

No. 49298

**Japan
and
Kazakhstan**

Convention between Japan and the Republic of Kazakhstan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Tokyo, 19 December 2008

Entry into force: *30 December 2009 by notification, in accordance with article 28*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Japan, 2 February 2012*

**Japon
et
Kazakhstan**

Convention entre le Japon et la République du Kazakhstan tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Tokyo, 19 décembre 2008

Entrée en vigueur : *30 décembre 2009 par notification, conformément à l'article 28*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Japon, 2 février 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION BETWEEN
JAPAN AND THE REPUBLIC OF KAZAKHSTAN
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

Japan and the Republic of Kazakhstan,

Desiring to conclude 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

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

Article 2

1. This Convention shall apply to the following taxes:

(a) in the case of Kazakhstan:

(i) the corporate income tax; and

(ii) the individual income tax

(hereinafter referred to as "Kazakhstan tax");

(b) in the case of Japan:

(i) the income tax;

(ii) the corporation tax; and

(iii) the local inhabitant taxes

(hereinafter referred to as "Japanese tax").

2. This Convention shall apply also to any identical or
substantially similar taxes that are imposed after the date
of signature of the Convention 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 significant changes that 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 Convention, unless the context otherwise requires:

- (a) the term "Kazakhstan" means the Republic of Kazakhstan, when used in a geographical sense, including the state territory of the Republic of Kazakhstan and areas where Kazakhstan exercises its sovereign rights and jurisdiction according to its legislation and international agreements of which it is a participant;
- (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 seabed and subsoil thereof, over which Japan has sovereign rights 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 Kazakhstan, as the context requires;
- (d) the term "tax" means Japanese tax or Kazakhstan 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 that is treated as a body corporate for tax purposes;
- (g) the term "enterprise" applies to the carrying on of any business;
- (h) 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;
- (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;

- (j) the term "national" means:
 - (i) in the case of Kazakhstan, any individual possessing the nationality of Kazakhstan and any legal person, partnership or association deriving its status as such from the laws in force in Kazakhstan; and
 - (ii) in the case of Japan, any individual possessing the nationality of Japan, any juridical person created or organised under the laws of Japan and any organisation without juridical personality treated for the purposes of Japanese tax as a juridical person created or organised under the laws of Japan;
- (k) the term "competent authority" means:
 - (i) in the case of Kazakhstan, the Ministry of Finance or its authorised representative; and
 - (ii) in the case of Japan, the Minister of Finance or his authorised representative; and
- (l) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of this Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Contracting State for the purposes of the taxes to which the Convention 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 Convention, 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, place of incorporation or any other criterion of a similar nature, and also includes that Contracting State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting 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 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 has not 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 his status cannot be determined in accordance with the provisions of subparagraphs (a) to (c), the competent authorities of the Contracting States shall settle the question by mutual agreement.