
France and KSA announce treaty application on royalty

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In brief

In a recent tax case involving application of the provisions of the Saudi Arabia (KSA) and France double tax treaty, the Preliminary Objection Committee (“PoC”) has ruled in favour of a taxpayer resident in France with regard to application of withholding taxes (“WHT”) on royalties.

In detail

In terms of the KSA domestic Tax law, a 15% WHT rate is applicable on royalties paid from a KSA resident to a non-resident. However, based on the provisions of Article 8 of the KSA/ France tax treaty, “*Royalties arising in KSA and paid to a resident of France shall be taxable in France.*”

Accordingly, in the absence of any reduced WHT rates, no WHT should apply on payment of royalties from KSA to France. The GAZT initially challenged the approach of adopting no WHT on royalties paid to France, however based on the PoC decision a ruling was made in favour of the taxpayer.

The above decision is significant for cases involving French companies with licensing and royalty arrangements with KSA residents.

KSA double tax treaties update

In its continued advancement and active approach to negotiating and signing double tax treaties, KSA has now become a leading country in the region when it comes to the number of double tax agreements signed and in place. The number of tax treaties signed or in various stages of negotiation has reached almost 60.

More recently, countries such as Switzerland, Cyprus, Mexico, Hong Kong, Slovakia, Georgia, Belgium, Bulgaria, Morocco, Gabon, Sri Lanka, Sudan have either signed, ratified or initiated treaty discussions with KSA. Interestingly KSA has also announced negotiations for a double tax treaty with the UAE, the first with any GCC state.

Other international tax treaty update

It may be useful to note that KSA has signed up to the following international tax related agreements which have significant implications for multi-national businesses in KSA. The provisions of these treaties need to be considered from a tax planning, investment structuring and reporting perspective:

- OECD Automatic Exchange of Financial Account Information Agreement
- Multilateral Convention on Mutual Administrative Assistance in Tax Matters
- USA FATCA Model Agreement

The takeaway

Given the decision of the tax authorities with regard to the France/KSA tax treaty application, it may be useful for taxpayers to assess their current arrangements with treaty countries to gauge whether similar facts/ circumstances may be useful in availing treaty benefits.

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