with rent and royalties





Thank you

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<http://www.un.org/esa/ffd/>