

No. 48364

**Japan
and
Viet Nam**

Agreement between the Government of Japan and the Government of the Socialist Republic of Viet Nam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol and exchange of notes). Hanoi, 24 October 1995

Entry into force: *31 December 1995 by notification, in accordance with article 28*

Authentic texts: *English, Japanese and Vietnamese*

Registration with the Secretariat of the United Nations: *Japan, 3 March 2011*

**Japon
et
Viet Nam**

Accord entre le Gouvernement du Japon et le Gouvernement de la République socialiste du Viet Nam 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). Hanoï, 24 octobre 1995

Entrée en vigueur : *31 décembre 1995 par notification, conformément à l'article 28*

Textes authentiques : *anglais, japonais et vietnamien*

Enregistrement auprès du Secrétariat des Nations Unies : *Japon, 3 mars 2011*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT
BETWEEN THE GOVERNMENT OF JAPAN
AND THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIET NAM
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 the Socialist Republic of Viet Nam,

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 taxes on income imposed on behalf of a Contracting State or of a local authority thereof, 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 any property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are:

(a) in Viet Nam:

- (i) the personal income tax;
- (ii) the profit tax;
- (iii) the profit remittance tax;

- (iv) the foreign contractor tax
(to the extent which is considered
as tax imposed on profit);
 - (v) the foreign petroleum sub-contractor tax
(to the extent which is considered
as tax imposed on profit); and
 - (vi) the royalty tax
(hereinafter referred to as "Vietnamese tax");
- (b) in Japan:
- (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the local inhabitant taxes
(hereinafter referred to as "Japanese tax").

4. 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 3. 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 "Viet Nam" means the Socialist Republic of Viet Nam; when used in a geographical sense, it means all its national territory, including its territorial sea, and any area beyond and adjacent to its territorial sea, within which Viet Nam by Vietnamese legislation and in accordance with international law, has sovereign rights of exploration for and exploitation of natural resources of the sea-bed and its subsoil and superjacent waters;
- (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 Viet Nam, as the context requires;
 - (d) the term "tax" means Japanese tax or Vietnamese tax, as the context requires;
 - (e) the term "person" includes an individual, a company and any other body of persons;
 - (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 "nationals" means:
 - (i) in the case of Viet Nam, all individuals possessing the nationality of Viet Nam and all legal persons, partnerships and associations deriving their status as such from the laws in force in Viet Nam;
 - (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;
 - (i) 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; and

(j) the term "competent authority" means:

- (i) in the case of Viet Nam, 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 by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State concerning the taxes to which this Agreement applies.

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 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 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 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 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 of the Contracting State of which he is a national;