



PERÚ

Ministerio
de Economía y Finanzas

Despacho Ministerial

"DECENIO DE LA IGUALDAD DE OPORTUNIDADES PARA MUJERES Y HOMBRES"
"AÑO DEL FORTALECIMIENTO DE LA SOBERANÍA NACIONAL"
"AÑO DEL BICENTENARIO DEL CONGRESO DE LA REPÚBLICA DEL PERÚ"

26 AGO. 2022

KURT BURNEO FARFÁN
MINISTER

Lima,

OFICIO N° 1100 -2022-EF/10.01

Mr.
DAE YEON KIM
Director
Tax Treaties Team
Ministry of Economy and Finance
Government Complex, Sejong, 30109, Republic of Korea

Reference : Most Favoured Nation Clause of the Convention between The Republic of Korea and The Republic of Peru for the Avoidance of Double Taxation and The Prevention of Fiscal Evasion with respect to Taxes on Income

Dear Mr. Dae Yeon Kim,

On behalf of the Republic of Peru, I am writing to inform you that the conditions for the application of the most favoured nation clause¹ laid down in paragraph 3 of the Protocol of the Convention between The Republic of Korea and The Republic of Peru for the Avoidance of Double Taxation and The Prevention of Fiscal Evasion with respect to Taxes on Income², done at Seoul, on May 10th, 2012 have been met with respect to Article 11 (interest)³.

Following the signature of the DTA PE-KO, the Republic of Peru has concluded a new double taxation agreement with Japan. This is the Convention between the Republic of Peru and Japan for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance which has effect from January 1st, 2022⁴.

Paragraph 2 of Article 11 of the DTA PE-JP provides a tax rate on interest that is lower than the one provides for in DTA PE-KO. The corresponding provision is cited below:

"ARTICLE 11

¹ Hereinafter referred to as the "MFN clause".

² It entered into force on March 3rd, 2014 and has effect from January 1st, 2015. Hereinafter referred to as the "DTA PE - KO".

³ 3. Article 10 and Article 11

With reference to paragraph 2 of Article 10 and to paragraph 2 of Article 11, it is understood that if, in any agreement or convention between Peru and a third State, Peru agrees to limit the rate of tax on such dividends or interest (either generally or in respect of specific categories of dividends or interest) to a rate lower than the rates provided for in paragraph 2 of Article 10 or in paragraph 2 of Article 11 of this Convention, such lower rate shall automatically apply to such dividends and interest (either generally or in respect of specific categories of dividends or interest) under this Convention as if such lower rate had been specified in this Convention, with effect from the date on which those provisions of that agreement or convention becomes effective. The competent authority of Peru shall inform the competent authority of Korea without delay that the conditions for the application of this provision have been met.

⁴ It entered into force on January 29th, 2021. Hereinafter referred to as the "DTA PE- JP".



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INTEREST

(...)

2. However, interest arising in a Contracting State may also be taxed in that Contracting State according to the laws of that Contracting State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(...)"

Consequently, the lower interest tax rate enshrined in paragraph 2 of Article 11 of the DTA PE-JP is extended to the DTA PE-KO from January 1st, 2022⁵ by virtue of MFN clause. Therefore, paragraph 2 of Article 11 of the DTA PE-KO shall apply as follows:

**"Article 11
INTEREST**

(...)

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the interest.

(...)"

Yours sincerely,

⁵ Date from which, paragraph 2 of Article 11 of the DTA PE-JP has effect.