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Withholding Tax Reclamation and Tax Relief in Taiwan

Understanding Taiwan's Double Tax Agreements

A Foreign Entity invested in Taiwan may apply for withholding tax reclamation or tax relief if it is domiciled in a country that has a Double Tax Agreement with Taiwan.

Background

Taiwan currently has Double Tax Agreements (DTA) with 34 countries. All foreign entities that are domiciled in one of the 34 countries, if applicable, are entitled to a lower preferential withholding tax rate on dividends.

To qualify for preferential withholding tax rates under DTA

In general, institutional investors investing in Taiwan need to first open a FINI (Foreign Institutional Investor) account in order to invest in Taiwan listed shares. In Taiwan, a special application needs to be submitted to the tax office in order to qualify for preferential withholding tax rates under DTA. Custodian banks in Taiwan do not handle such applications for clients. Accordingly, if no action is taken then the general withholding tax rate of 21% (20% prior to 2018) on dividends get applied.

Withholding tax refund vs Relief at source

There are two ways in which institutional investors can make use of the DTA. They can either apply for tax relief known as Relief at Source (RAS) **before** the withholding tax has been deducted. Once approved, the tax office will send approval letters to investee companies authorizing them to apply the favorable withholding tax to dividend payments. Such approval is normally granted for a period of 1~2 years.

Alternatively, companies can apply for reclamation for the differential amount between the general withholding tax rate and the preferential withholding tax rate noted in the DTA **after** the tax has already been deducted. One can go back for a maximum period of 5 years for applying withholding tax refund.

List of required documents for applying for DTA benefits

(1) Original Power of Attorney (POA) : original document authorizing the CPA firm to file the application

(2) Original Certificate of residence (COR)/ Tax residency certificate for the applicable year

(3) Original Beneficial Ownership Letter (BOL): notarization required.

(4) Copy of the Prospectus or the latest version of the financial statements if available.

(5) Cash/ Stock Dividend Reports (if applicable)

(6) Copy of the certificate of registration for the FINI account (CRC)

(7) Authorization to the custodian bank to release details of the FINI account to the CPA firm preparing the tax application.

Tax residency status of beneficiaries behind the institutional investors

For most countries, the tax office will disclose the percentage of investors qualifying as tax residents behind the institutional investors on the tax residency certificate. The Taiwan tax office would then apply this percentage when granting withholding tax refunds or RAS approval. In the case of Luxembourg, the Luxembourg tax office has never been willing to disclose the percentage of investors qualifying as tax residents behind the institutional investor nor to provide details of beneficiaries. This resulted in Luxembourg institutional investors not being able to apply for DTA benefits in Taiwan. However, this issue has now been resolved. The Taiwan Tax Office has decided to rely solely on the declaration statement for evaluating the percentage of investors qualifying as tax residents behind the institutional investors for Luxembourg.

For example:

The Taiwan DTA with Luxembourg for dividend withholding tax is 15%. Taiwan's general withholding tax rate for dividends is 21% so the differential of 6% can be reclaimed if the company can provide the required documentation and file an application to the tax office.

*Please note that Taiwan allows up to 5 years of retrospective claims from the actual tax payment date.

Double Tax Agreement table

Grant Thornton Taiwan has compiled a DTA table that lists all 35 countries and the lower preferential rate for each country as well as the differential that can be reclaimed as follows.

It is important to note that the DTA for each country is different. Tax relief included in each DTA goes beyond just dividends, royalties, and interest. Therefore if your company is resident in a DTA country and you are not sure as to whether or not you have applied for all available tax relief, please feel welcome to contact us for assistance.

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Appendix

List of countries that have signed DTAs with Taiwan:

Country	Withholding Tax Rate	DTA Rate
Australia	21% (20% prior to 2018)	10%[1], 15%
Austria		10%
Belgium		10%
Canada		10%[2], 15%
Czech Republic		10%
Denmark		10%
France		10%
Gambia		10%
Germany		10%, 15%[3]
Hungary		10%
India		12.5%
Indonesia		10%
Israel		10%
Italy		10%
Japan		10%
Korea		10%

Country	Withholding Tax Rate	DTA Rate
Kiribati	21% (20% prior to 2018)	10%
Luxembourg		10%, 15%[4]
North Macedonia		10%
Malaysia		12.5%
New Zealand		15%
Netherlands		10%
Paraguay		5%
Poland		10%
Saudi Arabia		12.5%
Senegal		10%
Singapore		40%[5]
Slovakia		10%
South Africa		5%[6], 15%
Eswatini		10%
Sweden		10%
Switzerland		10%[7], 15%
Thailand		5%[8], 10%
UK		10%, 15%[9]
Vietnam		15%

Notes

1. A rate of 10% applies for shareholders that are companies (other than partnerships) with at least a 25% shareholding percentage.
2. A rate of 10% applies for shareholders that are companies with at least a 20% shareholding percentage.
3. A rate of 15% applies to dividends derived from a real estate investment company.
4. A rate of 15% applies for shareholders/creditors that are a collective investment vehicle and treated as a corporate body for tax purposes.
5. The total tax burden of CIT and dividends tax is not to exceed 40% of the total profits of the company.
6. A rate of 5% applies for shareholders with at least a 10% shareholding percentage.
7. A rate of 10% applies for shareholders with at least a 20% shareholding percentage.
8. A rate of 5% applies for shareholders with at least a 25% shareholding percentage.
9. If the income (including gains) from which dividends are paid by the UK entity is directly or indirectly derived from UK real estate as specified in Article 6, the tax levied by the UK on such dividends shall not exceed 15% of the total dividend amount. However, if the beneficial owner of the dividends is a pension fund from our country, a 10% tax rate shall apply.