

No. 31559

**JAPAN
and
LUXEMBOURG**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and/or to a certain other tax (with exchange of notes and agreed minutes). Signed at Luxembourg on 5 March 1992

Authentic text: English.

Registered by Japan on 27 January 1995.

**JAPON
et
LUXEMBOURG**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et/ou à certains autres impôts (avec échange de notes et procès-verbal approuvé). Signée à Luxembourg le 5 mars 1992

Texte authentique : anglais.

Enregistrée par le Japon le 27 janvier 1995.

CONVENTION¹ BETWEEN JAPAN AND THE GRAND-DUCHY OF LUXEMBOURG FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND/OR TO A CERTAIN OTHER TAX

The Government of Japan and the Government of the Grand-Duchy of Luxembourg,

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

Have agreed as follows:

Article 1

This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2

1. This Convention shall apply to the following taxes:

(a) in the Grand-Duchy of Luxembourg:

- (i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);
- (ii) the corporation tax (l'impôt sur le revenu des collectivités);
- (iii) the tax on fees of directors of companies (l'impôt spécial sur les tantièmes);
- (iv) the capital tax (l'impôt sur la fortune); and

¹ Came into force on 27 December 1992, i.e., the thirtieth day following the date of the exchange of the instruments of ratification, which took place at Tokyo on 27 November 1992, in accordance with article 31 (2).

- (v) the communal trade tax (l'impôt commercial communal)
(hereinafter referred to as "Luxembourg tax");
- (b) in Japan:
 - (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the local inhabitant taxes
(hereinafter referred to as "Japanese tax").

2. This Convention shall also apply to any identical or substantially similar taxes, whether national or local, which are imposed after the date of signature of this Convention in addition to, or in place of, those referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

Article 3

1. For the purposes of this Convention, unless the context otherwise requires:

- (a) the term "Luxembourg" means the Grand-Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand-Duchy of Luxembourg;
- (b) the term "Japan", when used in a geographical sense, means all the territory of Japan, including its territorial sea, in which the laws relating to Japanese tax are in force, and all the area beyond its territorial sea, including the sea-bed and subsoil thereof, over which Japan has jurisdiction in accordance with international law and in which the laws relating to Japanese tax are in force;

- (c) the terms "a Contracting State" and "the other Contracting State" mean Japan or Luxembourg, as the context requires;
- (d) the term "tax" means Japanese tax or Luxembourg tax, as the context requires;
- (e) the term "person" includes an individual, a company and any other body of persons;
- (f) the term "company" means any body corporate or any entity which is treated as a body corporate for the tax purposes;
- (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (h) the term "nationals" means all individuals possessing the nationality of either Contracting State and all juridical persons created or organized under the laws of that Contracting State and all organizations without juridical personality treated for the purposes of tax of that Contracting State as juridical persons created or organized under the laws of that Contracting State;
- (i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State; and
- (j) the term "competent authority" means:
 - (i) in the case of Luxembourg, the Minister of Finance or his authorized representative;
 - (ii) in the case of Japan, the Minister of Finance or his authorized representative.

2. As regards the application of this Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State concerning the taxes to which this Convention applies.

Article 4

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of head or main office or any other criterion of a similar nature.

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

- (a) he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.