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

## Overview

- Withholding tax on rent for immo
- Withholding tax on royalties
  - The definition of royalties
  - The treatment of payments for the use of equipment
  - Rate of tax allowed by treaty

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## Withholding tax on rent for immovable property

- Under almost all treaties, rent for immovable property is taxable without any restriction by the immovable property is located
- Most countries provide for a withholding tax on gross payments of rent and payments of resource royalties to

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## Withholding tax on royalties

- 1 para 2/ of the 8ommentary on Art) /  
6B some members pointed out that  
devises entered into by persons to  
the provisions of Article /2 through  
or assignment of agreements for the use# right or  
information with respect to intangible assets for which  
While substance over form rules#  
rules or any similar doctrine could  
with arrangements# 8ontra ting  
to specifically address the issue  
on the following lines in their  
3 (limited PPT rule)  
e O28 ' 8ommentary dealing  
ship of certain rights

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## The definition of royalties

The term 'royalties' as used in this Article  
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  
films or tapes used for radio or television  
design or model# plan# secret formula or  
right to use# industrial# commercial or  
or  
ing industrial# commercial or

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## The definition of royalties

- As previously discussed# the application  
raises a number of issues
  - distinction with payments for the acquisition of  
software and time-limited or geographical
  - distinction with payments for services
- Should the definition be amended and if yes# how?

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## Aew " A 8ommentary on payments for the use of 48\$ equipment

- 62quipment7 is not defined so does under Art) !.20 but

6A feature that is always present is that the equipment is used in the performance of a task > it is a tool used by a business in the sense that it is not enjoyed for its own sake. Thus, for example, a car rented by a tourist will not be considered to be equipment in the sense of Article 48. Intellectual property, as defined by Article 17, and property covered by Article 18, are not equipment. Commercial or scientific equipment is nearly always used outside of a consumer context. The list includes ships, aircraft, cars and other vehicles, satellites, pipelines and cables etc.)

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## Aew " A 8ommentary on payments for the use of 48\$ equipment

- Need to distinguish between payments for the use of equipment
- In financial leases, the instalments paid by the hirer do not, in principle, constitute royalties. The Commentary includes a number of factors that would

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Is the non-resident entitled to a  
reduction/exemption under

- Identification of the State of residence of the recipient,
  - Application of Art) (
  - Certificates of residence, practical issues
  - Other administrative approaches
  - Cases
  - Treaty shopping situations
  - Provisions
  - Applicable provisions of the

Identification of the applicable  
provisions of the relevant

- Does the ri ;

