

## 譲渡収益

る。

### 第十三条

- 1 一方の締約国の居住者が第六条に規定する不動産で他方の締約国内に存在するものの譲渡によって取得する収益に対しては、当該他方の締約国において租税を課することができ。
- 2 一方の締約国の居住者が他方の締約国の居住者である法人の株式の譲渡によって取得する収益に対しては、次のことを条件として、当該他方の締約国において租税を課することができる。
  - (a) 譲渡者が保有し又は所有する株式（当該譲渡者の特殊関係者が保有し又は所有する株式で当該譲渡者が保有し又は所有するものと合算されるものを含む）の数が、当該課税年度中のいずれかの時点において当該法人の発行済株式の少なくとも二十五パーセントであること。
  - (b) 譲渡者及びその特殊関係者が当該課税年度中に譲渡した株式の総数が、当該法人の発行済株式の少なくとも五パーセントであること。
- 3 2の規定にかかわらず、法人が発行する株式（いずれか一方の締約国の公認の株式取引所において通常取引されるものを除く）又はパートナーシップ、信託若しくは遺産の持分の譲渡から生ずる収益に対しては、当該法人、パートナーシップ、信託又は遺産の財産が一方の締約国内に存在する不動産から主として構成される場合には、当該一方の締約国において租税を課することができ。
- 4 2及び3の規定にかかわらず、一方の締約国の企業が他方の締約国内に有する恒久的施設の事業用資産の一部を成す財産（不動産を除く）の譲渡又は一方の締約国の居住者が独立の人的役務を提供するため他方の締約国内においてその用に供している固定的施設に係る財産（不動産を除く）の譲渡から生ずる収益（単独に若しくは企業全体として行われる当該恒久的施設の譲渡又は当該固定的施設の譲渡から生ずる収益を含む）に対しては、当該他方の締約国において租税を課することができ。

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

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 Contracting State.
2. Gains derived by a resident of a Contracting State from the alienation of shares issued by a company being a resident of the other Contracting State may be taxed in that other Contracting State, if:
  - (a) shares held or owned by the alienator (together with such shares held or owned by any other related persons as may be aggregated therewith) amount to at least 25 per cent of the total shares issued by such company at any time during the taxable year; and
  - (b) the total of the shares alienated by the alienator and such related persons during that taxable year amounts to at least 5 per cent of the total shares issued by such company.
3. Notwithstanding the provisions of paragraph 2, gains from the alienation of shares issued by a company which are not traded regularly at a recognized stock exchange of either Contracting State, or of an interest in a partnership, a trust or an estate may be taxed in a Contracting State where the property of such company, partnership, trust or estate consists principally of immovable property situated in that Contracting State.
4. Notwithstanding the provisions of paragraphs 2 and 3, gains from the alienation of any property, other than immovable 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 any property, other than immovable 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 together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State.

ヴィエトナムとの租税（所得）協定

一三七八

5 一方の締約国の企業が国際運輸に運用する船舶又は航空機及びこれらの船舶又は航空機の運用に係る財産（不動産を除く）の譲渡によって取得する収益に対しては、当該一方の締約国においてのみ租税を課する（ことができる）。

6 1 から5 まで及び前条5 に規定する財産以外の財産の譲渡から生ずる収益に対しては、譲渡者が居住者である締約国においてのみ租税を課することができる。

第十四条

1 一方の締約国の居住者が自由職業その他の独立の性格を有する活動について取得する所得に対しては、次の(a)又は(b)に該当する場合を除くほか、当該一方の締約国においてのみ租税を課することができる。

(a) その者が自己の活動を行うため通常その用に供している固定的施設を他方の締約国内に有する場合

(b) その者が当該暦年を通して合計百八十三日以上期間当該他方の締約国内に滞在する場合

その者がそのような固定的施設を有する場合又は前記の期間当該他方の締約国内に滞在する場合には、当該所得に対しては、当該固定的施設に帰せられる部分又は前記の期間を通じ当該他方の締約国内において取得した部分についてのみ、当該他方の締約国において租税を課することができる。

2 「自由職業」には、特に、学術上、文学上、芸術上及び教育上の独立の活動並びに医師、弁護士、技術士、建築士、歯科医師及び公認会計士の独立の活動を含む。

第十五条

1 次条、第十八条及び第十九条の規定が適用される場合を除くほか、一方の締約国の居住者がその勤務について取得する給料、賃金その他これらに類する報酬に対しては、勤務が他方の締約国内において行われ  
ない限り、当該一方の締約国においてのみ租税を課することができる。勤務が他方の締約国内において行  
われる場合には、当該勤務から生ずる報酬に対しては、当該他方の締約国において租税を課する（ことができる）。

勤務に  
対する  
報酬

自由職  
業の  
所得

5. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic and any property, other than immovable property, pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

6. Gains from the alienation of any property other than that referred to in paragraph 5 of Article 12 and the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

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 Contracting State unless:

(a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; or

(b) he is present in that other Contracting State for a period or periods amounting to or exceeding in the aggregate 183 days in the calendar year concerned.

If he has such a fixed base or remains in that other Contracting State for the aforesaid period or periods, the income may be taxed in that other Contracting State but only so much of it as is attributable to that fixed base or is derived in that other Contracting State during the aforesaid period or periods.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

1. Subject to the provisions of Articles 16, 18 and 19, 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 Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised,

きる。

2 1の規定にかかわらず、一方の締約国の居住者が他方の締約国内において行う勤務について取得する報酬に対しては、次の(a)から(c)までに掲げることを条件として、当該一方の締約国においてのみ租税を課することができる。

(a) 報酬の受領者が当該暦年を通じて合計百八十二日を超えない期間当該他方の締約国内に滞在する。

(b) 報酬が当該他方の締約国の居住者でない雇用者又はこれに代わる者から支払われるものであること。

(c) 報酬が雇用者の当該他方の締約国内に有する恒久的施設又は固定的施設によって負担されるものではないこと。

3 1及び2の規定にかかわらず、一方の締約国の企業が国際運輸に運用する船舶又は航空機内において行われる勤務に係る報酬に対しては、当該一方の締約国において租税を課することができる。

#### 第十六条

一方の締約国の居住者が他方の締約国の居住者である法人の役員で取得する役員報酬その他これに類する支払金に対しては、当該他方の締約国において租税を課することができる。

#### 第十七条

1 第十四条及び第十五条の規定にかかわらず、一方の締約国の居住者である個人が演劇、映画、ラジオ若しくはテレビジョンの俳優、音楽家その他の芸能人又は運動家として他方の締約国内で行う個人的活動によって取得する所得に対しては、当該他方の締約国において租税を課することができる。

もっとも、そのような活動が両締約国の政府間で合意された文化交流のための特別の計画に基づき当該一方の締約国の居住者である個人により行われる場合には、当該所得については、当該他方の締約国にお

such remuneration as is derived therefrom may be taxed in that other Contracting 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 Contracting State if:

(a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other Contracting State, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other Contracting State.

3. Notwithstanding the provisions of the preceding paragraphs 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 may be taxed in that Contracting State.

#### ARTICLE 16

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 of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

#### ARTICLE 17

1. Notwithstanding the provisions of Articles 14 and 15, income derived by an individual who is a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, and a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.

Such income shall, however, be exempt from tax in that other Contracting State if such activities are exercised by an individual, being a resident of the first-

## 役員の報酬

## 芸能人等の所得

ヴェトナムとの租税（所得）協定

いて租税を免除する。

2 一方の締約国内で行う芸能人又は運動家としての個人的活動に関する所得が当該芸能人又は運動家以外の他方の締約国の居住者である者に帰属する場合には、当該所得に対しては、第七条、第十四条及び第十五条の規定にかかわらず、当該芸能人又は運動家の活動が行われる当該一方の締約国において租税を課することができる。

もっとも、そのような所得が両締約国の政府間で合意された文化交流のための特別の計画に基づき他方の締約国の居住者である個人によって行われる活動から生じ、かつ、当該他方の締約国の居住者である他の者に帰属する場合には、当該所得については、当該一方の締約国において租税を免除する。

第十八条

次条2の規定が適用される場合を除くほか、過去の勤務につき一方の締約国の居住者に支払われる退職年金その他これに類する報酬に対しては、当該一方の締約国においてのみ租税を課することができる。

第十九条

公務遂行に係る報酬

1 (a) 政府の職務の遂行として一方の締約国又は一方の締約国の地方公共団体にに対し提供される役務につき、個人に対し当該一方の締約国又は当該一方の締約国の地方公共団体によって支払われる報酬（退職年金を除く）に対しては、当該一方の締約国においてのみ租税を課することができる。

(b) もっとも、当該役務が他方の締約国内において提供され、かつ、当該個人が次の(i)又は(ii)に該当する当該他方の締約国の居住者である場合には、その報酬に対しては、当該他方の締約国においてのみ租税を課することができる。

(i) 当該他方の締約国の国民

(ii) 専ら当該役務を提供するため当該他方の締約国の居住者となった者でないもの

mentioned Contracting State, pursuant to a special programme for cultural exchange agreed upon between the Governments of the two Contracting States.

2. Where income in respect of personal activities exercised in a Contracting State by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person who is a resident of the other Contracting State, 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.

Such income shall, however, be exempt from tax in that Contracting State if such income is derived from the activities exercised by an individual, being a resident of the other Contracting State, pursuant to a special programme for cultural exchange agreed upon between the Governments of the two Contracting States and accrues to another person who is a resident of that other Contracting State.

ARTICLE 18

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

ARTICLE 19

1. (a) Remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that Contracting State or local authority thereof, in the discharge of functions of a governmental nature, shall be taxable only in that Contracting State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other Contracting State and the individual is a resident of that other Contracting State who:

(i) is a national of that other Contracting State; or

(ii) did not become a resident of that other

2 (a) 一方の締約国又は一方の締約国の地方公共団体に對し提供される役務につき、個人に對し、当該一方の締約国若しくは当該一方の締約国の地方公共団体によつて支払われ、又は当該一方の締約国若しくは当該一方の締約国の地方公共団体が提出した基金から支払われる退職年金に對しては、当該一方の締約国においてのみ租税を課することができ。

(b) もっとも、当該個人が他方の締約国の居住者であり、かつ、当該他方の締約国の国民である場合には、その退職年金に對しては、当該他方の締約国においてのみ租税を課することができ。

3 一方の締約国又は一方の締約国の地方公共団体の行う事業に關連して提供される役務につき支払われる報酬及び退職年金については、第十五条から前条までの規定を適用する。

## 第二十条

専ら教育又は訓練を受けるため一方の締約国内に滞在する学生又は事業修習者であつて、現に他方の締約国の居住者であるもの又はその滞在の直前に他方の締約国の居住者であつたものがその生計、教育又は訓練のために受け取る給付については、当該一方の締約国の租税を免除する。ただし、当該給付が当該一方の締約国外から支払われるものである場合に限る。

## 第二十一条

1 一方の締約国の居住者の所得（源泉地を問わない）で前各条に規定がないものに対しては、当該一方の締約国においてのみ租税を課することができ。

2 1の規定は、一方の締約国の居住者である所得（第六条2に規定する不動産から生ずる所得を除く）の受領者が、他方の締約国において当該他方の締約国内にある恒久的施設を通じて事業を行い又は当該他方の締約国内にある恒久的施設を通じて独立の人的役務を提供する場合において、当該所得の支払の要因となつた権利又は財産が当該恒久的施設又は当該恒久的施設と實質的な關連を有するものであるときは、当該所得については、適用しない。（この場合には、第七条又は第十四条の規定を適用する。）

Contracting State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds to which contributions are made by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that Contracting State or local authority thereof shall be taxable only in that Contracting 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 other Contracting State.

3. The provisions of Articles 15, 16, 17 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 local authority thereof.

## ARTICLE 20

Payments which a student or business apprentice 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 purpose of his maintenance, education or training shall be exempt from tax of the first-mentioned Contracting State, provided that such payments are made to him from outside that first-mentioned Contracting State.

## ARTICLE 21

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or

## ヴェトナムとの租税（所得）協定

二三八二

### 第二十二条

1 ヴィエトナムにおいては、二重課税は、次のとおり除去される。

ヴィエトナムの居住者が日本国の法令の下でこの協定の規定に従って日本国において租税を課される所得、利得又は収益を取得する場合には、ヴィエトナムは、日本国において納付される租税の額と等しい額を当該所得、利得又は収益に対して課されるヴィエトナムの租税の額から控除する。ただし、控除の額は、ヴィエトナムの税法に従って計算される当該所得、利得又は収益に対するヴィエトナムの租税の額を超えないものとする。

2 日本国以外の国において納付される租税を日本国の租税から控除することに関する日本国の法令に従い、

(a) 日本国の居住者がこの協定の規定に従ってヴィエトナムにおいて租税を課される所得をヴィエトナムにおいて取得する場合には、当該所得について納付されるヴィエトナムの租税の額は、当該居住者に対して課される日本国の租税の額から控除する。ただし、控除の額は、日本国の租税の額のうち当該所得に対応する部分を超えないものとする。

(b) ヴィエトナムにおいて取得される所得が、ヴィエトナムの居住者である法人により、その議決権のある株式又はその発行済株式の少なくとも二十五パーセントを所有する日本国の居住者である法人に対して支払われる配当である場合には、日本国の租税からの控除を行うに当たり、当該配当を支払う法人によりその所得について納付されるヴィエトナムの租税を考慮に入れるものとする。

3 2に規定する控除の適用上、ヴィエトナムの経済開発段階を考慮して、ヴィエトナムの経済開発を促進するための特別の奨励措置であってこの協定の署名の日に実施されているもの又はその修正若しくは追加としてヴィエトナムの租税に関する法令にその後を導入されることがあるものに従ったヴィエトナムの租税の軽減又は免除が行われなかったとしたならばヴィエトナムの法令に基づき及びこの協定の規定に従っ

Article 14, as the case may be, shall apply.

### ARTICLE 22

1. In Viet Nam, double taxation shall be eliminated as follows:

Where a resident of Viet Nam derives income, profits or gains which under the laws of Japan and in accordance with this Agreement may be taxed in Japan, Viet Nam shall allow as a credit against the Vietnamese tax imposed on that income, profits or gains an amount equal to the tax paid in Japan. The amount of credit, however, shall not exceed the amount of the Vietnamese tax on that income, profits or gains computed in accordance with the taxation laws and regulations of Viet Nam.

2. Subject to the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan:

(a) Where a resident of Japan derives income from Viet Nam which may be taxed in Viet Nam in accordance with the provisions of this Agreement, the amount of Vietnamese tax payable in respect of that income shall be allowed as a credit against the Japanese tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Japanese tax which is appropriate to that income.

(b) Where the income derived from Viet Nam is a dividend paid by a company which is a resident of Viet Nam to a company which is a resident of Japan and which owns not less than 25 per cent either of the voting shares issued by the company paying the dividend, or of the total shares issued by that company, the credit shall take into account the Vietnamese tax payable by the company paying the dividend in respect of its income.

3. For the purposes of the credit referred to in paragraph 2, taking into account the stage of economic development of Viet Nam, there shall be deemed to have been paid by the taxpayer the amount which would have been paid as Vietnamese tax under the laws of Viet Nam and in accordance with this Agreement if the Vietnamese tax had not been reduced or relieved in accordance with the

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てヴィエトナムの租税として納付されたであらう額は、納税者によって納付されたものとみなす。ただし、両締約国の政府が前記の措置により納税者に与えられる特典の範囲について合意を行うことを条件とする。

4 2 (a) に規定する控除の適用上、ヴィエトナムの租税は、常に、第十条2の規定が適用される配当及び第十二条2又は5の規定が適用される使用料又は収入についてはその額の十パーセントの率で納付されたものとみなす。

5 3 及び 4 の規定は、この協定が効力を生ずる暦年の後十五年目の年の十二月三十一日より後に開始する各課税年度において日本国の居住者が取得する所得については、適用しない。

第二十三条

1 一方の締約国の国民は、他方の締約国において、特に居住者であるかないかに関し、同様の状況にある当該他方の締約国の国民に課されており若しくは課されることがある租税若しくはこれに関連する要件以外の又はこれらよりも重い租税若しくはこれに関連する要件を課されることはない。(この1の規定は、第一条の規定にかかわらず、締約国の居住者でない者にも、適用する。

2 一方の締約国の企業が他方の締約国内に有する恒久的施設に対する租税は、当該他方の締約国において、同様の活動を行う当該他方の締約国の企業に対して課される租税よりも不利に課されることはない。

この2の規定は、一方の締約国に対し、家族の状況又は家族を扶養するための負担を理由として自国の居住者に認める租税上の人的控除、救済及び軽減を他方の締約国の居住者に認めることを義務付けるとしてはならない。

ヴィエトナムとの租税（所得）協定

special incentive measures designed to promote economic development in Viet Nam, effective on the date of signature of this Agreement or which may be introduced in the future in the Vietnamese tax laws in modification of or in addition to the existing measures, provided that an agreement is made between the two Governments in respect of the scope of the benefit accorded to the taxpayer by the said measures.

4. For the purposes of the credit referred to in subparagraph (a) of paragraph 2, the Vietnamese tax shall always be considered as having been paid at the rate of 10 per cent of the gross amount in the case of dividends to which the provisions of paragraph 2 of Article 10 apply and of royalties or proceeds to which the provisions of paragraph 2 or 5 of Article 12 apply.

5. The provisions of paragraphs 3 and 4 of this Article shall not apply in respect of income derived by a resident of Japan in any taxable year beginning after 31 December of the fifteenth calendar year next following the calendar year in which this Agreement enters into force.

ARTICLE 23

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 Contracting State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying 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.

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一三八四

3 第九条1、第十一条8又は第十二条7の規定が適用される場合を除くほか、一方の締約国の企業が他方の締約国の居住者に支払った利子、使用料その他の支払金については、当該企業の課税対象利得の決定に当たって、当該一方の締約国の居住者に支払われたとした場合における条件と同様の条件で控除するものとする。

4 一方の締約国の企業であつてその資本の全部又は一部が他方の締約国の一又は二以上の居住者により直接又は間接に所有され又は支配されているものは、当該一方の締約国において、当該一方の締約国の類似の他の企業に課されており若しくは課されることがある租税若しくはこれに関連する要件以外の又はこれらよりも重い租税若しくはこれに関連する要件を課されることはない。

第二十四条

1 いずれか一方の又は双方の締約国の措置によりこの協定の規定に適合しない課税を受けた又は受けることになることを認める者は、当該事実について、当該いずれか一方の又は双方の締約国の法令に定める救済手段とは別に、自己が居住者である締約国の権限のある当局に対して又は当該事実が前条1の規定の適用に関するものである場合には自己が国民である締約国の権限のある当局に対して、申立てをすることができる。当該申立ては、この協定の規定に適合しない課税に係る当該措置の最初の通知の日から三年以内に、しなければならない。

2 権限のある当局は、1の申立てを正当と認めるが、満足すべき解決を与えることができない場合には、この協定の規定に適合しない課税を回避するため、他方の締約国の権限のある当局との合意によって当該事案を解決するよう努める。成立したすべての合意は、両締約国の法令上のいかなる期間制限にもかかわらず、実施されなければならない。

3 両締約国の権限のある当局は、この協定の解釈又は適用に関して生ずる困難又は疑義を合意によって解決するよう努める。両締約国の権限のある当局は、また、この協定に定めのない場合における二重課税を除去するため、相互に協議することができる。

3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 7 of Article 12, apply, interest, royalties 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 Contracting State.

4. 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 Contracting 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 Contracting State are or may be subjected.

ARTICLE 24

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 laws of those Contracting 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 23, 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 this 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 provisions of this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases



4 両締約国の権限のある当局は、2及び3の合意に達するため、直接相互に通信することができる。

第二十五条

1 両締約国の権限のある当局は、この協定若しくはこの協定が適用される租税に関する両締約国の法令（当該法令に基づく課税がこの協定の規定に反しない場合に限る。）を実施し又はこれらの租税に関する脱税を防止するため必要な情報を交換する。情報の交換は、第一条の規定による制限を受けない。一方の締約国が受領した情報は、当該一方の締約国がその法令に基づいて得た情報と同様に秘密として取り扱つものとし、この協定が適用される租税の賦課若しくは徴収、これらの租税に関する執行若しくは訴追又はこれらの租税に関する不服申立てについての決定に関与する者又は当局（裁判所及び行政機関を含む。）に対してのみ開示することができ、これらの者又は当局は、当該情報をこれらの目的のためにのみ使用することができ、これらの者又は当局は、当該情報を公開の法廷における審理又は司法上の決定において開示することができない。

2 1の規定は、いかなる場合でも、一方の締約国に対し、次のことを行う義務を課するものと解してはならない。

- (a) 当該一方の締約国又は他方の締約国の法令及び行政上の慣行に抵触する行政上の措置をとること。
- (b) 当該一方の締約国又は他方の締約国の法令の下において又は行政の通常の運営において入手することができない情報を提供すること。
- (c) 営業上、事業上、産業上、商業上若しくは職業上若しくは取引の過程を明らかにするような情報又は公開することが公の秩序に反することになる情報を提供すること。

3 第二条の規定にかかわらず、1に規定する「この協定が適用される租税」とは、両締約国が課税する入

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not provided for in this 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 of this Article.

ARTICLE 25

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 this Agreement insofar as the taxation thereunder is not contrary to the provisions of this Agreement, or for the prevention of fiscal evasion with respect to 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 Contracting 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 this 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.

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).

3. Notwithstanding the provisions of Article 2, the

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ての種類の税を含む。

第二十六条

1 各締約国は、この協定に基づいて他方の締約国の認める租税の免除又は税率の軽減が、このような特典を受ける権利を有しない者によって享受されることのないようにするため、当該他方の締約国が課する租税を徴収するよう努める。その徴収を行う締約国は、このようにして徴収された金額につき当該他方の締約国に対して責任を負う。

2 1の規定は、いかなる場合にも、1の租税を徴収するよう努めるいずれの締約国に対しても、当該締約国の法令及び行政上の慣行に抵触し又は公の秩序に反することになる行政上の措置をとる義務を課するものと解してはならない。

第二十七条

この協定のいかなる規定も、国際法の一般原則又は特別の協定に基づく外交官又は領事官の租税上の特権に影響を及ぼすものではない。

第二十八条

効力発生  
外交官又は領事官の特権との関係

1 この協定は、両締約国のそれぞれの国内法上の手続に従って承認されなければならない。この協定は、その承認を通知する公文の交換の日後三十日目の日に効力を生ずる。

2 この協定は、次のものについて適用する。

(a) ヴィエトナムにおいては、

(i) 源泉徴収される租税に関しては、この協定が効力を生ずる年の翌年の一月一日以後に支払われる課税対象額

(ii) その他の租税に関しては、この協定が効力を生ずる年の翌年の一月一日以後に開始する各課税年度に生ずる所得、利得又は収益

term "taxes covered by this Agreement" referred to in paragraph 1 shall include taxes of every kind and description imposed by the Contracting States..

ARTICLE 26

1. Each of the Contracting States shall endeavour to collect such taxes imposed by the 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 Contracting State making such collections shall be responsible to the other Contracting State for the sums thus collected.

2. In no case shall the provisions of paragraph 1 be construed so as to impose upon either of the Contracting States endeavouring to collect the taxes the obligation to carry out administrative measures at variance with the laws and administrative practice of that Contracting State or which would be contrary to the public policy (ordre public) of that Contracting State.

ARTICLE 27

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

ARTICLE 28

1. This Agreement shall be approved in accordance with the legal procedures of each of the Contracting States, and shall enter into force on the thirtieth day after the date of exchange of notes indicating such approval.

2. This Agreement shall be applicable:

(a) in Viet Nam:

(i) in respect of taxes withheld at source, in relation to taxable amount paid on or after the first day of January of the calendar year next following that in which this Agreement enters into force;

(ii) in respect of other taxes, in relation to income, profits or gains arising in any taxable year beginning on or after the

有効期間

- (b) 日本国においては、
- (i) 源泉徴収される租税に関しては、この協定が効力を生ずる年の翌年の一月一日以後に租税を課される額
- (ii) 源泉徴収されない所得に対する租税に関しては、この協定が効力を生ずる年の翌年の一月一日以後に開始する各課税年度の所得
- (iii) その他の税に関しては、この協定が効力を生ずる年の翌年の一月一日以後に開始する各課税年度の税

第二十九条

この協定は、無期限に効力を有する。ただし、いずれの一方の締約国も、この協定の効力発生の日から五年の期間が満了した後に開始する各暦年の六月三十日以前に、外交上の経路を通じて他方の締約国に対し書面による終了の通告を行うことができる。この場合には、次のものについて効力を失う。

- (a) ヴィエトナムにおいては、
- (i) 源泉徴収される租税に関しては、終了の通告が行われた年の翌年の一月一日以後に支払われる課税対象額
- (ii) その他の租税に関しては、終了の通告が行われた年の翌年の一月一日以後に開始する各課税年度に生ずる所得、利得又は収益

first day of January of the calendar year next following that in which this Agreement enters into force;

(b) in Japan:

- (i) with respect to taxes withheld at source, for amounts taxable on or after the first day of January of the calendar year next following that in which this Agreement enters into force;
- (ii) with respect to taxes on income which are not withheld at source, as regards income for any taxable year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters into force;
- (iii) with respect to other taxes, as regards taxes for any taxable year beginning on or after the first day of January of the calendar year next following that in which this Agreement enters into force.

ARTICLE 29

This Agreement shall continue in effect indefinitely but either Contracting State may, on or before the thirtieth day of June of any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channel, written notice of termination and, in such event, this Agreement shall cease to have effect:

(a) in Viet Nam:

- (i) in respect of taxes withheld at source, in relation to taxable amount paid on or after the first day of January of the calendar year next following that in which the notice of termination is given;
- (ii) in respect of other taxes, in relation to income, profits or gains arising in any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given;

ヴェトナムとの租税（所得）協定

二三八

(b) 日本国においては、

(i) 源泉徴収される租税に関しては、終了の通告が行われた年の翌年の一月一日以後に租税を課される額

(ii) 源泉徴収されない所得に対する租税に関しては、終了の通告が行われた年の翌年の一月一日以後に開始する各課税年度の所得

(iii) その他の税に関しては、終了の通告が行われた年の翌年の一月一日以後に開始する各課税年度の税

以上の証拠として、下名は、各自の政府から正当に委任を受けてこの協定に署名した。

千九百九十五年十月二十四日にハノイで、ひとしく正文である日本語、ヴェトナム語及び英語により本書一通を作成した。解釈に相違がある場合には、英語の本文による。

日本国政府のために

鈴木勝也

ヴェトナム社会主義共和国政府のために

ホー・テー

(b) in Japan:

(i) with respect to taxes withheld at source, for amounts taxable on or after the first day of January of the calendar year next following that in which the notice of termination is given;

(ii) with respect to taxes on income which are not withheld at source, as regards income for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given;

(iii) with respect to other taxes, as regards taxes for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Hanoi in duplicate on this 24th day of October, 1995 in the Japanese, Vietnamese and English languages, all the three texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

For the Government of Japan:

For the Government of the Socialist Republic of Viet Nam:

Katsunari Suzuki

Ho Te

所得に対する租税に関する二重課税の回避及び脱税の防止のための日本国政府とヴィエトナム社会主義共和国政府との間の協定（以下「協定」という）の署名に当たり、下名は、協定の不可分の一部を成す次の規定を協定した。

1 協定第五条(5)に関し、一方の締約国の居住者で他方の締約国の海底及びその下に存在する天然資源の探査に関連して当該他方の締約国内の沖合において活動を行う法人は、当該活動に関し、当該他方の締約国内に恒久的施設を有し、かつ、当該恒久的施設を通じて事業を行うものとされることが了解される。ただし、当該活動が、継続するいずれかの十二箇月の期間において合計三十日を超える期間行われるものである場合に限る。

2 協定第七条に関し、同条の規定は、日本国の企業がヴィエトナムにある恒久的施設を通じてヴィエトナムにおいて事業を行う場合において、ヴィエトナムが当該恒久的施設の総収入に対して外国契約者税又は外国石油下請契約者税を課する（これを妨げるものと解してはならない）ことが了解される。ただし、当該恒久的施設が、同条の規定に従って当該総収入から計算された利得に対する最終的な利得税の額が徴収された外国契約者税又は外国石油下請契約者税の額のうちの利得に対する税とみなされる額を下回ることを示す適切な情報とともに税の申告をして、徴収された外国契約者税又は外国石油下請契約者税のうちの利得に対する税とみなされる額と申告された最終的な利得税の額との差額の還付を申請することができ、かかる場合に限り。

3 協定第二十三条2及び4に関し、これ等の規定は、ヴィエトナムが次のことを行うことを妨げるものと解してはならないことが了解される。

ヴィエトナムとの租税（所得）協定

PROTOCOL

At the signing of the Agreement between the Government of Japan and the Government of the Socialist Republic of Viet Nam for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (hereinafter referred to as "the Agreement"), the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement.

1. With reference to sub-paragraph (f) of paragraph 2 of Article 5 of the Agreement, it is understood that a company who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration of natural resources situated in the sea-bed and subsoil of that other Contracting State shall also be deemed in relation to those activities to have a permanent establishment in that other Contracting State and to carry on business through that permanent establishment in that other Contracting State, provided that such activities are carried on for a period or periods aggregating more than thirty days within any consecutive twelve-month period.

2. With reference to Article 7 of the Agreement, it is understood that, when a Japanese enterprise carries on business in Viet Nam through a permanent establishment situated therein, the provisions of the said Article shall not be construed as preventing Viet Nam from imposing the foreign contractor tax or the foreign petroleum sub-contractor tax on the gross receipt of that permanent establishment, provided that, when that permanent establishment files a tax return which provides proper information showing that the final profit tax liability on its profit calculated from such receipt in accordance with the provisions of the said Article is less than the amount considered as tax imposed on profit, of the foreign contractor tax or the foreign petroleum sub-contractor tax withheld, that permanent establishment may claim a refund for the difference between the amount considered as tax imposed on profit, of the foreign contractor tax or the foreign petroleum sub-contractor tax withheld and the final profit tax liability filed.

3. With reference to paragraphs 2 and 4 of Article 23 of the Agreement, it is understood that the provisions of the said paragraphs shall not be construed as preventing Viet

ヴィエトナムとの租税（所得）協定

二三九〇

(a) 石油、ガス及び他の希少天然資源の探査に関し、千九百八十七年のヴィエトナム外国投資法（千九百九十年及び千九百九十二年の改正を含む）第二十六条の規定に従って課税する<sup>(1)</sup>。

(b) ヴィエトナムにある恒久的施設の利得のヴィエトナムからの送金に対し、千九百八十七年のヴィエトナム外国投資法（千九百九十年及び千九百九十二年の改正を含む）第三十三条の規定に従って利得送金税を課する<sup>(2)</sup>。

(c) ヴィエトナムにある恒久的施設又は一若しくは二以上の日本国の居住者によって直接若しくは間接にその資本の全部若しくは一部が所有され若しくは支配されているヴィエトナムの企業が行う農業生産活動からの利得に対し、千九百八十七年のヴィエトナム外国投資法（千九百九十年及び千九百九十二年の改正を含む）に従って課税する<sup>(3)</sup>。

4 協定に規定する租税の免除又は軽減は、一方の締約国において生ずる所得であって、他方の締約国の居住者（個人以外の者に限る。）で当該他方の締約国において生ずる所得又は利得についてその法令によって租税を免除されている者の取得するものについては、適用しない。ただし、その者が、当該他方の締約国においてその主要な事業を行うために必要とみなされる事務所、工場等の固定的な施設を有し、自ら当該他方の締約国におけるその事業を管理し及び支配している場合は、この限りでない。

以上の証拠として、下名は、各自の政府から正当に委任を受けてこの議定書に署名した。

千九百九十五年十月二十四日にハノイで、ひとしく正文である日本語、ヴィエトナム語及び英語により本書三通を作成した。解釈に相違がある場合には、英語の本文による。

Nam from:

(a) imposing the taxation in accordance with Article 26 of the Law on Foreign Investment in Viet Nam 1987, as amended in 1990 and 1992, with respect to the exploitation of oil, gas and a number of other rare and precious natural resources;

(b) imposing the profit remittance tax in accordance with Article 33 of the Law on Foreign Investment in Viet Nam 1987, as amended in 1990 and 1992, on the disposal out of Viet Nam of profits made by a permanent establishment situated in Viet Nam;

(c) imposing the taxation in accordance with the Law on Foreign Investment in Viet Nam 1987, as amended in 1990 and 1992, on the profits from the agriculture production activities made by a permanent establishment situated in Viet Nam or by an enterprise of Viet Nam, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more Japanese residents.

4. The exemption or reduction of tax provided for in the Agreement shall not apply to income arising in a Contracting State and derived by a person, other than an individual, who is a resident of the other Contracting State if such person is exempt from tax in that other Contracting State under its laws with respect to any income or profits arising in that other Contracting State, except when such person has a fixed facility, including an office or a factory, in that other Contracting State which is considered as necessary for conducting its principal business, and manages and controls such business by itself in that other Contracting State.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

DONE at Hanoi in duplicate on this 24th day of October, 1995 in the Japanese, Vietnamese and English languages, all the three texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

日本国政府のために

鈴木勝也

ヴェトナム社会主義共和国政府のために

ホー・デー

For the Government of  
Japan:

Katsunari Suzuki

For the Government of  
the Socialist Republic of  
Viet Nam:

Ho Te

CHÍNH PHỦ NHẬT BẢN

VÀ

CHÍNH PHỦ NƯỚC CỘNG HÒA XÃ HỘI CHỦ NGHĨA VIỆT NAM,

Mong muốn ký kết một Hiệp định về việc tránh đánh thuế hai lần và  
ngăn ngừa việc trốn lậu thuế đối với các loại thuế đánh vào thu nhập,

Đã thỏa thuận dưới đây:

ĐIỀU 1

Hiệp định này áp dụng cho các đối tượng là những đối tượng cư trú của  
một hoặc của cả hai Nước ký kết.

ĐIỀU 2

1/ Hiệp định này áp dụng đối với các loại thuế do một Nước ký kết hoặc  
cơ quan địa phương của Nước đó, đánh vào thu nhập, bất kể hình  
thức áp dụng của các loại thuế đó như thế nào.

2/ Tất cả các loại thuế thu trên tổng thu nhập, hoặc những phần của thu  
nhập bao gồm các khoản thuế đối với lợi tức từ việc chuyển nhượng bất  
kỳ tài sản nào, các loại thuế đánh trên tổng số tiền công hoặc tiền  
lương do xí nghiệp chi trả cũng như các loại thuế đánh trên phần trị giá  
tài sản tăng thêm đều được coi là thuế đánh vào thu nhập.

3/ Những loại thuế hiện hành được áp dụng trong Hiệp định này là:

a. tại Việt Nam:

- thuế thu nhập cá nhân;
  - thuế lợi tức;
  - thuế chuyển lợi nhuận ra nước ngoài;
  - thuế đối với các nhà thầu nước ngoài (trong phạm vi được coi như  
là thuế thu trên lợi tức);
  - thuế đối với các nhà thầu phụ nước ngoài trong lĩnh vực đầu khi  
(trong phạm vi được coi như là thuế thu trên lợi tức); và
  - thuế đối với tiền bản quyền;
- (dưới đây được gọi là "thuế Việt Nam");
- b. tại Nhật Bản:
- thuế thu nhập;
  - thuế công lý; và
  - các loại thuế cư trú của địa phương;
- (dưới đây được gọi là "thuế Nhật Bản").

4/ Hiệp định này cũng sẽ áp dụng cho các loại thuế có tính chất tương tự  
hay về căn bản giống như các loại thuế trên, dù đó là thuế mang tính  
quốc gia hay mang tính địa phương, được ban hành sau ngày ký Hiệp  
định này để bổ sung, hoặc thay thế các loại thuế nêu ở khoản 3. Các  
nhà chức trách có thẩm quyền của hai Nước ký kết sẽ thông báo cho  
nhau biết những thay đổi cơ bản trong luật thuế của từng Nước, trong  
một thời gian hợp lý sau khi có những sự thay đổi này.

ĐIỀU 3



1/  
Theo nội dung của Hiệp định này, trừ trường hợp ngữ cảnh đòi hỏi có sự giải thích khác:

- a. từ “Việt Nam” có nghĩa là nước Cộng hòa Xã hội Chủ nghĩa Việt Nam; khi dùng theo nghĩa địa lý, từ đó bao gồm toàn bộ lãnh thổ quốc gia Việt Nam, kể cả lãnh hải Việt Nam và mọi vùng ở ngoài và gần liền với lãnh hải Việt Nam mà theo luật pháp Việt Nam và phù hợp với luật pháp quốc tế, Việt Nam có quyền chủ quyền đối với việc thăm dò và khai thác tài nguyên thiên nhiên của đáy biển, lòng đất dưới đáy biển và khối nước ở trên;
- b. từ “Nhất Bản”, khi dùng theo nghĩa địa lý, có nghĩa là toàn bộ lãnh thổ Nhật Bản, kể cả lãnh hải Nhật Bản mà ở đó các luật về thuế Nhật Bản có hiệu lực, và toàn bộ vùng ở ngoài lãnh hải Nhật Bản, kể cả đáy biển, lòng đất dưới đáy biển mà trên đó Nhật Bản có quyền tài phán phù hợp với luật pháp quốc tế và ở đó các luật về thuế Nhật Bản có hiệu lực;
- c. thuật ngữ “Nước ký kết” và “Nước ký kết kia” có nghĩa là Nhật Bản hay Việt Nam tùy theo ngữ cảnh đòi hỏi;
- d. thuật ngữ “thuế” có nghĩa là thuế Nhật Bản hoặc thuế Việt Nam, tùy theo ngữ cảnh đòi hỏi;
- e. thuật ngữ “đối tượng” bao gồm cả nhân, công ty hay bất kỳ tổ chức nhiều đối tượng nào khác;
- f. thuật ngữ “công ty” để chỉ các tổ chức công ty hoặc bất kỳ một thực thể nào được coi là tổ chức công ty dưới giác độ thuế;
- g. thuật ngữ “xi nghiệp của Nước ký kết” và “xi nghiệp của Nước ký kết kia” theo thứ tự có nghĩa là một xi nghiệp được điều hành bởi đối tượng cư trú của một Nước ký kết và một xi nghiệp được điều hành bởi đối tượng cư trú của Nước ký kết kia;
- h. thuật ngữ “các đối tượng mang quốc tịch” có nghĩa:
  - (i) trong trường hợp của Việt Nam, là tất cả các cá nhân mang quốc tịch Việt Nam và tất cả các pháp nhân, tổ chức hùn vốn và hiệp hội có tư cách được chấp nhận theo các luật có hiệu lực tại Việt Nam;
  - (ii) trong trường hợp của Nhật Bản, là tất cả các cá nhân mang

quốc tịch Nhật Bản và tất cả các pháp nhân được thành lập hay tổ chức theo các luật Nhật Bản và tất cả các tổ chức không có tư cách pháp nhân nhưng dưới giác độ thuế Nhật Bản được coi như các pháp nhân được thành lập hay tổ chức theo luật Nhật Bản;

- i. thuật ngữ “vận tải quốc tế” có nghĩa là bất cứ sự vận chuyển nào bằng tàu thủy hoặc máy bay được thực hiện bởi một xi nghiệp của một Nước ký kết, trừ trường hợp khi chiếc tàu thủy hoặc máy bay đó chỉ hoạt động giữa những địa điểm trong Nước ký kết kia, và
- j. thuật ngữ “nhà chức trách có thẩm quyền” có nghĩa:
  - (i) trong trường hợp đối với Việt Nam, là Bộ trưởng Bộ Tài chính hoặc người đại diện được ủy quyền của Bộ trưởng Bộ Tài chính;
  - (ii) trong trường hợp đối với Nhật Bản là Bộ trưởng Bộ Tài chính hoặc người đại diện được ủy quyền của Bộ trưởng Bộ Tài chính.

2/  
Trong khi một Nước ký kết áp dụng Hiệp định này, mọi thuật ngữ chưa được định nghĩa trong Hiệp định này sẽ có nghĩa theo như định nghĩa trong các luật của Nước ký kết đó đối với các loại thuế mà Hiệp định này áp dụng, trừ trường hợp ngữ cảnh đòi hỏi có sự giải thích khác.

#### ĐIỀU 4

1/  
Theo nội dung của Hiệp định này, thuật ngữ “đối tượng cư trú của một Nước ký kết” có nghĩa là bất cứ đối tượng nào, mà theo các luật của Nước ký kết đó, là đối tượng chịu thuế căn cứ vào nhà ở, nơi cư trú, địa điểm của trụ sở đầu hay trụ sở chính hoặc các tiêu chuẩn nào khác có tính chất tương tự.

2/  
Trường hợp theo những quy định tại khoản 1, khi một cá nhân là đối tượng cư trú của cả hai Nước, thì thân phần cư trú của cá nhân đó sẽ được xác định như sau: