

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.



Article 18: Pension and Annuities

⇒ 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

⇒ 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



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Article 4: Resident

⇒ 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.



Article 18: Pensions

⇒ 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



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- ⇒ 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

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 - 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...



Article 5: Permanent Establishment

⇒ 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



Article 7: Business Profits

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.



Article 22: Non-discrimination

⇒ Paragraph 6 specifies that the Congo's Branch Profits Tax and our tax on foreign branches is not discriminatory.

