

No. 7486

**JAPAN
and
NEW ZEALAND**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Wellington, on 30 January 1963

Official texts: Japanese and English.

Registered by Japan on 25 November 1964.

**JAPON
et
NOUVELLE-ZÉLANDE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Wellington, le 30 janvier 1963

Textes officiels japonais et anglais.

Enregistrée par le Japon le 25 novembre 1964.

No. 7486. CONVENTION¹ BETWEEN JAPAN AND NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME. SIGNED AT WELLINGTON, ON 30 JANUARY 1963

The Government of Japan and the Government of New Zealand,
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 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 New Zealand :

The income tax and the excess retention tax.

(2) The present Convention shall also apply to any other taxes on income or profit which are of a substantially similar character to those referred to in the preceding paragraph and which may be imposed by 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;

(b) The term “ New Zealand ”, when used in a geographical sense, means the metropolitan territory of New Zealand (including the outlying islands) and excludes the Cook Islands (including Niue);

(c) The terms “ one of the Contracting States ” and “ the other Contracting State ” mean Japan or New Zealand, as the context requires;

¹ Came into force on 19 April 1963, the date of the exchange of the instruments of ratification at Tokyo, in accordance with article XIX (2).

(d) The term "Japanese tax" means tax imposed by Japan being tax to which the present Convention applies by virtue of Article I; and the term "New Zealand tax" means tax imposed by New Zealand being tax to which the present Convention applies by virtue of Article I;

(e) The term "tax" means Japanese tax or New Zealand tax, as the context requires;

(f) The term "Japanese corporation" means any corporation or other association having juridical personality or any association without juridical personality which has its head or main office in Japan and the business of which is not managed and controlled in New Zealand; and the term "New Zealand corporation" means any company the business of which is managed and controlled in New Zealand and which does not have its head or main office in Japan;

(g) The terms "corporation of one of the Contracting States" and "corporation of the other Contracting State" mean a Japanese corporation or a New Zealand 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 New Zealand for the purposes of New Zealand tax and any Japanese corporation; and the term "resident of New Zealand" means any person other than a company who is resident in New Zealand for the purposes of New Zealand tax and not resident in Japan for the purposes of Japanese tax and any New Zealand 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 New Zealand, as the context requires;

(j) The term "Japanese enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of Japan; and the term "New Zealand enterprise" means an industrial or commercial enterprise or undertaking carried on by a resident of New Zealand;

(k) The terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean a Japanese enterprise or a New Zealand enterprise, as the context requires;

(l) The term "industrial or commercial enterprise or undertaking" includes an enterprise or undertaking engaged in mining, agricultural, fishing, pastoral or forestry activities, or in the business of banking, insurance, life insurance or dealing in investments, and the term "industrial or commercial profits" includes profits from such activities or business but does not include income in the form of dividends, interest, rents, royalties, fees for technical services, management charges, remuneration for personal services or income arising from, or in relation to, contracts or obligations to provide the services of

public entertainers such as stage, motion picture, radio or television artists, musicians and athletes;

- (m) (i) The term “ permanent establishment ” means a fixed place of business in which the business of the enterprise is wholly or partly carried on;
- (ii) A permanent establishment shall include especially :
- (aa) a place of management;
 - (bb) a branch;
 - (cc) an office;
 - (dd) a factory;
 - (ee) a workshop;
 - (ff) a warehouse;
 - (gg) a mine, quarry or other place of natural resources subject to exploitation;
 - (hh) an agricultural, pastoral or forestry property;
 - (jj) a building site or construction or assembly project which exists for more than twelve months;
- (iii) Where the business of an enterprise of one of the Contracting States is of a mobile nature the place where such business is being carried on in the other Contracting State shall be deemed to be a fixed place of business;
- (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 in the former Contracting State if—
- (aa) the person has and habitually exercises in the former Contracting State a general authority to negotiate and conclude contracts on behalf of such enterprise, unless the activities of such person are limited to the purchase of goods or merchandise on behalf of such enterprise; or
 - (bb) the person habitually maintains in the former Contracting State a stock of goods or merchandise belonging to such enterprise from which such a person regularly fills orders on behalf of such enterprise; or
 - (cc) the person habitually secures orders in the former Contracting State, exclusively or almost exclusively, for the enterprise itself or for such enterprise and other enterprises which are controlled by it or have a controlling interest in it;

- (v) (aa) An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business dealings in that other Contracting State through a bona fide broker or general commission agent or other agent of independent status acting in the ordinary course of his business as such;
- (bb) The fact that an enterprise of one of the Contracting States maintains in the other Contracting State a fixed place of business solely for the purpose of purchase, storage or delivery of goods or merchandise, or for collecting information shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;
- (cc) The fact that a corporation of one of the Contracting States has a subsidiary corporation which is a corporation of the other Contracting State or which carries on a trade or business in that other Contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation a permanent establishment of its parent corporation;
- (vi) Where an enterprise of one of the Contracting States sells to a resident of the other Contracting State goods manufactured, assembled, processed, packed or distributed in the other Contracting State by an industrial or commercial enterprise or undertaking for, or at or to the order of, that first mentioned enterprise and that first mentioned enterprise participates in the management, control or capital of that other enterprise or undertaking, then, for the purpose of the present Convention, that first mentioned enterprise shall be deemed to have a permanent establishment in the other Contracting State and to be engaged in trade or business in the other Contracting State through that permanent establishment;
- (n) The term "competent authorities" means, in the case of Japan, the Minister of Finance or his authorised representative; and, in the case of New Zealand, the Commissioner of Inland Revenue or his authorised representative;
- (o) Words in the singular include the plural and words in the plural include the singular.
- (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 taxes which are the subject of the present Convention.