

IATJ

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Article 3, item 1, letter a

- the term “**person**” includes an individual, a company and any other body of persons.

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Article 3, item 1, letter b

- the term “*company*” means any body corporate or any entity that is treated as a body corporate for tax purposes.

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Article 3, item 1, letter c

- the term “*enterprise*” applies to the carrying on of any business.
- le term “*entreprise*” s’applique à l’exercice de toute activité ou affaire.

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Article 3, item 1, letter d

- 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.

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Article 4

- the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein.

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Article 7

- *1. 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.*

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Article 7

- 1. 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.
 - *enterprise carried on by a resident of a Contracting State*

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Article 7

- 1. profits of an *enterprise carried on by a resident 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.
 - *enterprise of a Contracting State*

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Article 7

- 1. *profits of an enterprise carried on by a resident 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.*
 - *any person who, under the laws of that State, is liable to tax therein.*

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Article 7

- 1. *profits of an enterprise carried on by any person who, under the laws of a Contracting State, is liable to tax therein shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein.*

- *resident*

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Article 7

- 1. profits of an enterprise carried on by *any person who, under the laws of a Contracting State, is liable to tax therein* shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein.

– Conclusions:

- enterprise is not a person!
- enterprise is an activity!

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- *enterprise carries on business?*

OR

- *enterprise is carried on?*

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Article 7 – correct wording

- 1. profits of an enterprise of a Contracting State shall be taxable only in that State *unless the enterprise is carried on* in the other Contracting State through a permanent establishment situated therein.
 - *unless the enterprise carries on business?!*

Brazil

Article 7

- 1. 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.

Interpretation

- 1. profits of a *company* of a Contracting State shall be taxable only in that State unless the *company* carries on business in the other Contracting State through a permanent establishment situated therein.

BRAZIL

- *Two problems:*
 - *1. art. 7 is not applicable to individuals*
 - *2. earnings paid to non residents (for the rendering of services) are subject to withholding income tax of 15% according to internal law. Are they subject to art. 7? Are they “profits of the company”?*
 - *Yes, because “earning” is part of the profit of the company.*
 - *No, because “earning” is “earning” and “profit” is “profit”.*