No. 8283

JAPAN
and
FRANCE

Convention for the avoidance of double taxation with respect to taxes on income (with Additional Protocol). Signed at Paris, on 27 November 1964

Official texts: Japanese and French.

Registered by Japan on 28 July 1966.

JAPON
et
FRANCE

Convention tendant à éviter les doubles impositions en matière d'impôts sur le revenu (avec Protocole additionnel). Signée à Paris, le 27 novembre 1964

Textes officiels japonais et français.

Enregistrée par le Japon le 28 juillet 1966.

[TRANSLATION — TRADUCTION]

No. 8283. CONVENTION[1] BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME. SIGNED AT PARIS, ON 27 NOVEMBER 1964

The Government of Japan and the Government of the French Republic,

Desiring to conclude a Convention for the purpose of avoiding double taxation with respect to taxes on income,

Have agreed on the following provisions :

Article I

This Convention shall apply, subject to the provisions of articles XX, XXIV and XXV, to persons who are residents of a Contracting State.

Article II

1. The taxes to which this Convention shall apply are :

(*a*) In the case of France : the tax on the income of individuals (*l'impôt sur le revenu des personnes physiques*), the complementary tax (*la taxe complémentaire*) and the tax on the profits of companies and other bodies corporate (*l'impôt sur les bénéfices des sociétés et autres personnes morales*) (hereinafter referred to as " French tax ");

(*b*) In the case of Japan : the income tax, the corporation tax, the prefectural tax on the income of residents and the communal tax on the income of residents (hereinafter referred to as " Japanese tax ").

2. In the case of shipping enterprises and airlines, the Convention shall also apply to the taxes referred to in article VIII, paragraph 2.

3. The Convention shall further apply to all other taxes, similar to the taxes referred to in the preceding paragraphs, which may be imposed on behalf of the State or of its local authorities, in Japan or in France, after the date of signature of the Convention. At the end of each year, the national taxation authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

[1] Came into force on 22 August 1965, one month after the date of the exchange of notices confirming the approval of the Convention according to the constitutional provisions in force in each of the two States, in conformity with article XXX, paragraph 1. The exchange of the said notices took place on 22 July 1965.

Article III

1. In this 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; the term " France " means metropolitan France and the overseas *départements* (Guadeloupe, Guiana, Martinique and Réunion);

(*b*) The terms " a Contracting State " and " the other Contracting State " mean Japan or France, as the context requires;

(*c*) The term " Japanese company " means any company or other legal entity (including any organization without juridical personality deemed to be a legal entity for the purposes of Japanese tax) which has its headquarters in Japan and which is not managed and controlled in France, and the term " French company " means any body corporate or other entity deemed to be a body corporate for the purposes of French tax which is managed and controlled in France and which does not have its headquarters in Japan;

(*d*) The term " resident of Japan " means any individual who is resident in Japan for the purposes of Japanese tax and not resident in France for the purposes of French tax, and any Japanese company; and the term " resident of France " means any individual who is resident in France for the purposes of French tax and not resident in Japan for the purposes of Japanese tax, and any French company; and the terms " resident of a Contracting State " and " resident of the other Contracting State " mean a resident of Japan or a resident of France, as the context requires;

(*e*) The term " Japanese enterprise " means an industrial or commercial enterprise carried on by a resident of Japan; and the term " French enterprise " means an industrial or commercial enterprise carried on by a resident of France; and the terms " enterprise of a Contracting State " and " enterprise of the other Contracting State " mean a Japanese enterprise or a French enterprise, as the context requires;

(*f*) The term " industrial and commercial profits " does not include the income from immovable property referred to in article V, the income from agricultural or forestry enterprises referred to in article VI, or income in the form of dividends, interest (including the annuities referred to in article XII, paragraph 3), rents or royalties, capital gains or remuneration for personal services;

(*g*) The term " national taxation authorities " means, in the case of Japan, the Minister of Finance or his duly authorized representatives; in the case of France, the Minister of Finance and Economic Affairs or his duly authorized representatives.

2. As regards the application of the Convention 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 which are the subject of the Convention.

Article IV

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 " shall include 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 extraction of natural resources;
(*g*) A building site or construction or assembly project which exists for more than twelve months.

3. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if :

(*a*) It carries on business for more than twelve months in circumstances such that it may be deemed, by reason in particular of the managerial authority which it possesses, to be performing for its own account a construction or assembly contract in that other Contracting State;
(*b*) It carries on a business which consists of providing the services of public entertainers referred to in article XVIII in that other Contracting State.

4. The term " permanent establishment " shall not be deemed to include :

(*a*) The use of facilities solely for the purpose of storage, display or delivery 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, display or delivery;
(*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.

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph 7 applies— shall be deemed to be a permanent establishment in the first-mentioned Contracting State if :

(*a*) He has, and habitually exercises in that 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 Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders under a contract which has been entered into in advance by that enterprise but which does not specify the quantity to be delivered or the date and place of delivery.

6. An insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a representative (other than an agent of an independent status to whom paragraph 7 applies).

7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting 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.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting 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 V

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term " immovable property " shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall include especially rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also apply to profits from the alienation of immovable property.