PwC Tax Insight # 23/2016

TAX & LEGAL UPDATE

TAX & LEGAL Services

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Heading :

New Thailand-Singapore Double Tax Treaty will soon be effective

The following report may be of interest to :

All clients

Summary :

We summarised the main features of the new Thailand-Singapore Double Tax Treaty in our Tax Newsletter No. 7/2015. This new treaty will replace the current double tax treaty for the tax years starting from 1 January 2017.

We'd like to remind you about some of the major changes in the new treaty that will affect the withholding tax compliance of Thai companies that have transactions with Singaporean companies. In particular, you should take note of the following when you make payments from 1 January 2017 onwards:

- Withholding tax rates for royalties

  The current withholding tax rate of 15% applied to payments for royalties will be abolished. The new rates will vary depending on the type of royalty, as follows:

  - 5 % for the use of or the right to use any copyright of literary, artistic or scientific work, including cinematograph films, or films or tapes used for radio or television broadcasting.
  - 8 % for the use of or the right to use any patent, trade mark, design or model, plan, secret formula or process, or for the use of or the right to use industrial, commercial or scientific equipment.
  - 10 % for all other cases.

- Equipment leases

  Under the current treaty, lease payments for industrial, commercial or scientific equipment fall under the business profit article and therefore would not be subject to withholding tax if the lessor does not have a permanent establishment in the lessee's country.

  However, this benefit will no longer be available under the new treaty as the definition of "royalty", as noted above, will include "the payment for the use of or the right to use industrial, commercial, scientific equipment". Therefore, lease payments for such equipment would be re-categorised as royalties under the new treaty and accordingly would be subject to withholding tax at the rate of 8%.

- Capital gain from the sale of shares

  Under the current treaty, the payment of a capital gain from the sale of shares from Thailand to Singapore is not subject to withholding tax in Thailand since the current treaty has given the taxing right only to the country of residence of the seller.

  However, from next year, Thailand will be entitled to tax the gain derived by a Singaporean resident shareholder on the sale of shares of a "land-rich" Thai company.

The condition is that the shares must be issued by a non-listed Thai company deriving at least 75% of its value directly or indirectly from immovable properties in Thailand. Hence, such capital gains will be subject to withholding tax at the rate of 15%.

Nevertheless, in other cases, capital gains will remain taxable only in the country of residence of the seller.

For further information, please contact:

Your regular PwC contact person.