



## Strategic Regions Tax Newsletter

Deloitte Tohmatsu Tax Co.

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### United Kingdom

#### 1. Treaties update: Japan

A new protocol to the double taxation treaty (DTT) between the UK and Japan, together with a new DTT between the UK and Iceland, were signed on 17 December 2013.

Important new features with respect to the new protocol to the DTT between the UK and Japan include:

- dividends paid to parent companies holding between 10 and 50% of the subsidiary paying the dividend will now be free of withholding tax (currently 5%)
- a zero rate of withholding tax will apply to a wider range of interest payments
- the business profits article 7 reflects the latest OECD text
- the taxation of capital gains on share sales is brought closer to the OECD approach
- the mutual agreement procedure article provides for mandatory binding arbitration
- the protocol contains the latest exchange of information article and provides for assistance in collection

#### 2. Late group relief claims: permission for judicial review refused

The High Court has refused an application for

permission to bring judicial review proceedings following an oral application by companies in the Guardian Media Group. The hearing arose from HM Revenue & Customs' (HMRC's) refusal to exercise their statutory discretion so as to permit adjustments to group relief claims for losses made outside the ordinary statutory time limits for making such claims.

The ordinary time limits for changing the group relief position for the periods ending March 2007 and March 2008 ended on 31 March 2009 and 31 March 2010 respectively. The claimants' argument was that, as at 31 March 2009, the Group did not know that the business of one of the group companies was going to be sold. The sale in March 2010 resulted from commercial pressure and was not structured to achieve any tax advantage. The claimants also argued that all or most of the group relief claimed by that company could have been claimed by other members of the group. The Court refused the application. The fact that Parliament allowed extension of the time period for claiming group relief where HMRC had given notice of enquiry did not assist the claimants.

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