

TREATY USA - TURKEY

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF TURKEY, FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, TOGETHER WITH A RELATED PROTOCOL, SIGNED AT WASHINGTON ON MARCH 28, 1996

GENERAL EFFECTIVE DATE UNDER ARTICLE 28: 1 JANUARY 1998

ARTICLE 22 Limitation on Benefits

- 1) A person (other than an individual) which is a resident of a Contracting State and derives income from the other Contracting State shall not be entitled under this Agreement to relief from taxation in that other Contracting State unless:
 - a) more than 50 percent of the beneficial interest in such person (or in the case of a company, more than 50 percent of the number of shares of each class of the company's shares) is owned, directly or indirectly, by one or more individual residents of one of the Contracting States or citizens of the United States, or by persons entitled to the benefits of this Agreement under the provisions of paragraphs 3, 4 or 5; and
 - b) the income of such person is not used in substantial part, directly or indirectly, to meet liabilities (including liabilities for interest or royalties) to persons who are neither residents of one of the Contracting States or citizens of the United States, nor persons entitled to the benefits of this Agreement under the provisions of paragraphs 3, 4 or 5.
- 2) The provisions of paragraph 1 shall not apply if the income derived from the other Contracting State is derived in connection with, or is incidental to, the active conduct by such person of a trade or business in the first-mentioned Contracting State (other than the business of making or managing financial investments, unless these activities are banking or insurance activities carried on by a bank or an insurance company), and, in the case of income derived in connection with the active trade or business, the trade or business is substantial in relation to the activity carried on in the other Contracting State giving rise to the income in respect of which treaty benefits are being claimed in that other Contracting State.
- 3) The provisions of paragraph 1 shall not apply if the person deriving the income is:

- a) a company which is a resident of a Contracting State in whose principal class of shares there is a substantial and regular trading on a recognized stock exchange; or
- b) a company that is wholly owned, directly or indirectly, by a company referred to in subparagraph a) provided that each company in the chain of ownership used to satisfy the control requirement of this subparagraph is a resident of a Contracting State.

For purposes of this paragraph, the term "recognized stock exchange" means:

- a) the NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the Securities and Exchange Commission as a national securities exchange for purposes of the Securities Exchange Act of 1934;
 - b) The Istanbul Stock Exchange; and
 - c) any other stock exchange agreed upon by the competent authorities of the Contracting States.
- 4) The provisions of paragraph 1 shall not apply to a Contracting State or a political subdivision or local authority thereof.
- 5) The provisions of paragraph 1 shall not apply if the income derived from the other Contracting State is derived by a not-for-profit organization that, by virtue of that status, is generally exempt from income taxation in its Contracting State of residence, provided that
- a) more than half of its annual support is expended for the benefit of qualified persons; or
 - b) more than half of its annual support is derived from qualified persons.

The term "qualified person" means:

- a) a person (including an individual) that is entitled, under paragraph 1, 3, 4 or 5 of this Article, to the benefits of this Agreement, or
 - b) a citizen of the United States.
- 6) A person that is not otherwise entitled to the benefits of this Agreement by reasons of the other provisions of this Article may, nevertheless, be granted the benefits of

this Agreement if the competent authority of the State in which the income in question arises so determines.