

No. 49299

**Japan
and
Brunei Darussalam**

Agreement between Japan and Brunei Darussalam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Tokyo, 20 January 2009

Entry into force: *19 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
Brunéi Darussalam**

Accord entre le Japon et le Brunéi Darussalam tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Tokyo, 20 janvier 2009

Entrée en vigueur : *19 décembre 2009 par notification, conformément à l'article 28*

Texte authentique : *anglais*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT BETWEEN
JAPAN AND BRUNEI DARUSSALAM
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

Japan and Brunei Darussalam,

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 the case of Japan:

- (i) the income tax;
- (ii) the corporation tax; and
- (iii) the local inhabitant taxes

(hereinafter referred to as "Japanese tax");

(b) in the case of Brunei Darussalam:

- (i) the income tax imposed under Income Tax Act (Chapter 35); and
- (ii) the petroleum profits tax imposed under Income Tax (Petroleum) Act (Chapter 119)

(hereinafter referred to as "Brunei Darussalam tax").

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

- (a) 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 sovereign rights in accordance with international law and in which the laws relating to Japanese tax are in force;
- (b) the term "Brunei Darussalam" means the territory of Brunei Darussalam including its territorial sea, extending to the airspace above such territory, over which it exercises sovereignty, and the maritime area beyond its territorial sea, including sea-bed and subsoil, which has been or may hereafter be designated under the laws of Brunei Darussalam, over which it exercises sovereign rights and jurisdiction in accordance with international law;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Japan or Brunei Darussalam, as the context requires;
- (d) the term "tax" means Japanese tax or Brunei Darussalam 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 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; and
 - (ii) in the case of Brunei Darussalam, any individual possessing the nationality of Brunei Darussalam under the applicable laws of Brunei Darussalam and any legal person, partnership or association deriving its status as such from the laws in force in Brunei Darussalam;
- (k) the term "competent authority" means:
 - (i) in the case of Japan, the Minister of Finance or his authorised representative; and
 - (ii) in the case of Brunei Darussalam, 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 Agreement 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 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, 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 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.