

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

The Government of the Kingdom of the Netherlands and the Government of the Republic of the Philippines,

Desiring to conclude a Convention 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**

1. This Convention shall apply to persons who are residents of one or both of the States.
2. Nothing in this Convention shall be construed as depriving the Philippines of the right to tax its own citizens who are residents of the Netherlands with respect to income derived from dependent or independent services exercised outside of the Philippines in accordance with the laws of the Philippines, but the Netherlands shall not be bound to give for that reason any exemption or credit for such tax.

**ARTICLE 2  
TAXES COVERED**

1. This Convention shall apply to taxes on income imposed on behalf of one of the States, 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 and taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Convention shall apply are, in particular:
  - (a) in the case of Netherlands
    - de inkomstenbelasting (income tax),
    - de loonbelasting (wages tax),
    - de vennootschapsbelasting (company tax),
    - de dividend belasting (dividend tax),
  - (b) in the case of the Philippine
    - the income taxes imposed by the Government of the Republic of the Philippines (hereinafter referred to as "Philippine tax").

4. The Convention shall apply also to any identical or substantially similar taxes on income which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the States shall notify to each other any substantial changes which have been made in their respective taxation laws.

### **ARTICLE 3 GENERAL DEFINITIONS**

1. In this Convention, unless the context otherwise requires:

a) the term "State" means the Netherlands or the Philippines, as the context requires; the term "States" means the Netherlands and the Philippines;

b) the term "the Netherlands" comprises the part of the Kingdom of the Netherlands that is situated in Europe and the part of the sea bed and its sub-soil under the North Sea, over which the Kingdom of the Netherlands has sovereign rights in accordance with international law;

c) the term "Philippines" used in a geographical sense means the national territory comprising the Republic of the Philippines;

d) the term "person" comprises an individual, a company, an estate, an irrevocable trust, and any other body of persons;

e) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes;

f) the terms "enterprise of one of the States" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of one of the States and an enterprise carried on by a resident of the other State;

g) the term "competent authority" means the Minister or Secretary of Finance of one of the States or his duly authorized representative;

h) the term "national" means:

(i) any individual possessing the nationality or citizenship of one of the States;

(ii) any legal person, partnership and association created, organized or incorporated under the laws of one of the States;

i) the term "international traffic" means any transport by ship or aircraft operated by an enterprise of one of the States, except when the ship or aircraft is operated solely between places in the other State.

2. As regards the application of the Convention by either of the States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that State relating to the taxes which are the subject of this Convention.

### **ARTICLE 4 FISCAL DOMICILE**

1. For the purposes of this Convention, the term "resident of one of the States" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. For the purposes of this Convention an individual, who is a member of a diplomatic or consular mission of one of the States in the other State or in a third State and who is a national of the sending State, shall be deemed to be a resident of the sending State.

3. Where by reason of the provisions of paragraph 1 an individual is a resident of both States, then this case shall be determined in accordance with the following rules:

a) he shall be deemed to be a resident 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 of the State with which the 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 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 of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both States, then the competent authorities shall determine by mutual agreement the State of which that person shall be deemed to be a resident.

## **ARTICLE 5**

### **PERMANENT ESTABLISHMENT**

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

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 mine, quarry or other place of exploration or extraction of natural resources;

(g) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 183 days;

(h) the furnishing of services including consultancy services by an enterprise through an employee or other personnel where activities of that nature continue (for the same or a connected project) for a period or periods exceeding in the aggregate 183 days within any twelve-month period.

3. 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 purpose 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 the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in one of the States on behalf of an enterprise of the other State - other than an agent of an independent status to whom paragraph 6 applies - shall be deemed to be a permanent establishment in the first-mentioned State if:

a) he has, and habitually exercises in the first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

b) he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise on behalf of the enterprise.

5. An insurance enterprise of one of the States shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 6. 6. An enterprise of one of the States shall not be deemed to have a permanent establishment in the other State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of one of the States controls or is controlled by a company which is a resident of the other State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## **ARTICLE 6**

### **INCOME FROM IMMOVABLE PROPERTY**

1. Income from immovable property, including income from agriculture or forestry, may be taxed in the State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources, excluding bonds or debentures; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

## **ARTICLE 7**

### **BUSINESS PROFITS**

1. The profits of an enterprise of one of the States shall be taxable only in that State unless the enterprise carries on business in the other State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In the application of paragraph 3, no deduction shall be allowed in respect of amounts charged - otherwise than with respect to expenses actually incurred - by the head office of the enterprise or any of its other offices to the permanent establishment, by way of royalties, fees or other similar payments in return for the