

Africa Tax Desk:

Double tax treaty developments in relation to African countries



A number of tax treaties involving key territories in Africa have recently come into force. The most notable are included below.

Libya – Malta

The Libya – Malta income tax treaty, which came into force on 20 May 2010, becomes effective on 1 January 2011. The key features of the treaty are:

- The maximum withholding tax rate for dividends is 15%. This is reduced to 5% if the beneficial owner of the dividends is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends; and
- The withholding tax on interest and royalties is 5%.

Libya – Slovakia

The Libya – Slovakia income tax treaty, which came into force on 21 June 2010, becomes effective on 1 January 2011. The key features of the treaty are:

- The withholding tax on dividends is not reduced and dividends may be taxed in both states;

- The maximum withholding tax rate for interest is 10%; and
- The withholding tax on royalties is reduced to 5%.

Libya – Serbia

The Libya – Serbia income tax treaty, which came into force on 8 June 2010, becomes effective on 1 January 2011. The key features of the treaty are:

- The maximum withholding tax rate for dividends is 10%. It is reduced to 5% if the beneficial owner of the dividend is a company (other than a partnership), which holds directly at least 25% of the capital of the company paying the dividend; and
- The withholding tax on interest and royalties is reduced to 10%.

Libya – Syria

The income tax treaty between Libya and Syria, which was signed on 10 May 2007, has come into force. We understand that the treaty generally applies from 1 January 2009. No further details are available at this stage.

Libya – United Kingdom

The income tax treaty between Libya and the United Kingdom, signed on 17 November 2008, came into force on 8 March 2010. The treaty generally applies in the case of:

- Libya from 1 January 2011; and
- The United Kingdom from 1 April 2011 for corporate taxes and from 6 April 2011 for income and capital gain taxes.

Some of the features of the treaty are:

- No withholding tax is payable on dividends. However, for property investment companies, the withholding tax payable on dividends shall not exceed 15% (other than where the beneficial owner is a pension scheme); and
- The withholding tax on interest and royalties is 0%.

South Africa – Mexico

The first ever income tax treaty between South Africa and Mexico has been ratified by both countries and will come into force on 1 January 2011. Some features of the treaty are:

- The maximum rates of withholding tax are in principle, 10% on dividends, interest and royalties. However, there is a reduction to 5% in respect of dividends, where the beneficial owner is a company holding at least 10% of the capital of the company paying the dividends; and

- Capital gains are taxed in the country where the gains arise. In the case of the sale of shares or participation rights in the capital of a company, the country of residence of the seller has the taxing right, if the seller holds at least 25% of the capital of the company over a period of 12 months preceding the sale. A withholding tax of 20% applies in this case. However, if the company whose shares are being sold is land rich (i.e. at least 50% of its value relates to immovable properties), then the taxing right remains in that country.

Rwanda – Belgium

The income tax treaty and protocol between Rwanda and Belgium, which was signed on 16 April 2007, came into force on 6 July 2010. The effective date of the tax treaty is 1 January 2011.

Under the tax treaty, a dividend paid by a resident company to a resident person in the other country who is the beneficial owner of the dividend, is subject to withholding tax at a rate not exceeding 15%. However, the withholding tax is reduced to 0% if:

- The beneficial owner of the dividends at the time of payment, holds at least 25% of the capital of the paying company and for a 12 month uninterrupted period; and
- The company paying the dividend does not enjoy any special measures put in place by the Government of Rwanda for economic development.

The withholding tax on interest is 10% but special exemptions may apply. The withholding tax rate on royalties and technical fees is subject to a 10% withholding tax.

For more information, please do not hesitate to contact members of the Africa Tax Desk:

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