

No. 54543*

**Japan
and
Germany**

Agreement between Japan and the Federal Republic of Germany for the elimination of double taxation with respect to taxes on income and to certain other taxes and the prevention of tax evasion and avoidance (with protocol). Tokyo, 17 December 2015

Entry into force: *28 October 2016, in accordance with article 31*

Authentic texts: *English, German and Japanese*

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**Japon
et
Allemagne**

Accord entre le Japon et la République fédérale d'Allemagne portant sur l'élimination de la double imposition en matière d'impôts sur le revenu et de certains autres impôts et sur la prévention de l'évasion et la fraude fiscales (avec protocole). Tokyo, 17 décembre 2015

Entrée en vigueur : *28 octobre 2016, conformément à l'article 31*

Textes authentiques : *anglais, allemand et japonais*

Enregistrement auprès du Secrétariat des Nations Unies : *Japon, 29 juin 2017*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT
BETWEEN JAPAN AND THE FEDERAL REPUBLIC OF GERMANY
FOR THE ELIMINATION OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND TO CERTAIN OTHER TAXES
AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

Japan and the Federal Republic of Germany,

Desiring to further develop their economic
relationship and to enhance their cooperation in tax
matters,

Intending to conclude a new Agreement for the
elimination of double taxation with respect to taxes on
income and to certain other taxes without creating
opportunities for non-taxation or reduced taxation through
tax evasion or avoidance (including through treaty-shopping
arrangements aimed at obtaining reliefs provided in this
Agreement for the indirect benefit of residents of third
States),

Have agreed as follows:

Article 1
Persons Covered

1. This Agreement shall apply to persons who are
residents of one or both of the Contracting States.
2. For the purposes of this Agreement, income derived by
or through an entity or arrangement that is treated as
wholly or partly fiscally transparent under the tax law of
either Contracting State shall be considered to be income
of a resident of a Contracting State but only to the extent
that the income is treated, for purposes of taxation by
that Contracting State, as the income of a resident of that
Contracting State. In no case shall the provisions of this
paragraph be construed so as to restrict in any way a
Contracting State's right to tax the residents of that
Contracting State. For the purposes of this paragraph, the
term "fiscally transparent" means situations where, under
the tax law of a Contracting State, income, or part
thereof, of an entity or arrangement is not taxed at the
level of the entity or arrangement but at the level of the
persons who have an interest in that entity or arrangement.

Article 2
Taxes Covered

1. This Agreement shall apply to the following taxes:
 - (a) in the case of Japan:
 - (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the special income tax for reconstruction;
 - (iv) the local corporation tax;
 - (v) the local inhabitant taxes; and
 - (vi) the enterprise tax
(hereinafter referred to as "Japanese tax");
and
 - (b) in the case of the Federal Republic of Germany:
 - (i) the income tax (*Einkommensteuer*);
 - (ii) the corporate income tax
(*Körperschaftsteuer*);
 - (iii) the trade tax (*Gewerbesteuer*); and
 - (iv) the solidarity surcharge
(*Solidaritätszuschlag*)

(hereinafter referred to as "German tax").

2. This Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement 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 significant changes that have been made in their respective taxation laws, within a reasonable period of time after such changes.

Article 3
General Definitions

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

- (a) 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 seabed and subsoil thereof, over which Japan has sovereign rights in accordance with international law and in which the laws relating to Japanese tax are in force;
- (b) the term "Federal Republic of Germany", when used in a geographical sense, means the territory of the Federal Republic of Germany as well as the area of the seabed, its subsoil and the superjacent water column adjacent to the territorial sea, insofar as the Federal Republic of Germany exercises sovereign rights and jurisdiction in conformity with international law and its national legislation for the purpose of exploring, exploiting, conserving and managing the living and non-living natural resources or for the production of energy from renewable sources;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Japan or the Federal Republic of Germany, as the context requires;
- (d) the term "person" includes an individual, a company and any other body of persons;
- (e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
- (f) the term "enterprise" applies to the carrying on of any business;
- (g) the term "business" includes the performance of professional services and of other activities of an independent character;
- (h) 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;

- (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;
- (j) the term "national" means:
 - (i) in the case of Japan, any individual possessing the nationality of Japan and any legal person, partnership or association deriving its status as such from the laws in force in Japan; and
 - (ii) in the case of the Federal Republic of Germany, any German within the meaning of the Basic Law (*Grundgesetz*) for the Federal Republic of Germany and any legal person, partnership or association deriving its status as such from the laws in force in the Federal Republic of Germany;
- (k) the term "competent authority" means:
 - (i) in the case of Japan, the Minister of Finance or his authorised representative; and
 - (ii) in the case of the Federal Republic of Germany, the Federal Ministry of Finance or the agency to which it has delegated its powers.

2. As regards the application of this Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that Contracting State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Contracting State prevailing over a meaning given to the term under other laws of that Contracting State.