

PROTOCOL

AMENDING THE CONVENTION BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE ITALIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF FISCAL EVASION

The Government of the Republic of the Philippines and the Government of the Italian Republic, desiring to conclude a Protocol to amend the Convention between the Contracting States for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion, with Additional Protocol, signed at Rome on 5th December, 1980 (hereinafter referred to as "the Convention"),

have agreed as follows:

ARTICLE I

Letter b) of paragraph (3) of Article 2 "Taxes Covered", shall be deleted and replaced by the following:

"(3):

(b) in the case of Italy:

(i) the personal income tax (l'imposta sul reddito delle persone fisiche);

(ii) the corporate income tax (l'imposta sul reddito delle società);

(iii) the regional tax on productive activities (l'imposta regionale sulle attività produttive)

even if they are collected by withholding taxes at the source (hereinafter referred to as "Italian tax");"

ARTICLE II

With reference to Article 3 ("General definitions"), letter i), subparagraph (2) shall be replaced by the following:

"(2) in the case of Italy, the Ministry of Economy and Finance."

ARTICLE III

With reference to Article 22 ("Methods for elimination of double taxation"), paragraph 2 shall be deleted and replaced by the following:

" If a resident of Italy owns items of income which are taxable
(2) in the Republic of the Philippines, Italy, in determining its income taxes specified in Article 2 of this Convention, may include in the basis upon which such taxes are imposed the said items of income, unless specific provisions of this Convention otherwise provide.

In such a case, Italy shall deduct from the taxes so calculated the income tax paid in the Philippines but in an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the entire income.

The tax paid in the Philippines for which deduction is granted is only the pro rata amount corresponding to the foreign income which is included in the aggregate income.

However, no deduction shall be granted if the item of income is subjected in Italy to a substitute tax or to a final withholding tax, or to substitute taxation at the same rate as the final withholding tax, also by request of the recipient, in accordance with Italian law."

Paragraph 4 of Article 22 shall be deleted.

ARTICLE IV

Article 25 ("Exchange of information") shall be modified as follows:

- " The competent authorities of the Contracting States shall
- (1) exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political or administrative subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention as well as to prevent fiscal evasion and tax avoidance. The exchange of information is not restricted by Articles 1 and 2.
 - (2) Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
 - (3) In no case shall the provisions of paragraph 1 and 2 be construed so as to impose on a Contracting State the obligation:
 - to carry out administrative measures at variance with
 - (a) the laws and administrative practice of that or of the other Contracting State;
 - to supply information which is not obtainable under the
 - (b) laws or in the normal course of the administration of that or of the other Contracting State;