

Financial Services Tax News

April 2008

PwC Japan Tax Newsletter

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New Japan-France Tax Treaty - Effective

The Protocol to amend the Convention between Japan and France for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion and Fiscal Fraud with respect to Taxes on Income became effective on the completion of the ratification procedures by both Japan and France on December 1, 2007. The protocol amended the original treaty signed by Japan and France in 1996 (the "Old Treaty").

The amended Japan and France tax convention (the "New Treaty") was introduced in our earlier Newsletter issued in February 2007. This Newsletter focuses mainly on the outline of the reduced tax rates which apply to investment income and the effective dates of the New Treaty.

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Reduced tax rate applicable to each type of income and Limitation on Benefits

Reduced tax rate applicable to each type of income

The New Treaty amended the reduced tax rate in the source country on dividends, interest and royalties as follows. The taxation of the capital gains from sale has not changed substantially.

(1) Dividends

Where a Japanese resident company pays dividends:

	Old Treaty			New Treaty	
	Beneficial owner		Reduced tax rate	Beneficial owner	Reduced tax rate
Dividends between affiliated companies	A company holding directly at least 15% of the voting shares in the company paying the dividend for the 6 months period prior to the end of the fiscal year for which the distribution of profits takes place	Qualified resident (*1)	0%	A French resident company holding directly at least 15% of the voting shares in the company paying the dividend for the 6 month period prior to the date on which the entitlement to the dividend is determined. (*2)	0%
				A French resident company holding directly or indirectly at least 25% of the voting shares in the company paying the dividend for the 6 month period prior to the date on which the entitlement to the dividend is determined. (*2)	
	Resident other than above	5%	A French resident company holding directly or indirectly at least 10% of the voting shares in the company paying the dividend for the 6 month period prior to the date on which the entitlement to the dividend is determined. (*2)	5%	
Other than above	15%			10%	

(*1) Qualified resident means (i) a corporation publicly listed in France or Japan or (ii) a corporation more than 50% of whose shares are directly or indirectly owned by national government, local authority or its agency of France or Japan (or a qualified country), owned by individuals who are residents of France or Japan (or a qualified country) and/or owned by corporations publicly listed in France or Japan (or a qualified country).

(*2) Dividends paid by a *tokutei mokuteki kaisha* (a special purpose company often used in real estate investments in Japan) or a J-REIT (Japan Real Estate Investment Trust), which, subject to certain conditions, can deduct dividends paid from their income, are not entitled to either the 5% reduced tax rate or the full exemption. Dividends from these entities will instead be subject to the 10% reduced tax rate.

Where a French resident company pays dividends:

	Old Treaty			New Treaty	
	Beneficial owner		Reduced tax rate	Beneficial owner	Reduced tax rate
Dividends between affiliated companies	A company holding directly or indirectly at least 15% of the outstanding shares in the company paying the dividend for the 6 months period prior to the end of the fiscal year for which the distribution of profits takes place	Qualified resident (*1)	0%	A Japanese resident company holding directly or indirectly at least 15% of the outstanding shares in the company paying the dividend for the 6 month period prior to the date on which the entitlement to the dividend is determined.	0%
		Resident other than above	5%	A Japanese resident company holding directly or indirectly at least 10% of the outstanding shares in the company paying the dividend for the 6 month period prior to the date on which the entitlement to the dividend is determined.	5%
Other than above	15%			10%	

(2) Interest

Old Treaty		New Treaty	
Beneficial owner	Reduced tax rate	Beneficial owner	Reduced tax rate
Certain entities such as governmental bodies or the central bank	0%	Certain entities such as governmental bodies or the central bank; or Certain beneficiaries including banks, insurance companies and securities dealers	0%
Other than above	10%	Other than above	10%

(3) Royalties

Old Treaty	New Treaty
10%	0%

Limitation on Benefits

Under the Old Treaty, benefits were available principally to residents of either Contracting State who satisfied certain conditions contained in each particular income provision. The Old Treaty did not contain any other general limitation on benefits provisions. Whilst the New Treaty applies more broadly to reduce the rates of withholding tax on investment income, it also contains a comprehensive limitation on benefits provision to limit treaty benefits to qualifying residents of Japan and France. The limitation on benefits provision applies to business income, dividends that may be fully exempted, interests that may be fully exempted, royalties, capital gains and other income.

Tokumei Kumiai

The New Treaty provides new rules under which gains or profit distributions arising from a tokumei kumiai ("TK") contract or similar contract in the source country may be taxed under the domestic law of the source country. The New Treaty clarifies that TK profit distributions paid by a Japanese TK operator to a French TK investor are subject to Japanese domestic withholding tax at 20%.

Effective Dates

The New Treaty will apply on or after the following dates:

	France	Japan
Withholding taxes	Applicable to taxable amounts on or after January 1, 2008	Applicable to taxable amounts on or after January 1, 2008
Other taxes on income	Applicable to income in any calendar year or taxable year commencing on or after January 1, 2008	Applicable to income in any taxable year commencing on or after January 1, 2008
Other taxes	Applicable to any taxable events on or after January 1, 2008	Applicable to tax in any taxable year commencing on or after January 1, 2008

For more detailed information, please do not hesitate to your financial tax services representative or any of the following members:

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