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**Finland
and
Turkmenistan**

Agreement between the Government of the Republic of Finland and the Government of Turkmenistan for the avoidance of double taxation with respect to taxes on income. Ashgabat, 12 December 2015

Entry into force: *10 February 2017, in accordance with article 26*

Authentic texts: *English, Finnish and Turkmen*

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**Finlande
et
Turkménistan**

Accord entre le Gouvernement de la République de Finlande et le Gouvernement du Turkménistan tendant à éviter la double imposition en matière d'impôts sur le revenu. Achgabat, 12 décembre 2015

Entrée en vigueur : *10 février 2017, conformément à l'article 26*

Textes authentiques : *anglais, finnois et turkmène*

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**DRAFT
AGREEMENT
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF FINLAND AND THE
GOVERNMENT OF TURKMENISTAN FOR THE AVOIDANCE OF DOUBLE
TAXATION WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of Finland and the Government of Turkmenistan,

Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows:

Article 1
Persons covered

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, or of its administrative subdivisions or local authorities, 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 amount of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are:

a) in Finland:

- (i) the state income taxes (valtion tuloverot; de statliga inkomstskatterna);
- (ii) the corporate income taxes (yhteisöjen tuloverot; inkomstskatterna för samfund);
- (iii) the communal tax (kunnallisvero; kommunalskatten);
- (iv) the church tax (kirkollisvero; kyrkoskatten);
- (v) the tax withheld at source from interest (korkotulon lähdevero; källskatten på ränteinkomst); and
- (vi) the tax withheld at source from non residents' income (rajoitetusti verovelvollisen lähdevero; källskatten för begränsat skattskyldig);

(hereinafter referred to as "Finnish tax");

b) in Turkmenistan:

- (i) the tax on profits (income) of juridical persons;
- (ii) the tax on income of individuals.

(hereinafter referred to as "Turkmen tax").

4. The Agreement shall apply also to any identical or substantially similar taxes 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 any significant changes that 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 "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its sub soil and of the superjacent waters may be exercised;
 - b) the term "Turkmenistan" means the territory of Turkmenistan and comprises the area within its land borders together with the maritime zones (including both marine and sub-marine zones) over which Turkmenistan exercises sovereign rights or jurisdiction under international law;
 - c) the term "person" includes an individual, a company and any other body of persons;
 - d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - e) the term "enterprise" applies to the carrying on of any business;
 - f) the term "a Contracting State" and "the other Contracting State" mean Finland and Turkmenistan as the context requires;
 - 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 "national" in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in 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;
 - j) the term "competent authority" means:

- (i) in Finland, the Ministry of Finance, its authorised representative or the authority which, by the Ministry of Finance, is designated as competent authority;
 - (ii) in Turkmenistan, the Ministry of Finance and the Main State Tax Service or their authorized representative;
 - k) the term "business" includes the performance of professional services and of other activities of an independent character.
2. As regards the application of the 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 law of that State for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

Article 4 **Residence**

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, place of management, place of incorporation (registration) or any other criterion of a similar nature, and also includes that State and any administrative subdivision, statutory body or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.
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 only 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 only 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 only 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 only 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, the competent authorities of the Contracting States shall settle the question by mutual agreement and determine the mode of application of the Agreement to such person.