No. 6895

THAILAND
and
JAPAN

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with exchange of letters). Signed at Bangkok, on 1 March 1963

Official text: English.

Registered by Thailand on 4 September 1963.

THAÏLANDE
et
JAPON

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec échange de lettres). Signée à Bangkok, le 1er mars 1963

Texte officiel anglais.

Enregistrée par la Thaïlande le 4 septembre 1963.

No. 6895. CONVENTION[1] BETWEEN THAILAND AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT BANGKOK, ON 1 MARCH 1963

The Government of Thailand and the Government of Japan,

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

Have appointed for that purpose as their respective Plenipotentiaries :

The Government of Thailand :

Mr. Thanat Khoman, Minister of Foreign Affairs of Thailand

The Government of Japan :

Mr. Hisanaga Shimadzu, Ambassador Extraordinary and Plenipotentiary of Japan to Thailand

Who, having communicated to one another their respective full powers, found in good and due form, have agreed upon the following Articles :

Article I

1. The taxes which are the subject of the present Convention are :

(*a*) In Japan : The income tax and the corporation tax.

(*b*) In Thailand : The income tax.

2. The present Convention shall also apply to any other tax on income or profits which has a substantially similar character to those referred to in the preceding paragraph and which may be imposed in either Contracting State after the date of signature of the present Convention.

Article II

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

(*a*) The term " Japan ", when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are enforced.

[1] Came into force on 24 July 1963, the date of the exchange of notes indicating the approval of the Convention by both parties pursuant to their respective legal procedures, in accordance with the provisions of article XX (1).

(*b*) The term " Thailand " means the Kingdom of Thailand.

(*c*) The terms " one of the Contracting States " and " the other Contracting State " mean Japan or Thailand, as the context requires.

(*d*) The term " Japanese tax " means the income tax, the corporation tax and such other tax on income or profits of a substantially similar character as referred to in paragraph 2 of Article I; and the term " Thai tax " means the income tax and such other tax on income or profits of a substantially similar character as referred to in paragraph 2 of Article I.

(*e*) The term " tax " means Japanese tax or Thai tax, as the context requires.

(*f*) The term " Japanese corporation " means a company or any other kind of juridical person created under the law of Japan or any organization without juridical personality treated for the purposes of Japanese tax as a juridical person created under the law of Japan; and the term " Thai corporation " means a company or any other kind of juridical person created under the law of Thailand or any other body or group of persons without juridical personality which is taxed in a substantially same manner as a juridical person created under the law of Thailand.

(*g*) The terms " corporation of one of the Contracting States " and " corporation of the other Contracting State " mean a Japanese corporation or a Thai corporation, as the context requires.

(*h*) The term " resident of Japan " means any individual who is resident in Japan for the purposes of Japanese tax and not resident in Thailand for the purposes of Thai tax and any Japanese corporation; and the term " resident of Thailand " means any individual who is resident in Thailand for the purposes of Thai tax and not resident in Japan for the purposes of Japanese tax and any Thai corporation.

(*i*) The terms " resident of one of the Contracting States " and " resident of the other Contracting State " mean a resident of Japan or a resident of Thailand, as the context requires.

(*j*) The term " Japanese enterprise " means an industrial or commercial entreprise or undertaking carried on by a resident of Japan; and the term " Thai enterprise " means an industrial or commercial enterprise or undertaking carried on by a resident of Thailand.

(*k*) The terms " enterprise of one of the Contracting States " and " enterprise of the other Contracting State " mean a Japanese enterprise or a Thai enterprise, as the context requires.

(*l*) The term " permanent establishment " means a fixed place of business in which the business of an enterprise is wholly or partly carried on.

(i) The term " fixed place of business " shall include a place of management, a branch, an office, a factory, a workshop, a warehouse, a mine, quarry or other place of extraction of natural resources.

(ii) An enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State, if

(*aa*) it carries on in that other Contracting State a construction, installation or assembly project or the like;

(*bb*) it carries on in that other Contracting State a business which consists of providing the services of public entertainers referred to in paragraph 2 of Article X.

(iii) The use of mere storage facilities or the maintenance of a fixed place of business by an enterprise of one of the Contracting States exclusively for the purchase or display of goods or merchandise in the other Contracting State and not for any processing of such goods or merchandise therein shall not constitute a permanent establishment.

(iv) A person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the former Contracting State, but only if

(*aa*) he has and habitually exercises in the former Contracting State an authority to negotiate and conclude contracts for or on behalf of the enterprise, unless the activities of the person are limited exclusively to the purchase of goods or merchandise for or on behalf of the enterprise, or

(*bb*) he habitually maintains in the former Contracting State a stock of goods or merchandise belonging to the enterprise from which the person regularly delivers goods or merchandise for or on behalf of the enterprise, or

(*cc*) he habitually secures orders in the former Contracting State wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

(v) A broker, commission agent or other agent of genuinely independent status who merely acts as an intermediary between an enterprise of one of the Contracting States and prospective customer in the other Contracting State shall not be deemed to be a permanent establishment of the enterprise in that other Contracting State.

(vi) The fact that a corporation of one of the Contracting States controls or is controlled by a corporation which is a corporation of the other Contracting State or which carries on a trade or business in that other Contracting State shall not of itself constitute either corporation a permanent establishment of the other.

(*m*) The term " industrial or commercial profits " includes manufacturing, mercantile, agricultural, fishing, mining and insurance profits as well as profits from banking and security dealings, but does not include income in the form of dividends, interest, rents, royalties, capital gains, or remuneration for personal services.

(*n*) The term " competent authorities " means, in the case of Japan, the Minister of Finance or his authorized representative; and in the case of Thailand, the Minister of Finance or his authorized representative.

2. In the application of the provisions of the present Convention by either 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 tax.

Article III

1. The industrial or commercial profits (excluding the profits derived from the operation of ships or aircraft) of an enterprise of one of the Contracting States shall not be subject to tax in the other Contracting State unless the enterprise carries on a trade or business in that other Contracting State through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits in that other Contracting State, but only on so much of them as is attributable to that permanent establishment.

2. Where an enterprise of one of the Contracting States carries on a trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other Contracting State if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing on an independent basis with the enterprise of which it is a permanent establishment.

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