



## LT in focus

# Draft Protocol to Amend the DTA between Russia and Singapore

On 14 August 2015, the Federal Portal of Draft Laws and Regulations published the draft decree by the Russia Government "On signing the amendment protocol to the Double Taxation Agreement between the Russian Government and the Government of the Republic of Singapore." The document consists of 13 articles specifying DTA terms (e.g. "dividends") and defining new taxation rules applicable to passive income. Moreover, it will amend the informational exchange procedure between Russian and Singaporean tax authorities.

The Protocol is an inseparable part of the DTA and will enter into force on the date of the last notification of the completion of intra-state procedures, and will be applied starting from the calendar year following its entry into force.

The draft protocol introduces a number of significant amendments, including – among others – the following:

- **New criteria for what constitutes a Permanent Establishment;**
- **Dividend taxation;**
- **Interest taxation;**
- **Royalty taxation;**
- **Taxation of income derived from individual services;**
- **Limitation of benefits;**
- **Information exchange;**
- **Validation procedure for tax residency certificates**

### **New criteria will be introduced for what constitutes a Permanent Establishment (PE) to render services by a company's staff and to carry out activities via building sites or construction, installation or assembly projects**

For taxation purposes, new criteria will be introduced for what constitutes a PE in terms of rendering services in the other country through their own staff and of carrying out business activities via building sites or construction, installation or assembly projects. The new rules set out the following criteria for what constitutes a PE:

- when rendering services, including consultancy services, via company employees or other staff members in the other country for more than 183 days within any 12-month period for one or several related projects;
- when carrying out business activities via building sites or construction, installation or assembly projects, or related supervisory activities for over 12 months (the previous time threshold exceeded 6 months).

### **Dividends taxation**

The dividends tax rate will not be amended, but the terms and conditions for applying the reduced dividend rate (5%) will be amended, as well as the definition of "dividends."

Moreover, anti-abuse mechanisms limiting the application of benefits stipulated by the article "Dividends" will be introduced.

- **Rates**

The right to the reduced rate of 5% on dividends will be granted to actual beneficiaries, provided the beneficiary is represented by a company owning at least 15% of the shares of the dividends-paying company. The participation value requirement will be abolished.

According to the current DTA, the reduced dividend rate is only available to actual beneficiaries that have directly invested an amount equivalent to or greater than \$100,000.

- **Definition of dividends**

Payments on real estate investment fund units and other collective investments will be equated to dividends. Here, the tax applied to the source constitutes 10%.

Income from depository receipts will be equated with dividends as well.



- **Limitation of benefits**

An anti-abuse paragraph in article 10 "Dividends" clarifies that the treaty benefit would not be granted if the main or one of the main purposes of creating or transferring the income-bearing rights is to take advantage of treaty benefits.

#### **Interest taxation**

Interests emerging in one country and paid out to a resident of the other country are only subject to taxation in the country in which the beneficiary resides.

The protocol currently in force provides the possibility of withholding interest tax from the source at a rate of 7.5%, provided the beneficiary possessed the actual right thereto.

Moreover, an anti-abuse rule similar to the one described in the section "Dividends" will be introduced.

#### **Royalty taxation**

The royalty taxation procedure will also be amended.

- **Rates**

The royalty tax rate will be reduced from 7.5% to 5%.

- **Definition of royalties**

The new protocol will exclude any payments based on the concept of "royalties" that were obtained as remuneration for using or granting the right to use know-how or industrial, commercial or scientific equipment. Moreover, an anti-abuse rule similar to the ones described in the sections "Dividends" and "Interests" will be introduced.

#### **Taxation of income from independent personal services**

A new time threshold will be introduced for taxation by one country of income earned on its territory by residents who are citizens of the other country.

Under the amendment, if a citizen of Country A who is residing in Country B derives income from professional services or other activities of an independent character on the territory of Country B, this income may be subject to taxation by Country B. For this to apply, the income must have been earned for services rendered in the country of residence within a period or periods totaling 183 days within any 12-month period. The protocol currently in force stipulates a period of 90 days.

#### **Limitation of benefits**

The clause that used to limit the application of Russian benefits down to the portion of income that was not paid out in Singapore will be abolished. A general rule will be introduced instead not to apply the DTA to any individual who becomes eligible under the DTA if the individual's only purpose is to take advantage of tax benefits or exemptions (excluding individuals engaged in real business activities).

#### **Expanding the potential of information exchange between state authorities**

The information exchange procedure between Russia and Singapore will be amended, and the range of information that can be requested by the competent authorities of the corresponding countries will be expanded. In addition to the tax information stipulated by the DTA, additional tax information will be exchanged between the countries so long as it is not in violation of the DTA.

#### **Validation procedure for tax residency certificates**

A tax residency certificate (or any other document) issued by the countries' competent authorities does not need to be validated or affixed with an apostille in order to be recognized in the other country.

\*\*\*

We sincerely hope the information presented in this issue is useful and interesting. Should you have any questions on these topics, please feel free to contact our specialists.

# Contacts

**Elena Solovyova**

**Partner**

+7 (495) 787 06 00

[esolovyova@deloitte.ru](mailto:esolovyova@deloitte.ru)

**Yulia Krylova**

**Director**

+7 (495) 787 06 00

[ykrylova@deloitte.ru](mailto:ykrylova@deloitte.ru)

**TaxSmart app**



## deloitte.ru

### About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a more detailed description of DTTL and its member firms. Please see [www.deloitte.ru/en/about](http://www.deloitte.ru/en/about) for a detailed description of the legal structure of Deloitte CIS.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries and territories, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte’s more than 210,000 professionals are committed to becoming the standard of excellence.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.