

February 17, 1984

**CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
THE PHILIPPINES AND THE GOVERNMENT OF THE GERMAN
DEMOCRATIC REPUBLIC FOR THE AVOIDANCE OF DOUBLE
TAXATION WITH RESPECT TO TAXES ON INCOME**

Convention between the Government of the Republic of the Philippines and the Government of the German Democratic Republic for the Avoidance of Double Taxation with Respect to Taxes on Income

The Government of the Republic of the Philippines and the Government of the German Democratic Republic, desirous of promoting the economic cooperation between the two States through a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion 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 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 the total amounts of wages and salaries paid by the enterprises.

3. The existing taxes to which the Convention shall apply are:

a) In the Republic of the Philippines:

the income taxes imposed by the Government
of the Republic of the Philippines.

b) In the German Democratic Republic:

- Revenue transfer by public enterprises
- Income tax
- Corporate income tax
- Taxes on handicraft, agricultural or commercial activities
- Trade tax

- Tax on wages
- Tax on income from a free-lance activity
- Royalties
- Capital gains tax.

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

ARTICLE 3 GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

a) the terms "a Contracting State" and "the other Contracting State" mean the Republic of the Philippines and the German Democratic Republic as the context requires;

b) the term "person" includes an individual an estate, a trust, a company and any other body of persons;

c) the term "national" means:

(i) in regard of the Republic of the Philippines :

(aa) any individual possessing the citizenship of the Republic of the Philippines;

(bb) any legal person, partnership or association created, organized or incorporated under the laws of the Republic of the Philippines;

(ii) in regard of the German Democratic Republic

(aa) any individual who, under the laws of the German Democratic Republic, are nationals thereof;

(bb) any legal person, partnership or association deriving its status as such from the laws in force of the German Democratic Republic;

d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

e) 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;

f) the term "competent authority" means

(i) in regard of the Republic of the Philippines, the Minister of Finance or his authorized representative;

(ii) in regard of the German Democratic Republic, the Ministry of Finance;

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

h) the term "profits from the operation of a ship or aircraft" means income derived from the transportation of goods and the carriage of persons.

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

ARTICLE 4 RESIDENT

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. 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.

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, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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 a resident of the State where it was incorporated.

ARTICLE 5 PERMANENT ESTABLISHMENT

For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of the enterprise is wholly or

partly carried on.

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 of natural resources;
- g) a place of exploration of natural resources;
- h) a building site or construction project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 183 days;
- i) an assembly or installation project which exists for more than 183 days;
- j) premises used as a sales outlet;
- k) a warehouse, in relation to a person providing storage facilities for others;
- l) the furnishing of services, including consultancy 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 183 days within any twelve-month period.

Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include :

- a) a temporary building site or construction or installation project based on agreements concluded between the Governments of Contracting States;
- b) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- d) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- f) the maintenance of a fixed place of business solely for the purpose of advertising, providing information, carrying on scientific research or other similar activities or any other activity of a preparatory or auxiliary character;
- g) the maintenance of a fixed place of business solely for the purpose of carrying on any combination of activities mentioned in subparagraphs a) to f), provided, that

the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character;

h) establishments and offices of enterprises owned by a Contracting State which conclude in the other Contracting State contracts for the purchase and sale of goods and services on the basis or as a result of agreements concluded between the Contracting States.

An enterprise shall be deemed to have a permanent establishment in one of the Contracting States and to carry on business through that permanent establishment if substantial equipment is being used in that State for more than 133 days by, for, or under contract with, the enterprise.

A person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom paragraph 7 applies) shall be deemed to be a permanent establishment in the first-mentioned State if:

a) he has and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless the activities are limited to those mentioned in paragraph 3 of this Article ; or

b) he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise; or

c) in so acting, he manufactures or processes in that State for the enterprise goods or merchandise belonging to the enterprise,

An insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that State or insures risks situated therein through an employee or through a representative who is not agent of an independent status.

An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business,

However, when the activities of such an agent are devoted wholly or almost wholly on behalf of the enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph if it is shown that the transaction between the agent and the enterprise were not made under arms-length conditions. In such a case, the provisions of paragraph 5 shall apply.

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 for either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY