

No. 53556*

**Finland
and
Kazakhstan**

Agreement between the Government of the Republic of Finland and the Government of the Republic of Kazakhstan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Helsinki, 24 March 2009

Entry into force: *5 August 2010, in accordance with article 26*

Authentic texts: *English, Finnish, Kazakh, Russian and Swedish*

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**Finlande
et
Kazakhstan**

Accord entre le Gouvernement de la République de Finlande et le Gouvernement de 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). Helsinki, 24 mars 2009

Entrée en vigueur : *5 août 2010, conformément à l'article 26*

Textes authentiques : *anglais, finnois, kazakh, russe et suédois*

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

The Government of the Republic of Finland and the Government of the Republic of Kazakhstan,

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
Persons covered

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

Article 2
Taxes covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its 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 movable or immovable property.

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

a) in Kazakhstan:

- (i) the corporate income tax;
- (ii) the individual income tax;

(hereinafter referred to as "Kazakhstan tax");

b) in Finland:

- (i) the state income taxes;
- (ii) the corporate income tax;
- (iii) the communal tax;
- (iv) the church tax;
- (v) the tax withheld at source from interest; and
- (vi) the tax withheld at source from non-residents income;

(hereinafter referred to as "Finnish tax").

4. The 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, 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.

Article 3
General definitions

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

a) the term:

- (i) "Kazakhstan" means the Republic of Kazakhstan and, when used in a geographical sense, the term "Kazakhstan" includes the State territory of the Republic of Kazakhstan and areas where Kazakhstan exercises its sovereign rights and jurisdiction according to its legislation and international law;
 - (ii) "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its sub-soil and of the superjacent waters may be exercised;
- b) the term "person" includes an individual, a company and any other body of persons;
- c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- d) the term "enterprise" applies to the carrying of any business;
- e) 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;
- f) 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;
- g) the term "competent authority" means:
 - (i) in Kazakhstan: the Ministry of Finance or its authorised representative;
 - (ii) in Finland: the Ministry of Finance, its authorised representative or the authority, which by the Ministry of Finance is designated as competent authority;
- h) the term "national", in relation of a Contracting State, means:
 - (i) any individual possessing the nationality of that Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
- i) the term "business" includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the 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 law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4

Residence

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation (registration) or any other criterion of a similar nature, and also includes that State, any of its central authority, statutory body or local authority. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that 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 State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the 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 State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if his residence cannot be determined in accordance with the preceding subparagraphs, 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 it shall be deemed to be a resident only of the State in which its place of effective management is situated.

Article 5

Permanent establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially: