

TREATY USA - REPUBLIC OF INDONESIA

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, TOGETHER WITH A RELATED PROTOCOL AND EXCHANGE OF NOTES, SIGNED AT JAKARTA ON JULY 11, 1988

GENERAL EFFECTIVE DATE UNDER ARTICLE 30: 1 JANUARY 1990

ARTICLE 28

General Rules of Taxation

- 1) A resident of one of the Contracting States may be taxed by the other Contracting State on any income from sources within that other Contracting State and only on such income, subject to any limitations set forth in this Convention. For this purpose, the rules set forth in Article 7 (Source of Income) shall be applied to determine the source of income.
- 2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:
 - a) by the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or
 - b) by any other agreement between the Contracting States.
- 3) Notwithstanding any provisions of this Convention except paragraph (4), a Contracting State may tax a citizen or resident of that Contracting State as if this Convention had not come into effect. For this purpose the term "citizen" shall include a former citizen whose loss of citizenship had as one of the principal purposes the avoidance of tax but only for a period of ten years following such loss.
- 4) The provisions of paragraph (3) shall not affect:
 - a) the benefits conferred by a Contracting State under paragraph (3) of Article 10 (Related Persons), paragraph (3) of Article 21 (Private Pensions and Annuities), Articles 22 (Social Security Payments), 23 (Relief from Double Taxation), 24 (Nondiscrimination), and 25 (Mutual Agreement Procedure); and
 - b) the benefits conferred by a Contracting State under Articles 18 (Government Service), 19 (Students and Trainees), 20 (Teachers and Researchers), and 27

(Diplomatic and Consular Officers), upon individuals who are neither citizens of, nor have immigrant status in, that Contracting State.

- 5) The competent authorities of the Contracting States may each prescribe regulations necessary to carry out the provisions of this Convention.
- 6) Except as provided in paragraph (7), a person (other than an individual) which is a resident of a Contracting State shall not be entitled under this Convention to relief from taxation in the other Contracting State unless:
 - a) more than 50 percent of the beneficial interest in such person (or in the case of a company, more than 50 percent of the number of shares of each class of the company's shares) is owned, directly or indirectly, by any combination of one or more of:
 - i) individuals who are residents of the United States;
 - ii) citizens of the United States;
 - iii) individuals who are residents of Indonesia;
 - iv) companies as described in paragraph 7(a); and
 - v) the Contracting States; and
 - b) the income of such person is not used in substantial part, directly or indirectly, to meet liabilities (including liabilities for interest or royalties) to persons other than those enumerated in subparagraphs (a) (i) through (v).
- 7) The provisions of paragraph (6) shall not apply if:
 - a) the person is a company in whose principal class of shares there is substantial and regular trading on a recognized stock exchange; or
 - b) the establishment, acquisition and maintenance of such person and the conduct of its operations did not have as a principal purpose the purpose of obtaining benefits under the Convention.
- 8) For the purposes of paragraph 7(a), the term "a recognized stock exchange" means:
 - a) the NASDAQ System owned by the National Association of Securities Dealers, Inc., and any stock exchange registered with the Securities and Exchange Commission as a national securities exchange for the purposes of the Securities Exchange Act of 1934; and
 - b) the Jakarta stock exchange; and
 - c) any other stock exchange agreed upon by the competent authorities of the Contracting States.