

July 21, 1989

**CONVENTION BETWEEN THE FEDERAL EXECUTIVE COUNCIL OF
THE ASSEMBLY OF THE SOCIALIST FEDERAL REPUBLIC OF
YUGOSLAVIA AND THE GOVERNMENT OF THE REPUBLIC OF THE
PHILIPPINES FOR THE AVOIDANCE OF DOUBLE TAXATION WITH
RESPECT TO TAXES ON INCOME**

The Federal Executive Council of the Assembly of the Socialist Federal Republic of Yugoslavia and the Government of the Republic of the Philippines.

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income

Have agreed as follows:

**ARTICLE 1
PERSONAL SCOPE**

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

**ARTICLE 2
TAXES COVERED**

1. This Convention shall apply to taxes on income imposed on behalf of each 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 the total amounts of wages or salaries paid by enterprises.
3. The taxes to which the Convention shall apply are:
 - a) in Yugoslavia:
 - i) the tax on income;
 - ii) the tax on a worker's personal income;
 - iii) the tax on personal income from agricultural activity;
 - iv) the tax on personal income from economic activity;
 - v) the tax on personal income from professional activity;
 - vi) the tax on royalties from copyrights, patents and technical innovations;

- vii) the tax on revenue deriving from capital and capital rights;
- viii) the tax on total revenue of citizens;
- ix) the tax on income of a foreign person engaged in economic and professional activities;
- x) the tax on profit obtained by a foreign person from his investments in a domestic organization of associated labour;
- xi) the tax on revenue from transportation activity of a foreign person not having his agency in the territory of the Socialist Federal Republic of Yugoslavia;

(hereinafter referred to as "Yugoslav tax");

b) in the Philippines:

- i) the individual income tax;
- ii) the corporate income tax;
- iii) the estates and trusts income tax;
- iv) the withholding taxes on dividends, interests, royalties, rentals, lease, charter fees, insurance premiums, and other fixed or determinate annual, periodical, or casual gains, profits and income;
- v) the branch profit remittance tax;
- vi) the international carriers income tax;
- vii) the capital gains tax on stock and real property transactions;
- viii) the mutual life insurance company income tax; and
- ix) the offshore banking units and expanded foreign currency deposit units income tax;

(hereinafter referred to as "Philippine tax")

4. The Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Convention :

a) the term "Yugoslavia" means the Socialist Federal Republic of Yugoslavia. When used in a geographical sense it means the territory of Yugoslavia as well as the areas of the sea, sea-bed and subsoil thereof beyond territorial sea where Yugoslavia exercises the sovereign rights or jurisdiction in accordance with its national legislation and international law;

b) the term "Philippines" means the Republic of the Philippines and when used in a geographical sense means the national territory comprising the Republic of the Philippines;

c) the terms "a Contracting State" and "the other Contracting State" mean Yugoslavia or the Philippines as the context requires;

d) the term "national" means:

(i) in the case of Yugoslavia, any individual possessing the nationality of the Socialist Federal Republic of Yugoslavia under the Yugoslav laws and any legal person;

(ii) in the case of the Philippines, any individual possessing the citizenship or nationality of the Philippines and any legal person, partnership or association deriving its status as such from the law in force in the Philippines;

e) the term "person" means :

i) in the case of Yugoslavia, an individual and any legal person;

ii) in the case of the Philippines an individual, an estate, a trust, a company, and any other body of persons;

f) the term "company" means :

i) in the case of Yugoslavia, an organization of associated labour and any other legal person subject to Yugoslavia tax;

ii) in the case of the Philippines, any body corporate or any entity which is treated as a body corporate for tax purposes;

g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, as the context requires, in the case of Yugoslavia, an organization of associated labour and other self-managed organization and community, working people who individually perform activity independently and an enterprise established in accordance with the laws of Yugoslavia and in the case of the Philippines, an enterprise carried on by a resident of the Philippines;

h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which is a resident of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

i) the term "competent authority" means: a

(i) in the case of Yugoslavia, the Federal Secretariat of Finance or its authorized representative;

(ii) in the case of the Philippines, the Secretary of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

ARTICLE 4 RESIDENT

1. For the purposes of this Convention, 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, place of management or any other criterion of a similar nature.

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 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 of the State with which his personal and economic relations are closer ("centre of vital interests");

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident 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 of the State of which he is a 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 the competent authorities of the Contracting States shall settle the question by mutual agreement.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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; and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- g) a building site, a construction, assembly or installation project, where such site or project continues for a period of more than 9 months;
- h) the furnishing of services, including consultant services by an enterprise through employees or other personnel where activities of that nature continue (for the same or connected project) for a period or periods aggregating more than 9 months within any calendar year.

3. The term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or occasional 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, display or occasional delivery;
- c) 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 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