Double Taxation

Conventions / Agreements

25 May 2005
Purpose of Agreements

⇒ To remove barriers to cross-border trade and investment
How treaties remove tax barriers

- Elimination of double taxation
- Certainty of tax treatment
- Reduce withholding tax rates
- Prevention of fiscal evasion
- Assistance in collection
- Resolution of tax disputes/interpretation
South Africa – Ghana
Double Taxation Convention
Introduction

- Closely follows the OECD Model Convention, which forms the foundation for the vast majority of Double Taxation Agreements (DTA’s) worldwide

- A number of articles are different from the OECD Model Convention. These articles and other articles of interest in the South Africa – Ghana Double Tax Convention are as follows…
Article 2: Taxes Covered

Specific reference is made to capital gains. This is not vital as it is actually a tax on income.
Article 5: Permanent Establishment

- **Construction**
  - 12 months in OECD Model
  - 6 months in UN Model
  - 6 months in South Africa – Ghana DT Convention

- Independent Services are dealt with under Article 14
Article 10: Dividends

- Withholding tax of 5% or 15% proposed by OECD Model

- In practice, withholding taxes vary widely internationally

- Dividend rate in South Africa – Ghana DT Convention
  - 5% for shareholding of at least 10%
  - 15% on all others
Articles 11: Interest

- Withholding tax of 10% proposed by OECD Model
- In practice, withholding taxes vary widely internationally
- South Africa – Ghana DT Convention:
  - 5% for banks
  - 10% all others
Article 12: Royalties

- No withholding tax proposed by OECD Model
- In practice, withholding taxes vary widely internationally
- South Africa – Ghana DT Convention
  - Article 12: Royalties: 10%
Article 14: Independent Personal Services

Independent services are dealt with in this Article. The Source State may tax if the threshold of fixed base or 183 day physical presence is exceeded.
Pensions under a Social Security system are taxable only in the State which pays the pension.
Article 20: Management Fees

- Management fees – 10% taxation allowed in source State
- Managerial, technical or consultancy fees
- Reduces Ghana’s rate from 20% to 10%
Article 21: Professors or Students

 директор Teachers:

- Exempt in the host State for up to two years.
- Remuneration must come from outside that state.
Article 23: Limitation of Benefits

⇀ Limitation

➢ Ghana taxes foreign income only when remitted.
➢ Income not remitted and not taxed will, therefore, not qualify for benefits.
Article 25: Non-discrimination

⇒ Provides that Ghana’s Branch Profits Tax and the South African tax on branches will not be considered discriminatory.
South Africa – Turkey
Double Taxation Agreement
Introduction

- Closely follows the OECD Model Convention, which forms the foundation for the vast majority of Double Taxation Agreements (DTA’s) worldwide

- A number of articles are different from the OECD Model Convention. These articles and other articles of interest in the South Africa – Turkey Double Tax Convention are as follows…
Paragraph 3

The rule for resolving dual residence provides that where place of effective management and legal head office of a company are in two States, the competent authorities must resolve the dispute by mutual agreement.
Article 5: Permanent Establishment

⇒ Construction
  ➢ 12 months in OECD Model
  ➢ 6 months in UN Model
  ➢ 12 months in South Africa – Turkey DTA

⇒ Independent Services are dealt with under Article 14
Article 10: Dividends

- Withholding tax of 5% or 15% proposed by OECD.

- In practice, withholding taxes vary widely.

- Dividend rate in South Africa – Turkey DTC
  - 5% if shareholding is at least 25%
  - 10% on all other dividends

- Paragraph 3 deals with the Turkish Branch Profits Tax and limits it to 10%
Articles 11: Interest

- Withholding tax of 10% proposed by OECD Model

- In practice, withholding taxes vary widely internationally

- South Africa – Turkey DTA: 10%
Article 12: Royalties

- No withholding tax proposed by OECD Model
- In practice, withholding taxes vary widely internationally
- South Africa – Turkey DTA: Royalties: 10%
Article 13: Capital Gains

Source State retains a taxing right for Capital Gains Tax if an asset (not dealt with in the other paragraphs) is sold within a year of acquisition.
Paragraph 2

Payments under a social security system are taxable only in the State which pays the pension.
Article 20: Teachers and Students

⇒ Paragraph 2

➢ Teachers – visit less than 2 years – remuneration from outside – exempt.
South Africa – Gabon
Double Taxation Agreement
Introduction

- Closely follows the OECD Model Convention, which forms the foundation for the vast majority of Double Taxation Agreements (DTA’s) worldwide

- A number of articles are different from the OECD Model Convention. These articles and other articles of interest in the South Africa – Gabon Double Tax Convention are as follows…
Article 5: Permanent Establishment

- **Construction**
  - 12 months in OECD Model
  - 6 months in UN Model
  
  - South Africa – Gabon DTA
  - Construction: 6 months
  - Services through employees: 6 months
  - Independent personal services: 6 months
Article 6: Income from Immovable Property

⇒ Paragraph 4

➢ Deals with situation where share ownership entitles owner to enjoyment of immovable property owned by the company. It specifies that the value of the enjoyment may be taxed where the property is situated.
Article 10: Dividends

- Withholding tax of 5% or 15% proposed by OECD Model

- In practice, withholding taxes vary widely internationally

- Dividend rate in South Africa – Gabon DT Convention
  - 5% if shareholding at least 25%
  - 15% on all others
Articles 11: Interest

- Withholding tax of 10% proposed by OECD Model
- In practice, withholding taxes vary widely internationally
- South Africa – Gabon DTA: 10%
Article 12: Royalties

- No withholding tax proposed by OECD Model
- In practice, withholding taxes vary widely internationally
- South Africa – Gabon DTA: Royalties: 10%
South Africa – DRC
Double Taxation Agreement
Introduction

- Closely follows the OECD Model Convention, which forms the foundation for the vast majority of Double Taxation Agreements (DTA’s) worldwide.

- A number of articles are different from the OECD Model Convention. These articles and other articles of interest in the South Africa – DRC Double Tax Convention are as follows…
Construction

- 12 months in OECD Model
- 6 months in UN Model

South Africa – DRC DTA
- Construction: 6 months
- Services through employees: 183 days
- Independent personal services: 183 days
Paragraph 3 uses the UN wording but the interpretation is the same.
Article 8: International Transport

International traffic includes rail and road transport.
Article 10: Dividends

- Withholding tax of 5% or 15% proposed by OECD Model

- In practice, withholding taxes vary widely internationally

- Dividend rate in South Africa – DRC DT Convention
  - 5% if shareholding at least 25%
  - 15% on all others
Articles 11: Interest

- Withholding tax of 10% proposed by OECD Model
- In practice, withholding taxes vary widely internationally
- South Africa – DRC: 10%
Article 12: Royalties

- No withholding tax proposed by OECD Model

- In practice, withholding taxes vary widely internationally

- South Africa – DRC: Royalties: 10%
Article 17: Pension and Annuities

Pensions paid under a social security system are taxable only in the State which pays the pension.
Paragraph 6 specifies that the Congo’s Branch Profits Tax and our tax on foreign branches is not discriminatory.