

Tax Treaty Venezuela - Venezuela

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**AGREEMENT BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
AND
THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA**

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

**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 amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Agreement shall apply are in particular:
 - (a) in the case of Venezuela: the taxes on income and the business assets tax

(hereinafter referred to as "Venezuelan tax");
 - (b) in the case of Indonesia:

the income tax imposed under the Undang-undang Pajak Penghasilan 1984 (Law No. 7 of 1983 as amended)

(hereinafter referred to as "Indonesian 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. At the end of each year, the competent authorities of the Contracting States shall notify each other of relevant changes which have been made in their respective taxation laws.

**Article 3
GENERAL DEFINITIONS**

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

(a)(i) the term "Venezuela" means the Republic of Venezuela;

(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 sovereignty, sovereign rights or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea, 1982;

(b) the term "person" includes an individual, a company and any other body of persons;

(c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(d) 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;

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

(f) the term "competent authority" means:

(i) in the case of Venezuela, the Superintendent of the Integrated National Service of Tax Administration (Servicio Nacional Integrado de Administración Tributaria- SENIAT), its authorized representative or the authority which is designated by the Minister of Finance as a competent authority for the purposes of the Agreement;

- (ii) in the case of Indonesia, the Minister of Finance or his authorized representative;
- (g) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

Article 4 RESIDENT

1. For the purpose of this Agreement, the term "resident of a Contracting State" means any person, who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. In the case of Venezuela, the term includes any resident person or company subject to the Venezuelan territorial system of taxation.
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 does not have 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 has a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the 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 in relation to a person providing storage facilities for others;
 - (g) a store or other sales outlet;

- (h) a farm or plantation;
- (i) a mine, an oil or gas well, a quarry or any other place of extraction or exploration of natural resources, drilling rig or working ship used for exploration or exploitation of natural resources.

3. A building site, a construction, assembly or installation project or supervisory activities in connection therewith, constitutes a permanent establishment only if such site, project or activities lasts more than six months.

4. Notwithstanding the preceding provisions of this Article, 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 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 of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, or for the supply of information;

(f) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character, provided there is no combination of any such activities.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 7 applies -- is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b)has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise or;

(c)he habitually secures orders in the first-mentioned State, wholly or almost wholly for 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 shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such person are devoted wholly or almost wholly on behalf of that enterprise, he will 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 constitute 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 (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State
2. The term "immovable property" shall have the meaning which it has under 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, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions 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 profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on or has carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried 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

- (a) permanent establishment; sales in the other State of goods or merchandise of the same or
- (b) similar kind as those sold through that permanent establishment; or other business activities carried on in the other State of the same or
- (c) similar kind as those effected through that permanent establishment.

2. Subject to the provisions of paragraph 3, 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. In any case where the correct amount of profits attributable to a permanent establishment is incapable of determination or the determination thereof presents exceptional difficulties, the profits attributable to the permanent establishment may be determined in accordance with domestic legislation of the Contracting State in which the permanent establishment is situated. The determination adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of business 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, which are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is

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situated. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than as a reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a bank, as interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a bank, as interest on moneys lent to the head office of the enterprise or any of its other offices.

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 an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. 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.
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 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. Profits derived by a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
3. Notwithstanding paragraph 1 of this Article, profits derived by a resident of a Contracting State from the operation of ships used for the transport of hydrocarbons in international traffic may be taxed in the other Contracting State.

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 that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:
 - a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;
 - (b) 15 per cent of the gross amount of the dividends in all 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 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 beneficial owner 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

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resident, through a permanent establishment situated therein, or performs in that other 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 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, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's 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 any other provisions of this Agreement where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits of the permanent establishment may be subjected to an additional tax in the other State in accordance with its law, but the additional tax so charged shall not exceed 10 per cent of the amount of such profits after deducting them from income tax and other taxes on income imposed thereon in that other State.
7. The provisions of paragraph 6 of this Article shall not affect the provision contained in any production sharing contract and contracts of work (or any other similar contracts) relating to oil and gas sector or other mining sector concluded by the Government of Indonesia, its instrumentality, its relevant state oil and gas company or any other entity thereof with a person who is a resident of the 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, such interest may also be taxed in the other 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 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest mentioned in paragraph 1 shall be taxable only in the Contracting State where the recipient of the interest is a resident if one of the following requirements is fulfilled:
 - (a) the recipient thereof is the government of a Contracting State, the Central Bank of a Contracting State or a political subdivision or local authority thereof;

(b) the interest is paid by any of the persons mentioned in subparagraph (a);

(c) the interest is paid in respect of a loan granted or guaranteed by a financial institution of a public character with the objective to promote exports and development.

4. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1 and 2 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, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is 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.
7. 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 and fees for technical assistance 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 and fees for technical assistance may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner is a resident of the other Contracting State, the tax so charged shall not exceed:
 - (a) in the case of royalties, 20 per cent of the gross amount of the royalties;
 - (b) in the case of fees for technical assistance, 10 per cent of the gross amount of the fees for technical assistance.
3. The term "fees for technical assistance" as used in this Agreement means payments for services of any kind including consultancy services, managerial and technical services related to technical knowledge, experience, skills, know-how or processes, but excluding payments for professional services or other independent activities of a similar character rendered by individuals referred to in Article 15.
4. 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, 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. The term "royalties" also includes gains derived from the alienation of any such right or property which are contingent on the productivity or use thereof.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical assistance, being a resident of a Contracting State carries on or has carried on business in the other Contracting State in which the royalties or fees for technical assistance arise, through a permanent establishment situated therein, or performs or has performed in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties or fees for technical assistance are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Royalties and fees for technical assistance shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying royalties or fees for technical assistance, 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 liability to pay the royalties was incurred, and such royalties are borne by such 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.

7. 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 royalties, or fees for technical assistance, 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 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 13 CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State, may be taxed in that other State
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 (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the enterprise operating the ships or aircraft is resident.
4. Gains from the alienation of shares or other rights in a company which assets principally, directly or indirectly, consist of immovable property situated in a Contracting State or rights pertaining to such immovable property, may be taxed in that State.
5. Gains from the alienation of shares that represent a participation of more than 10 per cent of the stock of a company resident of a Contracting State may be taxed in that State.
6. Gains derived by a resident of a Contracting State from the alienation of tangible personal (movable) property, other than property referred to in the preceding paragraphs, may be taxed in the Contracting State in which the property is located.
7. Gains from the alienation of any property other than that referred to in the paragraphs mentioned above, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14 INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is 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. However, such income may also be taxed in the other Contracting State if:

- (a) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much thereof as is attributable to that fixed base; or
- (b) the individual is present in that other State for a period or periods exceeding in the aggregate 90 days within any period of 12 months, but only so much thereof as is attributable to services performed in that State; or

(c) the remuneration for his activities in the other Contracting State is paid by or on behalf of a resident of the other Contracting State or is borne by a permanent establishment or a fixed base situated in that Contracting State and exceeds in the fiscal year a gross amount equivalent to US\$ 2,500.

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 accountants.

Article 15 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 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, 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 any twelve month period; and
 - (b) the remuneration is not 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 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 State.

Article 16 DIRECTORS' FEES

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors or any other similar body 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 15.

Article 17 **ENTERTAINERS AND SPORTSMEN**

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 a sportsman, 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 personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman are exercised.
3. Notwithstanding paragraphs 1 and 2, income derived from activities performed in a Contracting State by public entertainers or sportsmen shall be exempt from tax in the Contracting State if the visit to that State is substantially supported by the other Contracting State and the public entertainer or sportsman is certified as qualified under this provision by the appropriate authority of the sending State.

Article 18 **PENSIONS AND ANNUITIES**

1. Subject to the provisions of paragraph 2 of Article 19, any pensions or other similar remuneration paid to a resident of one of the Contracting States from a source in the other Contracting State in consideration of past employment or services in that other Contracting State and any annuity paid to such a resident from such a source may be taxed in that other State.
2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19 **GOVERNMENT SERVICE**

- 1.(a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority 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.(a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20 STUDENTS AND TRAINEES

1. Payments which a student or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purposes of his maintenance, education or training shall not be taxed in that Contracting State, provided that such payments arise from sources outside the Contracting State.
2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student or business trainee described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemption, reliefs or reductions in respect of taxes available to residents of the Contracting State which he is visiting.

Article 21 TEACHING AND RESEARCH

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1. An individual who is or was a resident of a Contracting State at the beginning of his visit to the other Contracting State and who, at the invitation of the Government of that other Contracting State or of a university or other educational institution situated in that other Contracting State and approved by the appropriate educational authority of that other Contracting State visits that other Contracting State for the primary purpose of teaching or research at such university or other educational institution shall be exempt from tax by that other Contracting State on his income from personal services for teaching or research at such university or other educational institution for a period not exceeding two (2) years from the date of his arrival in that other Contracting State.
2. The exemption granted under paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or specific persons.

Article 22 OTHER INCOME

Notwithstanding the provisions of any other Article of this Agreement, items of income of a resident of a Contracting State, wherever arising, which are not expressly mentioned in the foregoing Articles of this Agreement, may be taxed by each Contracting State in accordance with the provisions of its domestic law.

Article 23 ELIMINATION OF DOUBLE TAXATION

1. In the case of Venezuela, subject to the provisions of the law of Venezuela, double taxation shall be avoided, as follows:

(a) where a resident of Venezuela receives income which according to the provisions of this Agreement may be taxed in Indonesia, that income shall be exempted from Venezuelan tax;

- (b)if, under the law of Venezuela, a resident of Venezuela is subject to taxation in Venezuela on worldwide income the provisions of sub-paragraph (a) of this paragraph shall not apply and double taxation shall be eliminated in accordance with sub-paragraphs (c), (d) and (e) of this paragraph;
- (c)where a resident of Venezuela derives income which, in accordance with the provisions of this Agreement, may be taxed in Indonesia, Venezuela shall allow as a deduction from the Venezuelan tax on the income of that resident, an amount equal to the income tax paid in Indonesia;

(d) the deduction allowed under subparagraph (c) of this paragraph shall not exceed that part of the Venezuelan income tax, as computed before the deduction is given, which is

attributable to the income which may be taxed in Indonesia;

(e) where in accordance with any provision of this Agreement income derived by a resident of Venezuela is exempt from tax in Venezuela, Venezuela may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In the case of Indonesia, subject to the provisions of the law of Indonesia, double taxation shall be avoided, as follows:

--Where a resident of Indonesia derives income from Venezuela, the amount of tax on that income payable in Venezuela in accordance with the provisions of this Agreement, may be credited against the tax levied in Indonesia imposed on that resident. The amount of the credit, however, shall not exceed the amount of the Indonesian tax on that income computed in accordance with its taxation laws and regulations

Article 24 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

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on the same activities. This provision 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.

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 the first-mentioned State are or may be subjected.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 6 of Article 12 apply, interest, royalty and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
5. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from 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 a satisfactory 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

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 or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall,

through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

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 administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration 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 (ordre public).

Article 27 ASSISTANCE IN COLLECTION

1. Each of the Contracting States shall endeavour to collect on behalf of the other Contracting State such taxes imposed by that other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Agreement by that other Contracting State shall not be enjoyed by persons not entitled to such benefits. The competent authorities of the Contracting States may consult together for the purpose of giving effect to this Article.

2. In no case shall this Article be construed so as to impose upon a Contracting State the obligation to carry out administrative measures at variance with the regulations and practices of either Contracting State or which would be contrary to the first-mentioned Contracting State's sovereignty, security, or public policy.

Article 28 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 provision of special agreements.

Article 29 ENTRY INTO FORCE

1. This Agreement shall enter into force on the later of the dates on which the respective Governments may notify each other in writing that the formalities constitutionally required in their respective States have been complied with.
2. This Agreement shall have effect:

- (a) in respect of taxes withheld at source on amounts paid, credited or remitted on or after 1 January, in the year next following that in which the Agreement enters into force; and
- (b) in respect of other taxes on income, for taxable years beginning on or after 1 January, in the year next following that in which the Agreement enters into force

Article 30 TERMINATION

1. 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 (5) years from the year in which the Agreement enters into force.
2. In such event this Agreement shall cease to have effect:
 - (a) in respect of taxes withheld at source on amounts paid, credited or remitted on or after 1st. January, in the calendar year next following that in which the notice is given; and
 - (b) in respect of other taxes on income for taxable years beginning on or after 1 January, in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, being duly authorised thereto, have signed this Agreement.

Done at Jakarta, this 27th day of February of 1997, in the English, Spanish, and Indonesian languages all texts being equally authentic. In the case of pergence the English language version shall prevail.

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PROTOCOL

At the moment of signing the Agreement this day concluded between the Government of the Republic of Venezuela and the Government of the Republic of Indonesia for the Avoidance of Double Taxation and the Prevention of Fiscal Avoidance and Evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall be an integral part of the Agreement.

Ad. Article 4

1. With respect to paragraph 1 of Article 4, it is understood that the definition of resident contained therein includes the Government of that State or a political subdivision thereof or any agency or instrumentality of any such government, subdivision or authority.
2. It is also understood that if Venezuela changes its present territorial tax system to a world-wide system of taxation the term "resident of a Contracting State" shall mean a person, who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes the Government of that State or a political subdivision or local authority thereof or any agency or instrumentality of any such government, subdivision or authority. The term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

Ad. Article 7

1. In the case of Venezuela, paragraph 3 of Article 7, would only be applied if Venezuela changes its territorial tax system to a world- wide system of taxation. Meanwhile, for the purpose of the determination of the taxable profits of a permanent establishment, interest, royalties and other disbursements may be deducted in the same terms and conditions as if they had been incurred by a resident enterprise.

Ad. Article 11

1. The competent authorities of the Contracting States shall notify each other of the names of the financial institutions falling under letter (c) of paragraph 3 of Article 11. In case of any divergence, the competent authorities shall resolve the issue by way of a mutual agreement procedure.

Ad. Article 24

1. In the case of Venezuela, paragraph 4 of Article 24, would only be applied if Venezuela changes its territorial tax system to a world- wide system of taxation. Meanwhile, for the purpose of the determination of the taxable profits of an enterprise, interest, royalties and other disbursements may be deducted in the same terms and conditions as if they had been incurred by a resident enterprise.

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

Done at Jakarta, this 27 day of February of 1997, in the English, Spanish, and Indonesian languages all texts being equally authentic. In the case of divergence, the English language version shall prevail.

For the Government of the
Republic of Indonesia

For the Government of the
Republic of Venezuela

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