

No. 49453

**Netherlands (for the European part of the Netherlands)
and
Japan**

Convention between the Kingdom of the Netherlands and Japan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Tokyo, 25 August 2010

Entry into force: *29 December 2011, in accordance with article 30*

Authentic text: *English*

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**Pays-Bas (pour la partie européenne des Pays-Bas)
et
Japon**

Convention entre le Royaume des Pays-Bas et le Japon tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Tokyo, 25 août 2010

Entrée en vigueur : *29 décembre 2011, conformément à l'article 30*

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26 mars 2012*

[ENGLISH TEXT – TEXTE ANGLAIS]

**Convention between the Kingdom of the Netherlands and Japan
for the avoidance of double taxation and the prevention of fiscal
evasion with respect to taxes on income**

The Kingdom of the Netherlands
and
Japan,

Desiring to conclude a new Convention for the avoidance of double
taxation and the prevention of fiscal evasion with respect to taxes on
income,

Have agreed as follows:

Article I

Persons covered

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 any property and taxes on the total amounts of wages or salaries paid by enterprises.

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

- a) in the case of Japan:
 - (i) the income tax (*Shotokuzei*);
 - (ii) the corporation tax (*Hojinzei*); and
 - (iii) the local inhabitant taxes (*Juminzei*)
(hereinafter referred to as “Japanese tax”); and
- b) in the case of the Netherlands:
 - (i) the income tax (*de inkomstenbelasting*);
 - (ii) the wages tax (*de loonbelasting*);
 - (iii) the company tax (*de vennootschapsbelasting*), including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mining Act (*Mijnbouwwet*);
and
 - (iv) the dividend tax (*de dividendbelasting*)
(hereinafter referred to as “Netherlands tax”).

4. 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, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws, within a reasonable period of time after such changes.

Article 3

General definitions

1. For the purposes of this Convention, 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 seabed and subsoil thereof, over which Japan has sover-

eign rights in accordance with international law and in which the laws relating to Japanese tax are in force;

b) the term “the Netherlands” means the part of the Kingdom of the Netherlands that is situated in Europe, including its territorial sea and any area beyond the territorial sea within which the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights;

c) the terms “a Contracting State” and “the other Contracting State” mean Japan or the Netherlands, as the context requires;

d) the term “tax” means Japanese tax or Netherlands 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 “competent authority” means:

(i) in the case of Japan, the Minister of Finance or his authorised representative; and

(ii) in the case of the Netherlands, the Minister of Finance or his authorised representative;

k) 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 the Netherlands, any individual possessing the nationality of the Netherlands and any legal person, partnership or association deriving its status as such from the laws in force in the Netherlands;

l) the term “business” includes the performance of professional services and of other activities of an independent character; and

m) the term “pension fund” means any person that:

(i) is established and regulated as such under the laws of a Contracting State;

- (ii) is operated principally to administer or provide old age, disability or survivor's pensions, retirement benefits or other similar remuneration or to earn income for the benefit of other pension funds; and
- (iii) is exempt from tax in that Contracting State with respect to income derived from the activities described in clause (ii).

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

Resident

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 or any other criterion of a similar nature, and also includes:

- a) that Contracting State and any political subdivision or local authority thereof;
- b) a pension fund established and regulated as such under the laws of that Contracting State; and
- c) a person established and operated in that Contracting State principally for a religious, charitable, educational, scientific, artistic, cultural or public purpose, only if all or a part of its income is exempt from tax under the laws of that Contracting State.

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