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Global Tax Alert

Singapore and Korea sign a revised income tax treaty

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Executive summary

On 13 May 2019, Singapore and the Republic of Korea signed a revised Income Tax Treaty (Treaty).

Among other changes, the revised Treaty includes the following benefits:

- Reduction in the royalty withholding tax rate from 15% to 5%
- Exemption on interest withholding tax for the sale on credit of any industrial, commercial or scientific (ICS) equipment and merchandise
- Removal of withholding tax on payments for the use of, or the right to use, ICS equipment
- Scope expansion for the capital gains tax exemption

The revised Treaty introduces a new anti-abuse provision under Article 26.

The revised Treaty will enter into force after ratification by both countries.

This Alert summarizes the key changes to the Treaty.[1]

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Detailed discussion

Business profits (Article 7)

The term "profits of an enterprise" no longer excludes the following:

- Fees or other remuneration derived from the management, control or supervision of the trade, business, or other activity of another enterprise or concern
- Remuneration for labor or personal services

Accordingly, under the revised Treaty, the performance of professional services and of other activities of an independent character will be covered under Article 7. This is consistent with the OECD[2] Model Tax Convention where there is no separate article for independent personal services.

Interest (Article 11)

Interest paid in connection with the sale on credit of any ICS equipment, or paid in connection with the sale on credit of any merchandise by one enterprise to another enterprise shall be taxable only in the country of residence of the income recipient if such recipient is the beneficial owner of the interest.

Royalties (Article 12)

The royalty withholding tax rate has been reduced from 15% to 5%. The definition of "royalties" has also been amended to exclude payments for the use, or the right to use, ICS equipment.

Capital gains (Article 13)

The scope of the capital gains exemption has been expanded to cover gains derived from the alienation of shares in a non-land rich company where the seller (together with its related parties) does not hold a substantial interest (i.e., 25% or more) in the capital of the company.

Entitlement to benefits (NEW Article 26)

Article 26 – Entitlement to benefits has been added to the revised Treaty to include an anti-treaty abuse provision based on the principal purpose test.

Endnotes

1. For dividends, the existing withholding tax rates of 10% (for beneficial ownership of at least 25% of the capital of the company paying the dividends) and 15% are retained but the rates only apply to Singaporean residents receiving dividends from Korea as Singapore does not have domestic withholding tax on dividends.
2. Organisation for Economic Co-operation and Development.

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