

PERATURAN PRESIDEN REPUBLIK INDONESIA
NOMOR 68 TAHUN 2006
TENTANG

PENGESAHAN AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
INDONESIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF
BANGLADESH FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME BESERTA PROTOCOL

DENGAN RAHMAT TUHAN YANG MAHA ESA

PRESIDEN REPUBLIK INDONESIA,

Menimbang:

- a. bahwa di Dhaka, Bangladesh, pada tanggal 19 Juni 2003 Pemerintah Republik Indonesia telah menandatangani Agreement between the Government of the Republic of Indonesia and the Government of the People's Republic of Bangladesh for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income beserta Protocol, sebagai hasil perundingan antara Delegasi-delegasi Pemerintah Republik Indonesia dan Pemerintah Republik Rakyat Bangladesh;
- b. bahwa sehubungan dengan itu, dipandang perlu untuk mengesahkan Agreement beserta Protocol tersebut dengan Peraturan Presiden;

Mengingat:

1. Pasal 4 ayat (1) dan Pasal 11 Undang-Undang Dasar Negara Republik Indonesia Tahun 1945;
2. Undang-Undang Nomor 24 Tahun 2000 tentang Perjanjian Internasional (Lembaran Negara Republik Indonesia Tahun 2000 Nomor 185, Tambahan Lembaran Negara Republik Indonesia Nomor 4012);
3. Undang-Undang Nomor 10 Tahun 2004 tentang Pembentukan Peraturan Perundang-undangan (Lembaran Negara Republik Indonesia Tahun 2004 Nomor 53, Tambahan Lembaran Negara Republik Indonesia Nomor 4389);

MEMUTUSKAN:

Menetapkan:

PERATURAN PRESIDEN TENTANG PENGESAHAN AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME BESERTA PROTOCOL.

Pasal 1

Mengesahkan Agreement between the Government of the Republic of Indonesia and the Government of the People's Republic of Bangladesh for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income beserta Protocol yang telah ditandatangani pada tanggal 19 Juni 2003 di Dhaka,

Bangladesh yang salinan naskah aslinya dalam bahasa Inggris sebagaimana terlampir dan merupakan bagian yang tidak terpisahkan dan Peraturan Presiden ini.

Pasal 2

Peraturan Presiden ini mulai berlaku pada tanggal ditetapkan.

Agar setiap orang mengetahuinya, memerintahkan pengundangan Peraturan Presiden ini dengan penempatannya dalam Lembaran Negara Republik Indonesia.

Ditetapkan di Jakarta
pada tanggal 23 Juni 2006
PRESIDEN REPUBLIK INDONESIA,

ttd.

DR. H. SUSILO BAMBANG YUDHOYONO

Diundangkan di Jakarta
pada tanggal 23 Juni 2006
MENTERI HUKUM DAN HAK ASASI MANUSIA
REPUBLIK INDONESIA,

ttd.

DR. HAMID AWALUDIN

LEMBARAN NEGARA REPUBLIK INDONESIA TAHUN 2006 NOMOR 53

AGREEMENT BETWEEN THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA AND THE GOVERNMENT OF
THE PEOPLE'S REPUBLIC OF BANGLADESH
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME.

THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
AND
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

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 PERSONAL SCOPE

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 by or on behalf of a Contracting State or 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 this Agreement shall apply are:
 - (a) in the case of Indonesia:
the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law Number 7 of 1983 as amended) (hereinafter referred to as "Indonesian tax").
 - (b) in the case of Bangladesh:
the income tax (hereinafter referred to as "Bangladesh tax");
4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

Article 3 GENERAL DEFINITIONS

1. For purposes of this Agreement, unless the context otherwise requires:
 - (a) the term "Indonesia" means the territory of the Republic of Indonesia as defined in its laws;
 - (b) the term "Bangladesh" means all the territory of the People's Republic of Bangladesh including the part of the seabed and its sub-soil thereof, to the extent that the area in accordance with international law has been or may hereafter be designated under Bangladesh law as an area within which Bangladesh may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed or its sub-soil;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Indonesia or Bangladesh as the context requires, and the term "Contracting States" means Indonesia and Bangladesh;
 - (d) the term "tax" means any tax covered by Article 2 of this Agreement;
 - (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 "competent authority" means:
 - (1) in the case of Indonesia, the Minister of Finance or his authorised representative.
 - (2) in the case of Bangladesh, the National Board of Revenue or its authorised representative;
 - (i) the term "national" means all individuals possessing the nationality or citizenship of the respective Contracting States and also any legal person, partnership and association deriving their status as such from the laws in force in the respective Contracting States;
 - (j) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which is a resident of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.
2. As regards the application of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State, relating to the taxes to which this Agreement applies.

Article 4 RESIDENT

- 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 management 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 has not 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;
 - (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.

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 of the Contracting 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 of a Contracting State is wholly or partly carried on in the other Contracting State.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a warehouse, in relation to a person providing storage facilities for others;
 - (g) a farm or plantation; and
 - (h) a mine, an oil or gas well, a quarry or any other place of extraction or exploration of natural resources, drilling or working ship.
3. The term "permanent establishment" likewise encompasses:
 - (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith but only where such site, project or activities continue for a period of more than 183 days;
 - (b) the furnishing of services, including consultancy services by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than 91 days within any twelve months period.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purposes of storage or display;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for