

No. 48290

**Japan
and
Malaysia**

Agreement between the Government of Japan and the Government of Malaysia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol and exchange of notes). Kuala Lumpur, 19 February 1999

Entry into force: *31 December 1999 by notification, in accordance with article 27*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Japan, 2 February 2011*

**Japon
et
Malaisie**

Accord entre le Gouvernement du Japon et le Gouvernement de la Malaisie tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole et échange de notes). Kuala Lumpur, 19 février 1999

Entrée en vigueur : *31 décembre 1999 par notification, conformément à l'article 27*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Japon, 2 février 2011*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT
BETWEEN THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF MALAYSIA
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME**

The Government of Japan and the Government of Malaysia,

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

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

ARTICLE 2

1. This Agreement shall apply to the following taxes:

(a) in Malaysia:

(i) the income tax; and

(ii) the petroleum income tax
(hereinafter referred to as "Malaysian tax");

(b) in Japan:

(i) the income tax;

(ii) the corporation tax; and

(iii) the local inhabitant taxes
(hereinafter referred to as "Japanese tax").

2. This Agreement shall also apply to any identical or substantially similar taxes, whether national or local, which are imposed after the date of signature of this Agreement in addition to, or in place of, those referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

ARTICLE 3

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

- (a) the term "Malaysia" means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and sea-bed and subsoil of any such area, which has been or may hereafter be designated under the laws of Malaysia and in accordance with international law as an area over which Malaysia has sovereign rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;
- (b) the term "Japan", when used in a geographical sense, means all the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the sea-bed and subsoil thereof, over which Japan has jurisdiction in accordance with international law and in which the laws relating to Japanese tax are in force;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Japan or Malaysia, as the context requires;
- (d) the term "tax" means Japanese tax or Malaysian tax, as the context requires;
- (e) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;

- (f) the term "company" means 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 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 "nationals" means:
 - (i) in the case of Malaysia, any individual possessing the citizenship of Malaysia and any legal person, partnership, association and any other entity deriving its status as such from the laws in force in Malaysia;
 - (ii) in the case of Japan, all individuals possessing the nationality of Japan and all juridical persons created or organized under the laws of Japan and all organizations without juridical personality treated for the purposes of Japanese tax as juridical persons created or organized under the laws of Japan; and
- (j) the term "competent authority" means:
 - (i) in the case of Malaysia, the Minister of Finance or his authorized representative;
 - (ii) in the case of Japan, the Minister of Finance or his authorized representative.

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

meaning given to the term under other laws of that Contracting State.

ARTICLE 4

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office, 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 only of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting 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 determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of this Agreement.