

**AGREEMENT BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE REPUBLIC OF TURKEY FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME**

The Republic of the Philippines and the Republic of Turkey desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income,

Have agreed as follows:

**Article 1
PERSONS COVERED**

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

**Article 2
TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, and taxes on total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Agreement shall apply are, in particular:
 - a) in the Philippines:

the income taxes imposed under Title II and the stock transaction tax in accordance with Section 127 of the Tax Reform Act of 1997 (hereinafter referred to as "Philippine tax");
 - b) in Turkey:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the levy imposed on the income tax and the corporation tax (hereinafter referred to as "Turkish tax").
4. The Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

**Article 3
GENERAL DEFINITIONS**

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) (i) The term "Philippines" means the national territory which comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction consisting of its terrestrial, fluvial and aerial domains including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions from part of the internal waters of the Philippines.
 - (ii) the term "Turkey" means the Turkish territory including territorial sea and air space above it, as well as the maritime areas over which it has jurisdiction or sovereign rights for the purposes of exploration, exploitation and conservation of natural resources, pursuant to international law;
 - b) the terms "a Contracting State" and "the other Contracting State" mean the Philippines or Turkey as the context requires;
 - c) the term "tax" means any tax covered by Article 2 of this Agreement;
 - d) the term "person" includes an individual, an estate, a trust, a company, and any other body of persons;
 - e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f) the term "legal head office" means the registered office registered under the domestic laws of a Contracting State;
 - g) 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;
 - h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - i) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

j) the term "competent authority" means:

(i) in the case of the Philippines, the Secretary of Finance or his/her duly authorized representative;

(ii) in the case of Turkey, the Minister of Finance or his authorized representative

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has that time under the law of the State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4 RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, legal head office, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (center of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is national;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its legal head office is situated.

Article 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction or an installation or structure used for the exploration of natural resources;
 - g) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activity continues for a period of more than six months;
 - h) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue in the territory of the other Contracting State for a period or periods aggregating more than six months within any twelve-month period.
3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - a) the use of facilities solely for the purpose of storage or display or delivery of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display or delivery;

- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing of goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on for the enterprise, any other activity of a preparatory or auxiliary character;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
4. Notwithstanding the provisions of paragraphs 1 and 2, where a person, other than an agent of an independent status to whom paragraph 5 applies, is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 3 or this Article.
 5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, a general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
 6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise) shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
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. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, fishing place of every kind, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources: ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 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.

Article 7

BUSINESS PROFITS

1. The 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. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deduction expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the state in which the permanent establishment is situated or elsewhere.
4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
5. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State derived from the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in that other State, in accordance with the law of that other State, but the tax so charged shall not exceed one and one-half per cent of the gross revenues derived from sources in that State.
2. For the purposes of this Article, profits derived by an enterprise of a Contracting State from the operation of ships and aircraft in international traffic shall include inter alia profits derived from the use or rental containers. If such profits are incidental to the profits to which the provisions of paragraph I apply.
3. The provisions of paragraph I shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

Article 9 ASSOCIATED ENTERPRISES

1. Where

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State.

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State-and taxes accordingly – profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustments, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting states shall, if necessary, consult each other.

Article 10 DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
 - a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (excluding partnerships) which holds directly at least 25 per cent of the capital of the paying company;
 - b) 15 per cent of the gross amount of the dividends in all other cases,

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation law of that State of which the paying company is a resident.
4. Profits of a company of a Contracting State carrying on business in the other Contracting State through a permanent establishment situated therein may, after having been taxed under Article 7 (Business Profits), be taxed on the remaining amount in the Contracting State in which the permanent establishment is situated and in accordance with paragraph 2 of this Article.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.
6. Subject to the provisions of paragraph 4, where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, the other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and received by the government of the other Contracting State including a political subdivision or a local authority thereof or the Central Bank of that other Contracting State shall be taxable only in that other Contracting State.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interests, 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 case, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is 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 Agreement.

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.
2. However, such royalties may also be taxed in the Contracting state in which they arise, and according to the law 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) 15 per cent of the gross amount of royalties arising from the use of, or the right to use, any cinematographic films and films or tapes for television or radio broadcasting, or
 - b) 10 per cent of the gross amount of royalties arising from the use of, or the right to use, any copyright of literary, artistic or scientific work, any patent, trade mark, design or model, plan, secret formula or process, or from the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
3. The term "royalties" as used in this Article means payment 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 cinematographic films and films or tapes for television or radio broadcasting, any patent, trademark, 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.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not has in a Contracting State a permanent establishment or fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
6. 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 royalties, having regard to the use, right or information for which they are 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 Agreement.