

Tax Treaty Thailand - Thailand

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**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
AND
THE GOVERNMENT OF THE KINGDOM OF THAILAND**

**FOR
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT
TO TAXES ON INCOME AND ON CAPITAL**

**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 and on capital imposed on behalf of a Contracting State or of its political sub-pisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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 this Agreement shall apply are, in particular :
 - (a)
 - in the case of Indonesia :
 - (i) the Personal Income Tax (Pajak Pendapatan);
 - (ii) the Company Tax (Pajak Perseroan);
 - (iii) the Tax on Interest, Dividend and Royalty (Pajak atas Bunga, Dividen dan Royalty);
 - (iv) the Net Wealth Tax (Pajak Kekayaan); (hereinafter referred to as "Indonesian tax");
 - (hereinafter referred to as "Indonesian tax");
 - (b)
 - in the case of Thailand :
 - (i) the Income Tax;
 - (ii) the Petroleum Income Tax;

- (iii) the Local Development Tax; (hereinafter referred to as "Thai 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 which have been made in their respective taxation laws.

Article 3 GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires :
- (a) the term "Indonesia" comprises the territory of the Republic of Indonesia as defined in its laws and parts of the continental shelf and adjacent seas, over which the Republic of Indonesia has sovereignty, sovereign rights or other rights in accordance with international law;
 - (b) the term "Thailand" means the Kingdom of Thailand and includes any area adjacent to the territorial waters of the Kingdom of Thailand which by Thai legislation, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of the Kingdom of Thailand with respect to the seabed and sub-soil and their natural resources may be exercised;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Indonesia or Thailand, as the context requires;
 - (d) the term "person" comprises 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 entity which is treated as body corporate under the taxation laws of the respective Contracting States;
 - (f) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership, association and any other entity deriving its status as such from the law in force in a Contracting State;
 - (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 "tax" means Indonesian tax or Thai tax as the context requires;

(i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "competent authority" means:

(i) in the case of Indonesia, the Minister of Finance or his duly authorized representative;

(ii) in the case of Thailand, the Minister of Finance or his duly authorized representative.

2. As regards the application of the provisions of this 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 Contracting State concerning the taxes to which this 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, place of incorporation or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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 company is a resident of both States, it shall be deemed to be a resident of the State of which it is a national. If the company under this criterion is still a resident of both States, then 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 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;
- (e) a workshop;
- (f) a warehouse;
- (g) a mine, an oil or gas well, a quarry or other place of extraction of natural resources;
- (h) a farm or plantation;
- (i) a building site, a construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than six months;
- (j) the furnishing of services, including consultancy services by a resident of one of the Contracting States through employees or other personnel where activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days.

3. A person (other than a broker, general commission agent or any other agent of an independent status to whom paragraph 6 applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State 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 an authority to negotiate and 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; or

(c)

he habitually secures orders in the first-mentioned State wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises which are controlled by it or have a controlling interest in it.

4.

Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 6 of this Article.

5.

The term "permanent establishment" shall be deemed not 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 fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;
 - (c) the maintenance of a fixed place of business solely for the purpose of advertising, for the scientific research or for similar activities which have an auxiliary character, for the enterprise;
 - (d) the maintenance of stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
 - (e) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise.
6. A broker, general commission agent or any other agent of an independent status who merely acts as an intermediary between an enterprise of a Contracting State and a prospective customer in the other State shall not be deemed to be a permanent establishment in that other State. However, when the activities of such an agent are devoted wholly or almost wholly to the business of that enterprise or for the enterprise and other enterprises who are controlled by it or have a controlling interest in it, he shall not be considered an agent of an independent status within the meaning of this paragraph
7. 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 constitute either company a permanent establishment of the other.

Article 6 INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.
2. For the purpose of this Agreement the term "immovable property" shall be defined in accordance with the law 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, and other resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provision of paragraph 1 shall 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 independent personal services.

Article 7 BUSINESS PROFITS

1. The income or 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 income or profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:
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 income or 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 the determination of the profit of a permanent establishment there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of a certain reasonable percentage of the gross receipts of the enterprise or on the basis of an apportionment of the local profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude such Contracting State from determining the profits to be taxed by such a method; the method adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.
5. No income or 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.
6. 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.

7. Where income or 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.

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 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 percent thereof.
3. The provisions of paragraphs 1 and 2 shall likewise apply in respect of income derived by an enterprise of a Contracting State from its participations in pools of any kind by enterprises engaged in shipping or air transport.

Article 9 ASSOCIATED ENTERPRISES

Where :

- (a) an enterprise of a Contracting State 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 a Contracting State 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, then 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.

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 the other State.
2. However :
 - (a) in the case of Indonesia, such dividends may also be taxed in Indonesia where the company paying the dividends is a resident and according to the laws of Indonesia, but the tax so charged shall not exceed 15 percent of the gross amount of the dividends;
 - (b) in the case of Thailand, such dividends may also be taxed in Thailand where the company paying the dividends is a resident, and according to the laws of Thailand, but if the recipient of the dividend is an Indonesian company, excluding partnership, which holds directly at least 25 percent of the capital of the Thai company paying the dividends, the tax so charged shall not exceed:

- (i) 15 percent of the gross amount of the dividends if the company paying the dividends engages in an industrial undertaking;
- (ii) 25 percent of the gross amount of the dividends in other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights (not being debt-claims), participating in profits, as well as income from other corporate rights which is subjected 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.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or a fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, the 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 to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.
6. Notwithstanding the provisions of paragraph 5, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits of this permanent establishment may, after having borne the corporation tax, be liable to a tax according to the laws of that other Contracting State.

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,
 - (a)

In the case of Indonesia,

such interest arising in Indonesia may be taxed in Indonesia according to the laws of Indonesia, but the tax so charged shall not exceed 15 percent of the gross amount of the interest;
 - (b)

In the case of Thailand,

such interest arising in Thailand may be taxed in Thailand according to the laws of Thailand, but the tax so charged shall not exceed:

 - (i)

10 percent of the gross amount of the interest if it received by any financial institution (including an insurance company);
 - (ii)

in all other cases, 25 percent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned State.
4. For the purposes of paragraph 3 of this Article, the term "Government":
 - (a)

in the case of Indonesia:
means the Government of Indonesia and shall include

 - (i)

the Bank Indonesia; and
 - (ii)

such institutions, the capital of which is wholly owned by the Government of Indonesia or the local authorities, as may be agreed from time to time between the Governments of the two Contracting States;
 - (b)

in the case of Thailand:
means the Royal Government of Thailand and shall include

 - (i)

the Bank of Thailand; and
 - (ii)

such institutions, the capital of which is wholly owned by the Royal Government of Thailand or the local authorities, as may be agreed from time to time between the Governments of the two Contracting States.
5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient 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 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 also be taxed in the Contracting State in which they arise, and according to the laws of that State, but the tax so charged shall not exceed:
 - (a) 10 percent of the gross amount of such payments if they are made as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work;
 - (b) 15 percent of the gross amount of such payments if they are made as consideration for the use of, or the right to use, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial commercial or scientific experience, or for the use of, or the right to use, industrial, commercial or scientific equipment, cinematograph films or tapes for television or broadcasting.
3. The provisions of paragraph 2 shall likewise apply to the gains from the alienation of any right or property giving rise to such royalties if such right or property is alienated by a resident of a Contracting State for exclusive use in the other Contracting State and the payment of such right or property is borne by an enterprise of that other State or a permanent establishment or fixed base situated therein.
4. A royalty shall be deemed to arise in a Contracting State if the payer is that State itself, a political subdivision or local authority thereof or a resident of that State. Where, however, the person paying the royalty, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred and such royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
5. The provisions of paragraph 1, 2 and 3 shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, Article 7 or 14, as the case may be, shall apply.
6. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties, 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 recipient 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 law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13 CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment or of such fixed base (alone or together with the whole enterprise), may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 23 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.
3. Gains from the alienation of any property or assets, other than those mentioned in paragraphs 1 and 2 of this Article and paragraph 3 of Article 12, shall be taxable only in the State of which the alienator is a resident.

Article 14 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 such activities were performed in the other Contracting State. Income in respect of professional services or other independent activities performed within that other State may be taxed in that State.
2. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character performed in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) his stay in the other Contracting State does not exceed in the aggregate 183 days in the fiscal year concerned, and
 - (b) he does not maintain a fixed base in the other State for a period or periods exceeding in the aggregate 183 days in such fiscal year, and
 - (c) the income is not borne by an enterprise or by a permanent establishment or fixed base situated in that other State.
3. 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 accountants.

Article 15 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 17, 18, 19, 20 and 21, 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 of this Article, 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 fiscal year concerned, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by or paid on behalf of a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that Contracting State.

Article 16 DIRECTORS' FEE

Director's 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.

Article 17 ARTISTES AND ATHLETES

- 1. Notwithstanding the provisions of Articles 14 and 15, 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.
- 2. Where income in respect of the personal activities referred to in paragraph 1 accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.
- 3. The provisions of paragraph 1 and 2 shall not apply :
 - (a) to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, or by those of any political subpision, local authority or statutory body thereof;

(b)

to income derived in a Contracting State by a non-profit organization of the other Contracting State in respect of such activities, provided that such organization is substantially supported by public funds of that other State, or by those of any political subpision, local authority or statutory body thereof.

Article 18 PENSIONS

1. Subject to the provisions of Article 19, income in the nature of pensions or other remuneration for past employment arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned State.
2. Income in the nature of pensions or other remuneration for past employment shall be deemed to arise in a Contracting State if the payer is that State itself, a political subpision or local authority or a resident of that State. Where, however, the person paying such income, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment, and such income is deducted from profits attributable to the permanent establishment, then the income shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

Article 19 GOVERNMENT SERVICE

1. Remuneration, including pensions, paid by a Contracting State or a political subpision or a local authority thereof to any inpidual in respect of service rendered to that State or subpision or local authority thereof shall be taxable only in that State. However, if the recipient of such remuneration is not a national of that State or is not present in the other Contracting State solely for the purpose of performing the service therein, such remuneration may be taxed in that other State.
2. The provisions of paragraph 1 shall not apply to the remuneration, including pensions, in respect of service rendered in connection with any trade or business carried on by one of the Contracting States or a political subpision or a local authority thereof.

Article 20 STUDENTS

A resident of a Contracting State, who temporarily visits the other Contracting State solely:

- (a)
- as a student at a university, college or school in that other State,

- (b) as a business or technical apprentice, or
- (c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organization,

shall not be taxed in that other State in respect of money and benefits received for the purpose of his maintenance, education or training, or in respect of a scholarship or grant. The same shall apply to any amount representing remuneration for services rendered in that other State, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance. However, this clause shall not apply to such cases in which the studies or practice have a secondary character in respect of services rendered that are producing the said remuneration.

Article 21 **PROFESSORS, TEACHERS AND RESEARCHERS**

A resident of a Contracting State who, at the invitation of a university, college or other establishment for higher education or scientific research in the other contracting State, visits that other State solely for the purpose of teaching or scientific research at such institution for a period not exceeding three years shall not be taxed in that other State on his remuneration for such teaching or research.

Article 22 **INCOME NOT EXPRESSLY MENTIONED**

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Agreement may be taxed in the State where the income arises.

Article 23 **CAPITAL**

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Subject to the provisions of paragraph 1, capital represented by movable property forming part of the business property of a permanent establishment or a fixed base of an enterprise may be taxed in the Contracting State in which the permanent establishment or the fixed base is situated.
3. Capital represented by ships and aircraft operated by an enterprise of a Contracting State in international traffic and assets other than immovable pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24 **EXEMPTION AND CREDIT METHODS**

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

2. Where a resident of a Contracting State derives income which, in accordance with the provisions of paragraph 2 of Article 8, Articles 10, 11 and 12, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in that other State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income which is subject to tax in that other State.
3. For the purposes of paragraph 2 of this Article, the term "tax paid in that other State" shall be deemed to include the amount of tax which would have been paid in that other State if it had not been exempted or reduced in accordance with the special incentive laws designed to promote economic development in that other State, effective on the date of signature of this Agreement or which may be introduced hereafter in modification of, or in addition to, the existing laws.

Article 25 NON-DISCRIMINATION

1. 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 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.
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 or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
4. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 26 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 his case to the competent authority of the Contracting State of which he is a resident.
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 the Agreement.

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 elimination 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 reaching an agreement in the sense of the preceding paragraphs.

Article 27 **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 and of the domestic laws of the Contracting States concerning taxes covered by this Agreement insofar as the taxation thereunder is in accordance with this Agreement. The exchange of information is not restricted by Article 1. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment, including judicial determination, or collection of the taxes which are the subject of this Agreement.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:
 - (a) to carry out administrative measures at variance with the laws or 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 administration of that State 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.
3. The exchange of information may be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States may agree on the list of information which shall be furnished on a routine basis.

Article 28 **DIPLOMATIC AND CONSULAR PRIVILEGES**

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

Article 29 **ENTRY INTO FORCE**

1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Jakarta as soon as possible.
2. This Agreement shall enter into force after the expiration of thirty days from the date of the exchange of instruments of ratification and shall have effect:

(a) in respect of taxes on income, for the income of the calendar years or accounting periods beginning on or after the first day of January of the calendar year in which the instruments of ratification are exchanged;

(b) in respect of taxes on capital, for the tax the payment of which is required on or after the first day of January of the calendar year in which the instruments of ratification are exchanged.

Article 30 TERMINATION

This Agreement shall remain in force indefinitely, but either Contracting State may terminate the Agreement through diplomatic channels, by giving to the other Contracting State written notice of termination on or before June 30th of any calendar year after the fifth year following the year in which the Agreement enters into force. In such event the Agreement shall cease to have effect:

- (a) in respect of taxes on income, for the income of the calendar years or accounting periods beginning on or after the first day of January of the calendar year next following that in which the notice is given;
- (b) in respect of taxes on capital, for the tax the payment of which is required on or after the first day of January of the calendar year next following that in which the notice is given.

In witness whereof the undersigned being duly authorized thereto have signed this Agreement and have affixed thereto their seals.

Done at Bangkok, this twenty-fifth day of March, one thousand nine hundred and eighty one in duplicate, in the English language.

PROTOCOL

Tax Treaty Thailand - Thailand

At the signing of the Agreement between the Government of the Republic of Indonesia and the Government of the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, the undersigned have agreed on the following provision which shall be an integral part of the Agreement:

With reference to Article 16, the term "a member of the board of directors of a company" shall include managing directors (anggota pengurus) and supervisory directors (anggota dewan komisaris) of an Indonesian company.

In witness whereof the undersigned being duly authorized thereto have signed this Protocol.

Done at Bangkok, this twenty-fifth day of March, one thousand nine hundred and eighty one in duplicate, in the English language.

For the Government of
the Republic of Indonesia

(Prof. Dr. Mochtar Kusumaatmadja)
Minister for Foreign Affairs

For the Government of
the Kingdom of Thailand

Air chief Marshal Siddhi Savetsila
Minister for Foreign Affairs

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