



N. 2157

Errata corrige

DISEGNO DI LEGGE

**presentato dal Ministro degli affari esteri (FRATTINI)
di concerto col Ministro dell'interno (MARONI)
col Ministro dell'economia e delle finanze (TREMONTI)
con il Ministro dello sviluppo economico (SCAJOLA)
con il Ministro del lavoro e delle politiche sociali (SACCONI)
e con il Ministro per le politiche europee (RONCHI)**

COMUNICATO ALLA PRESIDENZA IL 4 MAGGIO 2010

Ratifica ed esecuzione della Convenzione tra il Governo della Repubblica italiana e il Governo della Repubblica di Azerbaigian per evitare le doppie imposizioni in materia di imposte sul reddito e sul patrimonio e per prevenire le evasioni fiscali, con Protocollo aggiuntivo, fatti a Baku il 21 luglio 2004

Tra le pagine 46 e 47 si intende inserita la seguente:

«46-bis.

- a) the payer or the recipient of the interest is, or the loan in respect of which the interest is paid is guaranteed by, the Contracting State itself, a political, an administrative, administrative-territorial subdivision or a local authority thereof or the Central Bank of a Contracting State;
- b) the interest is paid in respect of the loan which has been approved by the Government in the Contracting State where the payer of the interest is resident;
- c) the interest is paid with respect of an indebtedness arising on the sale on credit of any industrial, commercial or scientific equipment to an enterprise of the other 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 debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises.

5. The provisions of paragraphs from 1 to 3 shall not apply if the beneficial owner 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 a case, the interest is taxable in that other Contracting State according to its own law.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative, administrative-territorial subdivision, 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 Contracting State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner 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 beneficial owner 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 Convention.

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 if such resident is the beneficial owner of the royalties.

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 beneficial owner of the royalties is a resident of the other Contracting State the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the royalties in respect of payments for the use of, or the right to use, computer software or any patent, trade mark, design or model, plan, secret formula or process or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience,
- (b) 10 per cent of the gross amount of the royalties in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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 of literary, artistic or scientific work including cinematograph-films, or tapes for television or broadcasting, computer software, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, and for information concerning industrial, commercial or scientific experience. ».