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- Revised Indonesia-Singapore Tax Treaty

Revised Indonesia-Singapore Tax Treaty

The Governments of Indonesia and Singapore signed a new tax treaty on 4 February 2020 to replace the current treaty which was signed in 1990. The new treaty will enter into force after ratification by both countries and the new provisions will apply to amounts paid or credited on or after 1 January following ratification.

Among the notable changes are the ***inclusion of a capital gains provision and reduced royalty rates***. While many provisions remain the same as the current treaty, we highlight the more significant changes below.

Withholding Taxes

Royalties

The current withholding tax rate for all royalties is 15%. This is changed under the new treaty to:

- 10% on payments for the use of, or right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process.
- 8% on payments for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

Branch profits tax

The branch profits tax rate for permanent establishments is reduced from 15% to 10%. As under the current protocol, this does not apply to oil and gas production sharing contracts or contracts of work in the mining sector.

Dividends

The withholding tax rates on dividends are unchanged:

- 10% if the beneficial owner is a company which holds at least 25% of the capital of the dividend-paying company
- 15% in all other cases

Interest

The withholding tax rate on interest remains 10%. However, certain changes to this article include:

- A larger number of institutions will qualify as “government” and, therefore, not subject to withholding tax on interest.
- The exemption for government-issued bonds and debentures is removed.

Capital Gains

There is a new provision regarding capital gains. In general, gains from the transfer of any property, including shares, are only taxable in the country where the transferor is resident, with the following exceptions:

- Gains from the transfer of immovable property may be taxed in the country where the property is located.
- Gains from the transfer of movable property which is part of a permanent establishment or fixed base may be taxed in the country where the permanent establishment or fixed base is located.
- Gains from the transfer of ships or aircraft which operate in international traffic are only taxable in the country where the transferor resides.
- Gains from the transfer of unlisted shares which (i) derive more than 50% of their value from immovable property and (ii) the transferor owns at least 50% of all issued shares, may be taxed in the country where the property is located. However, this does not apply to gains from the transfer of shares which derive value from immovable property in which the company carries on business or which arise from a reorganization, merger or other restructuring.
- Gains from the transfer of shares listed on an Indonesian stock exchange may be taxed in Indonesia.

Other

- The time test for employment is 183 days in any 12-month period (currently in a calendar year).
- A new provision on Other Income provides that income not covered in the tax treaty can be taxed in the country where the income arises.
- The scope of the Exchange of Information clause is wider and will cover all taxes, not only those covered by the treaty. In addition, a request for information must be entertained, even if the other country doesn't need the information for its own tax purposes. This is in line with the 2017 OECD Model Tax Convention.
- The Entitlement to Benefits article is included to counter tax treaty abuse. Treaty benefits can be denied if the principal purpose for entering a transaction or arrangement was to improperly take advantage of the tax treaty.

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