Article 6 - Income from Immovable Property (Real Property)

- 6(1): Income derived by a resident of a Contracting State from immovable property (real property), including income from agriculture or forestry, situated in the other Contracting State may be taxed in that other State i.e., Taxation is based on situation of property.

  For Example: If a person is a resident of USA and derives income from an immovable property situated in India, such income shall be taxable in India regardless of such person being a NR in India. In short source rule prevails for direct income in preference to residents of Other State deriving the income indirectly.

- 6(2): The term 'immovable property' shall have the meaning which it has under the law of the Contracting State in which the property in question is situated i.e., meaning as per domestic law.

  However as per DTAA with France/Canada/New Zealand/Australia etc., in any case it shall include the following

  - *Accessory to immovable property*
  - *Livestock and Equipment used in agriculture and forestry*
  - *Rights to which general law relating to property apply*
  - *Usufruct* *** *of immovable property*
  - *Rights to work mineral deposits, sources and other natural resource*
  - *But shall exclude ships, boats and aircrafts*

- 6(3): Above 6(1) shall also apply to income derived from the direct use, letting, or use in any other form of immovable property.

- 6(4): Above 6(1) & 6(3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

*** *Usufruct*** is the legal right to use and derive profit or benefit from property that belongs to another person.