



Thailand, Singapore Double Tax Agreement Effective 1 January 2017

The revised tax treaty between Thailand and Singapore will become effective 1 January 2017, replacing the current treaty which was signed in 1975. Industries and transactions which may be affected by the changes include intellectual property, construction, real property, services, leasing, airlines and shipping and certain debt funding arrangements.

The major changes in the revised tax treaty are highlighted below:

Withholding Taxes

Royalties

The significant changes in relation to withholding taxes relates to royalties. Parties with cross border intellectual property, rental and leasing agreements or transactions between Thailand and Singapore should review their arrangements prior to 1 January 2017.

The revised treaty expands the definition of "royalty" to include the "use of, or the right to use, industrial, commercial, or scientific equipment". Accordingly, rental or leasing arrangements which were previously exempt from royalty withholding tax may now be subject to royalty withholding tax.

Although the definition of "royalty" has been expanded, the revised treaty limits the royalty withholding tax to a maximum rate of 10% (versus 15% in the previous treaty) and further reduces to 8% and 5% depending on the nature of the royalty.

Interest

The general interest withholding rate is reduced to 15% (from 25%) in the treaty. There may be further relief provided by the revised treaty for funding provided by financial institutions, insurance companies and government bodies.

Dividends

The amendments in the dividend article does not reduce dividend withholding tax as the local laws of Thailand and Singapore do not impose higher withholding tax rates on dividends.

Permanent Establishment Construction

The revised treaty extends the timeframe to 12 months (previously 6 months)

before a taxable presence arises for a "Construction Permanent Establishment", however, supervisory activities in connection with the "Construction Permanent Establishment" are now included in the scope of "Construction Permanent Establishment" testing.

Services

The revised treaty provides a clearer indication of when the furnishing of services or presence of employees may create a taxable presence.

Agency Permanent Establishment

There are changes in the revised treaty as to what could constitute an agency permanent establishment depending on the circumstances.

Capital Gains Tax

The revised treaty allows gains derived from the sale of shares which have 75% of their value derived directly or indirectly from immovable property as being taxable in the contracting state in which the immovable property is situated. This does not apply if the shares are listed on a recognised exchange.

Airlines and Shipping

The taxing rights of the operation of aircraft in international traffic remain with the contracting state of the enterprise. Fifty percent of the income and profits derived by an enterprise of a contracting state from the operation of ships in international traffic remain taxable in the other contracting state.

Beneficial Ownership

The revised treaty introduces "beneficial ownership" requirements for reliefs to apply, most notably in the Dividends, Interest and Royalties articles.

Limitation of Benefits Article

The Limitation of Benefits Article existing in the previous treaty has been removed such that treaty reliefs are now applicable, regardless of whether or how much of the subject income is remitted to or received in the other contracting state.

Conclusion

The revised treaty provides generally improved conditions for investment between Thailand and Singapore in many areas although extends source taxation in certain scenarios. The update to the Thailand-Singapore tax treaty has been well overdue and the changes bring the Treaty's Articles closer towards the OECD Model Tax Convention. The revised treaty's terms, a three-year time limit on Mutual Agreement Procedures and the agreement of Most Favoured Nation amendments reflects a recognition by both parties of the importance of the investment between the countries.

Action Required

If you are expecting to receive or pay any amounts that might be impacted by the above changes, please contact the following for assistance or guidance immediately:

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