

No. 52546*

**Turkey
and
Malaysia**

Agreement between the Government of the Republic of Turkey and the Government of Malaysia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Ankara, 27 September 1994

Entry into force: *30 December 1996 by notification, in accordance with article 27*

Authentic texts: *English, Malay and Turkish*

Registration with the Secretariat of the United Nations: *Turkey, 23 February 2015*

Note: *See also annex A, No. 52546.*

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

**Turquie
et
Malaisie**

Accord entre le Gouvernement de la République turque et le Gouvernement de la Malaisie tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Ankara, 27 septembre 1994

Entrée en vigueur : *30 décembre 1996 par notification, conformément à l'article 27*

Textes authentiques : *anglais, malais et turc*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *Turquie, 23 février 2015*

Note : *Voir aussi annexe A, No. 52546.*

**Aucun numéro de volume n'a encore été attribué à ce dossier. Les textes disponibles qui sont reproduits ci-dessous sont les textes originaux de l'accord ou de l'action tels que soumis pour enregistrement. Par souci de clarté, leurs pages ont été numérotées. Les traductions qui accompagnent ces textes ne sont pas définitives et sont fournies uniquement à titre d'information.*

[ENGLISH TEXT – TEXTE ANGLAIS]

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF
TURKEY AND THE GOVERNMENT OF MALAYSIA FOR THE AVOIDANCE
OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME**

The Government of the Republic of Turkey and the Government of Malaysia,

Desiring to conclude an Agreement 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

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

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State, 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, taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Agreement shall apply are in particular:
 - a) in Malaysia:
 - i) the income tax; and
 - ii) the petroleum income tax;

(hereinafter referred to as "Malaysian tax")

b) in Turkey:

- i) the income tax (Gelir Vergisi);
- ii) the corporation tax (Kurumlar Vergisi);
- iii) the levy imposed on the income tax and the corporation tax (Fon Payı).

(hereinafter referred to as "Turkish tax")

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

Article 3

GENERAL DEFINITIONS

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

- a) the term "Malaysia" means the territories of the Federation of Malaysia, the territorial waters of Malaysia and the sea-bed and subsoil of the territorial waters, and includes any area extending beyond the limits of the territorial waters of Malaysia, and the sea-bed and subsoil of any such area, which in accordance with international law is an area over which Malaysia has sovereignty rights for the purposes of exploring and exploiting the natural resources, whether living or non-living;
- b) the term "Turkey" means the territory of the Republic of Turkey, including any area in which the laws of Turkey are in force, as well as the continental shelf over which Turkey has in accordance with international law, sovereign rights to explore and exploit its natural resources;
- c) the terms "a Contracting State" and "the other Contracting State" mean Malaysia or Turkey as the context requires;
- d) the term "tax" means any tax covered by Article 2 of this Agreement;
- e) the term "person" includes an individual, a company and any other body of persons which is treated as a person for tax purposes;
- f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

- g) in the case of Turkey, the term "Registered Office" means the legal head office registered under the Turkish Code of Commerce;
- h) the term "national" means:
 - i) in relation to Malaysia, any individual possessing the citizenship of Malaysia and any legal person, partnership, association and any other entity deriving its status as such from the laws in force in Malaysia;
 - ii) in relation to Turkey, any individual possessing Turkish nationality in accordance with the Turkish Nationality Code, and any legal person, partnership or association deriving its status as such from the law in force in Turkey;
- i) 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;
- j) the term "competent authority" means:
 - i) in Malaysia, the Minister of Finance or his authorized representative;
 - and
 - ii) in Turkey, the Minister of Finance or his authorized representative;
- k) 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 situated in the other Contracting State.

2. As regards the application of the Agreement 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 State concerning the taxes to which the Agreement applies.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, legal head office (Registered Office), place of management 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 his status shall be determined as follows:

- 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 his 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 Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. However, where such person has its place of effective management in one of the States and its legal head office in the other Contracting State, then the competent authorities of the Contracting States shall consult to determine by mutual agreement whether the legal head office of such a person is to be considered as the actual place of effective management or not.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an 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;