

Oman ratifies the Double Tax Treaty with Russia and Tax Authority's Announcement on Automatic Exchange of Information "AEOI"

January 2024



In brief

A Royal Decree issued in Oman ratifying the Double Tax Treaty with Russia.

On 8 June 2023, Oman and Russia (“the contracting states”) signed a Double Tax Treaty (“DTT”), A Royal Decree (RD 89/2023) was issued on 27 December 2023 by His Majesty the Sultan of Oman, ratifying the DTT which was published in the Official Gazette on 31 December 2023.

Given that Oman and Russia have both ratified and formally notified each other of the completion of the ratification procedures, the DTT will come into effect in 1 January 2024.

We note that the DTT adopts combination of provisions of Organization for Economic Co-operation and Development (OECD) Model and the UN Model Tax Conventions. Both Oman and Russia are members of the Base Erosion and Profit Shifting (BEPS) inclusive framework and have signed the Multilateral Instrument (MLI) agreement.

In this news alert, we provide our preliminary analysis of the DTT, which can be summarised as follows :

- Foreign national residents of Oman or Russia may benefit from the DTT
- The Permanent Establishment (“PE”) wording is mostly in alignment with the OECD Model. The DTT also provides that a PE would also arise if a building site, construction, assembly or installation project in the other contracting state lasts for a period of more than nine months and in case of furnishing of services, including consultancy services lasts for a period of more than six months.
- The DTT provisions will become effective as of the first day of January of the calendar year following the entry into force of the DTT for withholding tax (“WHT”), while for other taxes from for any tax year starting from the first day of January of the calendar year following the entry into force.
- Below are the WHT rates provided in the DTT in comparison with domestic laws of the contracting states:

Payment	Domestic rate Oman	Domestic rate Russia	DTT
Interest	*10%	20%	10%
Services	10%	20%	exempt
Royalties	10%	20%	10%
Dividends	*10%	15%	**10/15%

Additionally, Oman Tax Authority (OTA) has released an announcement regarding the issue Automatic Exchange of Information “AEOI” portal

On 28 December 2023, OTA has issue an announcement with relation to the non availability of AEOI portal due to rebuilding of new system in which it has announced several guidance including extension of the Country by Country reporting notification (“cbCr notification”) which was due by 31 December 2023 for taxpayers who has a year ending on the same day.

*Royal Directive issued by His Majesty Sultan Haitham bin Tarik on the occasion of Accession Day on 11 January 2023 called for the complete suspension of withholding tax on the distribution of dividends and interest on non-resident investors.

*10% applies if the beneficial owner of the dividends is a company that owns at least 20% of the company that pays the dividend for period of 365 days ending on the date on which entitlement to the dividends is determined . Rate capped to 15% in all other cases.

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OTA has issued an announcement regarding the Automatic Exchange of Information portal.



Oman-Russia DTT

In detail

Summary of the key provisions of the DTT

We have summarised below the key provisions contained in the DTT which could have an impact on the cross border transactions of businesses resident in both contracting states.

Persons covered (Article 1) : Oman and Russia resident individuals and companies have access to the DTT. For individuals, residency for DTT purposes is not limited to Oman and Russia nationals only. Foreign national individuals who are tax resident in Oman or Russia can also benefit from the DTT.

Residents covered by the DTT include: (i) any person liable to tax by reason of domicile, residence, place of head or main office, place of registration or incorporation (ii) the contracting states or any statutory body, political subdivision or local authority.

The DTT contains a tie-breaker rule for corporate tax residence which is based on the place of effective management of the company. The current rule for determining DTT residence under the 2017 OECD Model Tax Convention is the mutual agreement procedure.

Taxes covered (Article 2) : The DTT covers taxes on income and capital including taxes on profits resulting from the disposal of movable and immovable property, and taxes on the total amounts of wages or salaries paid by the projects, as well as taxes on capital appreciation.

PE (Article 5) : The definition of a PE under the DTT is similar to the definition under OECD Model Tax Convention. This is also true in respect of the determination of a dependent agent PE.

The DTT also contain a “service PE” clause, it provides that a PE would arise in case of furnishing of services, including consultancy services by an enterprise through employees or other personnel engaged by the enterprise for such purpose , but only if activities of that nature continue (for the same or a connected project) within a contracting state for a period or periods aggregating more than six months within any twelve month period.

Business profits (Article 7): The DTT provides that profits of a company are not subject to tax in the other contracting state unless the company carries on its business in that other contracting state through a PE.

In addition, the DTT provides that items of income that are not specifically dealt with in the DTT are taxable only in the contracting state where the recipient is resident.

As such, income from services that are not delivered through a PE in the other contracting state should be exempt from WHT and other forms of taxation in that state. Where activities do give rise to a PE, the DTT provides guidance on the mechanisms to attribute profits to such PE.

International shipping and air transport (Article 8): The DTT provides that profits derived by an enterprise in a contracting state from the operation of ships and aircraft in international traffic are only taxable in that contracting state.

Dividends (Article 10) :The DTT provides that a rate of 10% would be applied on dividends if the beneficial owner of the dividends is a company that owns 20% of the company that pays the dividend or 15% of the gross amount if dividends in all other cases.



Oman-Russia DTT

Summary of the key provisions of the DTT (Cont'd)

Income from interest (Article 11): WHT on interest payments is capped at 10%. The definition of interest under the DTT includes interest from government securities, bonds and debentures, premiums and prizes, other bonds or debentures, and other income if the essence of the basic contract can be compared to a loan.

Royalties (Article 12) : WHT on royalty payments (which includes payments for the use of or the right to use industrial, commercial or scientific equipment) is capped at 10%.

Capital gains (Article 13): No exemption on gains arising on moveable and immovable property from taxation in the other contracting state.

Elimination of double taxation (Article 22): Elimination of double taxation is provided in the DTT by way of a credit against tax payable in Oman and Russia to the extent of tax payable in respective jurisdiction.

Mutual Agreement Procedure (Article 24): Taxpayers are allowed to seek assistance from their local competent authority in resolving disputes relating to the interpretation of the DTT, within a period of three years (from the date of the “notification” of the dispute to the relevant tax authority).

Entitlement to benefits (Article 26): In response to the BEPS Action 6, which deals with treaty shopping arrangements, the DTT includes the so-called Principal Purpose Test (“PPT”) to provide that no benefit would be granted to the taxpayer under the DTT if it is reasonable to conclude that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit unless the taxpayer establishes that granting that benefit was in accordance with the object and purpose of the DTT.

As such, it is important that Oman and Russia entities seeking to claim relief under the DTT have appropriate operational substance and can support a principal commercial purpose. This is in addition to meeting the minimum substance and procedural requirements set by Russia (as of date, Oman has no clear guidance or specific regulations related to economic substance).

Entry into force (Article 30) : Each of the two contracting states shall notify the other contracting state in writing, that the internal procedures required by each contracting state for the entry into force of the DTT have been complied with. The DTT shall be effective as of the date of the last of these two notifications. At that time, the DTT will be enforceable according to the following: (i) with regard to WHT: on amounts paid or credited to the account as of the first day of January of the calendar year following the entry into force of the DTT. (ii) with regard to other taxes: for any tax year starting from the first day of January of the calendar year following the entry into force of the DTT.



AEOL portal

In detail

Due to the AEOL portal issue, the Oman Tax Authority has announced the following key matters:

- The deadline for CbCR notifications for affected entities has been extended until the AEOL portal becomes accessible. No date has been notified as to when the portal will be ready.
- Once the new portal is available, affected entities must undergo re-registration to submit CbCR notifications and reports.
- The OTA has notified that no fines or penalties will be imposed for delayed CbCR notifications resulting from the unavailability of the AEOL portal.

Detailed instructions, including guidance on re-registration, will be issued by the OTA in the near future.

The takeaway

The DTT between Oman and Russia is expected to facilitate further cross-border trade and investment between the two countries.

It provides for some important changes to the taxation of payments between the two countries and includes a definition of the types and levels of activities that would create a taxable presence in the other country. This may reduce taxation and compliance obligations and provide taxpayers with greater certainty.

Businesses should review their operating structures in light of the DTT, assess the impact of it on their activities, and determine how can they make best use of the tax benefits provided by the DTT.

Both Oman and Russia has ratified the DTT, therefore the DTT become effective starting 1 January 2024.

Moreover, upon the availability of the AEOI, the required entities would be required to adhere to the additional instructions provided by OTA to fulfill the necessary re-registration and filing procedures.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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Thank you