

NASKAH SINTESIS KONVENSI DAN P3B INDONESIA-SINGAPURA

Naskah ini merupakan naskah sintesis untuk penerapan P3B Indonesia-Singapura yang dimodifikasi dengan Konvensi yang ditandatangani Pemerintah Republik Indonesia pada 7 Juni 2017 dan Pemerintah Republik Singapura pada 7 Juni 2017.

Naskah sintesis ini disusun berdasarkan posisi Konvensi Indonesia yang disampaikan ke Penyimpan pada 28 April 2020 dan posisi Konvensi Singapura yang disampaikan ke Penyimpan pada 21 Desember 2018. Posisi Konvensi dapat berubah sebagaimana yang diatur dalam Konvensi. Perubahan atas posisi Konvensi dapat mempengaruhi dampak Konvensi atas P3B Indonesia-Singapura.

Tujuan naskah sintesis ini hanyalah untuk membantu dalam memahami penerapan Konvensi terhadap P3B Indonesia-Singapura dan tidak dapat dijadikan sebagai sumber hukum. Naskah asli Konvensi dan P3B Indonesia-Singapura tetap menjadi dasar hukum yang berlaku.

Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Singapura dinyatakan dalam kotak-kotak dalam konteks ketentuan yang relevan dari P3B Indonesia- Singapura. Kotak-kotak tersebut dimasukkan sesuai dengan urutan ketentuan dalam P3B Indonesia-Singapura.

Beberapa terminologi dalam Konvensi telah diubah untuk menyesuaikan dengan terminologi yang digunakan dalam P3B Indonesia-Singapura (seperti "*Covered Tax Agreement*" dan "*Convention*", "*Contracting Jurisdictions*" dan "*Contracting States*"), untuk mempermudah pemahaman atas Konvensi. Perubahan terminologi tersebut dimaksudkan untuk membantu pembaca dan bukan untuk mengubah substansi pengaturan dalam Konvensi. Lebih lanjut, beberapa bagian pengaturan dalam Konvensi juga diubah untuk menjelaskan ketentuan P3B Indonesia-Singapura yang saat ini berlaku: narasi deskriptif diganti dengan rujukan ketentuan P3B Indonesia-Singapura yang saat ini berlaku untuk membantu pembaca.

Seluruh rujukan ke ketentuan P3B Indonesia-Singapura harus dimaknai sebagai rujukan ke ketentuan P3B Indonesia-Singapura yang dimodifikasi Konvensi setelah Konvensi telah berlaku efektif.

Referensi

Posisi Konvensi Indonesia dan Singapura yang disampaikan ke Penyimpan dapat dilihat di [laman Penyimpan Konvensi \(OECD\)](#).

Keberlakuan Efektif Konvensi

Pokok-pokok pengaturan dalam Konvensi yang berlaku untuk P3B Indonesia-Singapura tidak berlaku efektif pada saat yang sama dengan ketentuan P3B Indonesia-Singapura.

Masing-masing pengaturan dalam Konvensi dapat berlaku efektif pada tanggal yang berbeda tergantung pada jenis pajaknya (pajak-pajak yang dipotong atau dipungut di negara sumber atau pajak-pajak lainnya) dan pilihan yang dibuat oleh Pemerintah Republik Indonesia and Pemerintah Republik Singapura dalam posisi Konvensinya.

Tanggal penyampaian instrumen pengesahan: 28 April 2020 untuk Indonesia dan 21 Desember 2018 untuk Singapura.

Saat belaku Konvensi: 1 Agustus 2020 bagi Indonesia dan 1 April 2019 bagi Singapura.

The Government of the Republic of Indonesia and the Government of Australia,
[REPLACED by paragraph 1 of Article 6 of the MLI] [Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,]

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Agreement:

ARTICLE 6 OF THE MLI - PURPOSE OF A COVERED TAX AGREEMENT

Intending to eliminate double taxation with respect to the taxes covered by the Agreement 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 the Agreement for the indirect benefit of residents of third jurisdictions),

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 each 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 and taxes on the total amount of wages or salaries paid by enterprises.
3. The existing taxes to which this Agreement shall apply are:
 - (a) in Singapore:
the income tax
(hereinafter referred to as "Singapore tax");
 - (b) in Indonesia:
the income tax (pajak penghasilan), and, to the extent provided in such income tax, the company tax (pajak perseoran) and
the tax on interest, dividends and royalties (pajak atas bunga, dividen dan royalty)
(hereinafter referred to as "Indonesian tax").
4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this 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 which have been made in their respective taxation laws.
5. If by reason of changes made in the taxation law of either Contracting State, it seems desirable to amend any article of this Agreement without affecting the general principles thereof, the necessary amendments may be made by mutual consent by means of an exchange of diplomatic notes or in any other manner in accordance with their constitutional procedures.

Article 3
GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires:
 - (a) (i) the term "Singapore" comprises the territory of the Republic of Singapore as defined in its laws and the adjacent areas over which the Republic of Singapore has sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982;
 - (ii) the term "Indonesia" comprises the territory of the Republic of Indonesia as defined in its laws and the adjacent areas over which the Republic of Indonesia has sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982;
 - (b) the terms "a Contracting State" and "the other Contracting State" mean Indonesia or Singapore as the context requires;
 - (c) the term "tax" means Indonesian tax or Singapore tax as the context requires;
 - (d) the term "person" includes an individual, a company and any other body of persons which is treated as an entity for tax purposes;
 - (e) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes;
 - (f) 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;
 - (g) the term "national" means:
 - (i) any individual possessing the nationality or citizenship of a Contracting State;
 - (ii) any legal person, partnership, association and any other entity deriving their status as such from the laws in force in a Contracting State;
 - (h) the term "international traffic" means any transport by a ship or aircraft which is operated by an enterprise of one of the Contracting States, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (i) the term "competent authority" means:
 - (aa) in the case of Indonesia, the Minister of Finance or his authorised representative;
 - (bb) in the case of Singapore, the Minister for Finance or his authorised representative.
2. As regards the application of this Agreement by a Contracting State, any term not defined in this

Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

Article 4
FISCAL DOMICILE

1. For the purposes of this Agreement, the term "a resident of a Contracting State" means any person who is resident in a Contracting State" for tax purposes of that Contracting State. This term shall not include a permanent establishment of a foreign enterprise which is treated as a resident for tax purposes.
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 in accordance with the following rules:
 - (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, 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, or if he has not a permanent home available to him in either Contracting State, 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, the competent authorities of the Contracting States shall settle this 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.

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 the enterprise is wholly or partly carried on.
2. The term "permanent establishment" shall include especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a farm or plantation;
 - (g) a mine, an oil or gas well, a quarry or other place of extraction of natural resources;
 - (h) a building site or construction, installation or assembly project which exists for more than 183 days;
 - (i) the furnishing of services, including consultancy services, by an enterprise through an employee or other person (other than an agent of an independent status within the meaning of paragraph 7) where the activities continue within a Contracting State for a period or periods aggregating more than 90 days within a twelve-month period.
3. The term "permanent establishment" shall not be deemed to include:
 - (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
4. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other State for more than 6 months in connection with a construction, installation or assembly project which is being undertaken in that other State.
5. A person acting in one of the Contracting States for or on behalf of an enterprise of the other Contracting State other than an agent of an independent status to whom paragraph 6 of this Article applies shall be deemed to be a permanent establishment in the first- mentioned State, if:
 - (a) he has, and habitually exercises, in the first-mentioned State a general authority to conclude contracts for or on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
 - (b) he habitually maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise for or on behalf of the enterprise.
6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.
7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

However, when the activities of such an agent are devoted wholly or almost wholly on behalf of the enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph.
8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself make either company a permanent

establishment of the other.

Article 6
INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other State.
2. For the purposes of this Agreement, the term "immovable property" shall be defined in accordance with the laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, oil or gas wells, quarries and other places or extraction of natural resources including timber or other forest produce. Ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall also apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7
BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the State in which the permanent establishment is situated or elsewhere.
4. If the information available to the competent authority is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, nothing in this Article shall affect the application of any law of that State relating to the determination of the tax liability of a person by the exercise of a discretion or the making of an estimate by the competent authority, provided that the law shall be applied, so far as the information available to the competent authority permits, in accordance with the principle of this Article.
5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.
7. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

Article 8
SHIPPING AND AIR TRANSPORT

1. Income derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that Contracting State.
2. Income derived by an enterprise of a Contracting State from the operation of ships in international traffic may be taxed in the other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to 50% thereof.
3. The provisions of paragraphs 1 and 2 shall also apply to the share of the income from the operation of ships or aircraft derived by an enterprise of a Contracting State through participation in a pool, a joint business or an international operating agency.

Article 9
ASSOCIATED ENTERPRISES

[MODIFIED by paragraph 1 of Article 17 of the MLI] [Where:

- (a) an enterprise of one of the Contracting States participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the Contracting States and an enterprise of the other Contracting State;

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.]

The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 17 OF THE MLI - CORRESPONDING ADJUSTMENTS

Where a Contracting State includes in the profits of an enterprise of that Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
 - (a) 10% of the gross amount of the dividends if the recipient is a company which owns directly at least 25% of the capital of the company paying the dividends;
 - (b) 15% of the gross amount of the dividends in all other cases.The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

The provisions of this paragraph shall not affect the taxation of the company on the profits out of which the dividends are paid.
3. Notwithstanding the provisions of paragraph 2 of this Article as long as Singapore does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company, dividends paid by a company which is a resident of Singapore to a resident of Indonesia shall be exempt from any tax in Singapore which may be chargeable on dividends in addition to the tax chargeable on the profits or income of the company. However, when Singapore imposes a tax on dividends in addition to the tax chargeable on the profits or income of a company, the rate as prescribed under the provisions of paragraph 2 of this Article shall apply.
4. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subject to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.
6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, nor subject the company's undistributed profits to a tax on undistributed profits even if the dividends paid or undistributed profits consist wholly or partly of profits or income arising in such other State.

Dividend shall be deemed to arise:

 - (a) in Singapore: if it is paid by a company resident in Singapore; or
 - (b) in Indonesia: if it is paid by a company resident in Indonesia.

Article 11
INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10% of the gross amount.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, if the interest is paid in respect of:
 - (a) a bond, debenture or other similar obligation of the Government of the first-mentioned State or a political subdivision or local authority thereof; or
 - (b) a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the Monetary Authority of Singapore, or the "Bank Indonesia" (The Central Bank of Indonesia), or any other lending institution, as may be specified and agreed in letters exchanged between the competent authorities of the Contracting States.
4. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the limitations prescribed in the preceding paragraphs.
5. Notwithstanding the provisions of paragraphs 2 and 3, the Government of a Contracting State shall be exempt from tax in the other Contracting State in respect of interest derived from that other State.
6. For the purposes of paragraph 5, the term "Government":
 - (a) in the case of Singapore means the Government of Singapore and shall include:
 - (i) the Monetary Authority of Singapore and the Board of Commissioners of Currency;
 - (ii) the Government of Singapore Investment Corporation Pte Ltd;
 - (iii) (aa) Port of Singapore Authority;
 - (bb) Public Utilities Board;
 - (cc) Telecommunication Authority of Singapore; and
 - (iv) any statutory body, public body or institution as may be agreed between the competent authorities of the Contracting States;
 - (b) in the case of Indonesia means the Government of the Republic of Indonesia and shall include:

- (i) a local authority;
 - (ii) Bank Indonesia (The Central Bank of Indonesia);
 - (iii) any statutory body, public body or institution as may be agreed between the competent authorities of the Contracting States.
7. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.
 8. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
 9. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority, a statutory body or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment, in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.
 10. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12 ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15% of the gross amount of the royalties.
The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise, a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a statutory body or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
6. The provisions of paragraphs 1, 2 and 5 of this Article shall likewise apply to proceeds arising from the alienation of any copyright of scientific work, any patent, trade mark, design or model, plan or secret formula or process.
7. Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he is present in the other Contracting State for a period or periods exceeding in the aggregate 90 days in any twelve-month period. If he remains in that other State for the aforesaid period or periods, the income may be taxed in that other State but only so much of it as is derived in that other State during the aforesaid period or periods.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accounts.

Article 14 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. *Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:*
 - (a) *the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned; and*
 - (b) *the remuneration is paid by, or on behalf of, an employer who is a resident of the first-mentioned State; and*
 - (c) *the remuneration is not borne by a permanent establishment which the employer has in the other State.*
3. *Notwithstanding the provisions of paragraphs 1 and 2, remuneration derived in respect of any employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.*

Article 15
DIRECTORS' FEES

1. *Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.*
2. *The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 14.*

Article 16
ARTISTES AND ATHLETES

1. *Notwithstanding the provisions of Articles 13 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.*
Such income shall, however, be exempt from tax in that other State if such activities are supported, wholly or substantially, from the public funds of the Government of either Contracting State or a local authority or a statutory body thereof.
2. *Where income in respect of personal activities exercised in a Contracting State by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13 and 14 be taxed in that State.*
Such income shall, however, be exempt from tax in that State if such activities are supported, wholly or substantially, from the public funds of the Government of either Contracting State or a local authority or a statutory body thereof.

Article 17
PENSIONS

Subject to the provisions of Article 18, pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment may be taxed in the first-mentioned State.

Article 18
GOVERNMENT SERVICE

1. (a) *Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or political subdivision or local authority or statutory body shall be taxable only in that State.*
(b) *However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:*
 - (i) *is a national of that State; or*
 - (ii) *did not become a resident of that State solely for the purpose of rendering the services.*
2. *Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority or a statutory body thereof to an individual in respect of services rendered to that State or political subdivision or local authority or statutory body shall be taxable only in that State.*
3. *The provisions of Articles 14, 15 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or a local authority or a statutory body thereof.*

Article 19
TEACHERS AND RESEARCHERS

1. *An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State, and who, at the invitation of any university, college, school or other similar educational institution, visits that other State for a period not exceeding two years solely for the purpose of teaching or research or both at such educational institution shall be exempt from tax in that other State on any remuneration for such teaching or research.*
2. *This Article shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.*

Article 20
STUDENTS AND TRAINEES

An individual who is a resident of a Contracting State immediately before making a visit to the other Contracting State and is temporarily present in the other State solely:

- (a) as a student, at a recognized university, college, school or other similar recognized educational institution in that other State;
- (b) as a business or technical apprentice; or
- (c) a recipient of a grant, allowance or award for the primary purpose of study, research or training from the Government of either State or from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of either State;

shall be exempt from tax in that other State on:

- (a) all remittances from abroad for the purposes of his maintenance, education, study, research or training;
- (b) the amount of such grant, allowance or award; and
- (c) any remuneration not exceeding United States Dollars two thousand two hundred per annum in respect of services in that other State provided the services are performed in connection with his study, research or training or are necessary for the purposes of his maintenance.

Article 21
INCOME NOT EXPRESSLY MENTIONED

The laws in force in each Contracting State shall continue to govern the taxation of income in the respective Contracting States except where express provision to the contrary has been made in this Agreement.

Article 22
LIMITATION OF RELIEF

Where this agreement provides (with or without other conditions) that income from sources in a Contracting State shall be exempt from tax, or taxed at a reduced rate in that State and under the laws in force in the other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under this Agreement in the first-mentioned State shall apply only to so much of the income as is remitted to or received in that other State.

Article 23
ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the laws of Indonesia regarding allowance as a credit against Indonesian tax of tax payable in a territory outside Indonesia (which shall not affect the general principle hereof), tax payable under the laws of Singapore and in accordance with this Agreement, whether directly or by deduction, on profits or income from sources within Singapore shall be allowed as a credit against any Indonesian tax computed by reference to the same profits or income by reference to which the Singapore tax is computed. The credit shall not, however, exceed that part of the Indonesian tax, as computed before the credit is given, which is appropriate to such item of income.
2. Subject to the provisions of the laws of Singapore regarding allowance as a credit against Singapore tax of tax payable in a territory outside Singapore (which shall not affect the general principle hereof), tax payable under the laws of Indonesia and in accordance with this Agreement, whether directly or by deduction, on profits or income from sources within Indonesia shall be allowed as a credit against any Singapore tax computed by reference to the same profits or income by reference to which the Indonesian tax is computed. The credit shall not, however, exceed that part of the Singapore tax, as computed before the credit is given, which is appropriate to such item of income.

Article 24
NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances and under the same conditions are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in the same circumstances and under the same conditions.
3. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation of any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected in the same circumstances and under the same conditions.
4. Nothing contained in paragraphs 1, 2 and 3 of this Article shall be construed as:
 - (a) obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions which it grants to its own residents;
 - (b) affecting any provisions of the tax laws of the respective Contracting States regarding the imposition of tax on non-resident persons as such;
 - (c) obliging a Contracting State to grant to nationals of the other Contracting State those personal allowances, reliefs and reductions for tax purposes which it grants to its own citizens who are not resident in that State or to such other persons as may be specified in the taxation laws of that State; and
 - (d) affecting any provisions of the tax laws of the respective Contracting States regarding any tax concessions granted to persons fulfilling specified conditions.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 25
MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States

result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present the case to the competent authority of the Contracting State of which he is a resident. The case must be presented within three years from the date of the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. If an agreement is reached, it shall be implemented notwithstanding any time limits prescribed in the tax laws of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the eliminations of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying the provisions of this Agreement.

Article 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement for the avoidance of double taxation and prevention of evasion of taxes covered by this Agreement.
Any information so exchanged shall be treated as secret and shall be disclosed only to any persons or authorities (including a Court or reviewing authority) concerned with the assessment, collection, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Agreement.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and the administrative practice of that or of the other Contracting State;
 - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administrative of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Article 27
DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Agreement shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 7 OF THE MLI - PREVENTION OF TREATY ABUSE
(Principal purposes test provision)

Notwithstanding any provisions of the Agreement, a benefit under the Agreement shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Agreement.

Article 28
ENTRY INTO FORCE

1. This Agreement shall be ratified by the Governments of the Contracting States and the instruments of ratification shall be exchanged at Singapore as soon as possible.
2. This Agreement shall enter into force upon the exchange of instruments of ratification and shall have effect:
 - (a) in Singapore:
in respect of Singapore tax for the year of assessment beginning on or after 1 January in the second calendar year following the year in which the exchange of instruments of ratification has taken place and subsequent years of assessment;
 - (b) in Indonesia:
in respect of Indonesian tax for the tax year beginning one or after 1 January in the calendar year next following the year in which the exchange of instruments of ratification has taken place and subsequent tax years.

Article 29
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement through diplomatic channels, by giving written notice of termination on or before the Thirtieth day of June of any calendar year following after the period of five years from the year in which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

- (a) in Singapore:
in respect of Singapore tax for the year of assessment beginning on or after 1 January in the second calendar year following the year in which the notice is given and subsequent years of assessment;
- (b) in Indonesia:

in respect of Indonesian tax for the tax year beginning on or after 1 January in the calendar year next following the year in which the notice is given and subsequent tax years.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

DONE in duplicate at Singapore on this eight day of April of May 1990, in the English language.

*FOR THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA*

TUK SETYOHADI

*FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE*

HSU TSE-KWANG

PROTOCOL

1. *At the time of signing the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, both Governments have agreed that the following provisions shall form an integral part of the Agreement.*
2. *In respect of paragraph 2(h) of Article 5 "Permanent establishment", it is understood that a time limit of 3 months shall apply to an assembly or installation project performed by a person other than the main contractor.*
3. *In connection with Article 1 "Business profits", nothing in this Article shall prevent either Contracting State from imposing, apart from the corporate income tax, a branch profits tax on the after-tax profits of the permanent establishment, provided that the tax so imposed shall not exceed 15% of such amount.*
4. *In connection with Article 10 "Dividends":*
 - (a) *nothing in this Article shall affect the provisions contained in any production sharing contracts relating to the exploitation and production of oil and natural gas which have been negotiated with the Government of Indonesia or the relevant state oil company of Indonesia, provided that a company which is resident in Singapore deriving income from a production sharing contract shall not be less favourably treated with respect to tax than that levied on a company of any third state deriving income from a similar production sharing contract.*
 - (b) *Article VII of the Agreement between the Government of the Republic of Singapore and the Government of Malaysia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26th December, 1968, shall be taken into consideration.*

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Protocol.

Done in duplicate at Singapore on this eighth day of May 1990 in English language,

*FOR THE GOVERNMENT OF
THE REPUBLIC OF INDONESIA*

*FOR THE GOVERNMENT OF THE
REPUBLIC OF SINGAPORE*

TUK SETYOHADI

HSU TSE-KWANG

EXCHANGE OF NOTES

I

Commissioner of Inland Revenue
Singapore, 8 May 1990

Your Excellency,

I have the honour to refer that during the negotiations on an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income between the Republic of Singapore and the Republic of Indonesia, an understanding was reached on how certain provisions and aspects of the Agreement are to be dealt with. The understanding covers:

- (a) *Article 1 — Personal Scope*
Permanent establishments or fixed bases of residents of Singapore or Indonesia in third countries are not covered by this Agreement except the permanent establishments in those countries whose tax is not substantially lower than that in Singapore or Indonesia, and mutually agreed by the competent authorities of both Contracting States;
- (b) *Article 4 - Fiscal Domicile*
With regard to paragraph 3 of Article 4, where the competent authorities of the Contracting States could not reach an agreement, the taxable income of the relevant person shall be determined and agreed to by the competent authorities and one-half of such taxable income shall be subject to tax in each of the Contracting States;
- (c) *If requested, Singapore will publicise the Indonesian position that business profits are subject to the Indonesian concept of "force of attraction of permanent establishment" principle with regard to permanent establishments of residents of Singapore carrying on business in Indonesia.*

If the above understanding is acceptable to the Government of the Republic of Indonesia, I have further the honour to suggest that this letter and your reply to that effect will place on record the understanding of our two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Sincerely,

Hsu Tse-Kwang,
Commissioner of Inland Revenue,
Ministry of Finance,
Republic of Singapore

H.E. Mr Tuk Setyohadi,
Ambassador of the Republic of Indonesia,
Singapore

Ambassador of the Republic of Indonesia
Singapore, 8 May 1990

Your Excellency,

I have the honour to refer to your letter of 8 May 1990 which reads as follows:
[see I]

I have further the honour to confirm that the content of your letter is acceptable to the Government of the Republic of Indonesia and that your letter and his reply place on record the understanding of our two Governments in this matter.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

Sincerely,

Tuk Setyohadi
Ambassador of Indonesia
to the Republic of Singapore

H.E. Mr Hsu Tse-Kwang,
Commissioner of Inland Revenue,
Ministry of Finance,
Republic of Singapore.

DIREKTUR JENDERAL,

ttd.

SURYO UTOMO