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Japan: Inbound Tax Alert

Tax Treaty Update – Russia, Denmark and Spain

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In Brief

According to a press release of the Japanese Ministry of Finance (MOF), the Governments of Japan and the Russian Federation, as well as Japan and the Kingdoms of both Denmark and Spain, have initiated negotiations to amend their current bilateral tax treaties. The first rounds of negotiation were reported to have taken place in Tokyo on 27 March, 11 and 25 April 2017 respectively.

According to the MOF, Japan and Russia have already reached an agreement in principle on the new treaty.

Background

Russia

The existing treaty for the avoidance of double taxation with respect to taxes on income entered into force in November 1986, and was concluded between the Government of the Union of Soviet Socialist Republics (USSR) and the Government of Japan. The result of the current negotiations, however, will only affect Japan and Russia. Hence, the 1986 treaty will continue to be applicable to relations between Japan and the other countries of the former USSR, namely Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Tajikistan Turkmenistan, Ukraine and Uzbekistan.

Under the existing treaty, Japanese withholding taxes on dividends, interest and royalties are reduced to 15%, 10%, and 0/10% respectively.

Denmark

The current treaty with Denmark came into force in 1968, and reduces Japanese withholding tax rates on dividends, interest and royalties to 15% (10% in case of qualified dividends), 10%, and 10% respectively.

Spain

The existing treaty with Spain entered into force in 1974, and similar to the Denmark treaty above reduces Japanese withholding tax rates on dividends, interest and royalties to 15% (10% in the case of qualified dividends), 10%, and 10%, respectively.

Next steps

Once the Governments of Japan, Russia, Denmark and Spain have agreed (note: already an agreement in principle between Russia and Japan) and signed the amended treaties, the new treaties will need to be ratified, which in the case of Japan requires approval by the Diet, before they can enter into force.

Deloitte's View

The initiated discussions are a recent example of Japan's continuing efforts to update and expand its treaty network. We expect the new treaties to be consistent with the global shift in the tax landscape towards strengthening measures to prevent tax avoidance, increased transparency between tax authorities, and the arm's length attribution of income in accordance with transfer pricing principles.

These efforts would be in line with the aims of the OECD BEPS initiatives on anti-avoidance and transparency, as well as Japan's adoption of the authorized OECD approach (AOA) to the attribution of income to permanent establishments. Japan is considered a first-mover in regards to both initiatives in the Asia-Pacific region.

A further reduction in withholding tax rates on dividends, interest, and royalties, as well as clauses that aim to prevent double taxation, would be welcome support for investment and economic exchange between the three countries.

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