

PROTOCOL
AMENDING THE CONVENTION
BETWEEN JAPAN
AND THE KINGDOM OF BELGIUM
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME

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The Government of Japan and the Government of the Kingdom of Belgium,

Desiring to amend the Convention between Japan and the Kingdom of Belgium for the avoidance of double taxation with respect to taxes on income, signed at Tokyo on 28 March 1968, as amended by the Protocol signed at Brussels on 9 November 1988 (hereinafter referred to as "the Convention") and the Protocol signed at Tokyo on 28 March 1968 which forms an integral part of the Convention, as amended by the Protocol signed at Brussels on 9 November 1988 (hereinafter referred to as "the Protocol of 1968"),

Have agreed as follows:

ARTICLE I

Article 26 of the Convention shall be deleted and replaced by the following:

"Article 26

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed by or on behalf of the Contracting States, or on behalf of the local authorities of Japan, insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.

3. In no case shall the provisions of paragraphs 1 and 2 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.

4. If information is requested by a Contracting State in accordance with the provisions of this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other Contracting State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, trust, foundation, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

ARTICLE II

There shall be added new paragraphs 3A and 3B to the Protocol of 1968, written as follows:

"3A. With reference to Article 26 of the Convention, that Article shall be applicable to the exchange of information foreseeably relevant to the administration or enforcement of the domestic laws concerning taxes imposed by and on behalf of the local authorities of Belgium by agreement between the Governments of the Contracting States through an exchange of diplomatic notes.

3B. With reference to paragraph 5 of Article 26 of the Convention:

- (a) In order to obtain the information held by a bank, other financial institution, trust, foundation, nominee or person acting in an agency or a fiduciary capacity or relating to ownership interests in a person, the tax authorities of Belgium shall have the power to enforce the disclosure of such information and to conduct examinations and hearings, notwithstanding the provisions of paragraph 3 of that Article or any contrary provisions in its domestic laws.
- (b) A Contracting State may decline to supply information relating to confidential communications between attorneys, solicitors or other admitted legal representatives in their role as such and their clients to the extent that the communications are protected from disclosure under the domestic laws of that Contracting State."

ARTICLE III

1. Each of the Contracting States shall send through diplomatic channels to the other the notification confirming that its internal procedures necessary for the entry into force of this Protocol have been completed. This Protocol shall enter into force on the thirtieth day after the date of receipt of the latter notification.

2. This Protocol shall be applicable:

- (a) in the case of Japan, for taxes levied on or after 1 January in the calendar year next following that in which this Protocol enters into force.
- (b) in the case of Belgium, for taxable periods beginning, or taxable events taking place, on or after 1 January in the calendar year next following that in which this Protocol enters into force.

3. This Protocol shall remain in effect as long as the Convention remains in force.

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

DONE in duplicate at Brussels on this twenty-sixth day of January, 2010, in the English language.

For the Government of Japan:

横田淳

For the Government of
the Kingdom of Belgium:

Didier Reynders