

KPMG Japan e-Tax News



TAX UPDATES

NEW JAPAN-BELGIUM TAX TREATY – SIGNED

On 12 October 2016, the government of Japan and the government of the Kingdom of Belgium signed the 'Convention between Japan and the Kingdom of Belgium for the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance' (new treaty). This new treaty will supersede the current tax treaty, which entered into force in 1970 and was partly amended in 1990 and in 2013.

We have set out in this e-Tax News the main points of the new treaty.

1. Reduction in Tax Rates on Investment Income in the Source Country

Reduced tax rates on dividends, interest and royalties in the source country will be further reduced as follows:

(1) Dividends (Article 10)

[Current treaty]

Beneficial owner	Reduced tax rates
A company holding at least 25% of the voting rights of the dividend paying company (Belgian company) for 6 months or more	5%
A company holding at least 25% of the voting rights of the dividend paying company (Japanese company) for 6 months or more	10%
Other than the above	15%

[New treaty]

Beneficial owner	Reduced tax rates
<ul style="list-style-type: none"> • A company holding directly or indirectly at least 10% of the voting rights of the dividend paying company for 6 months or more • A pension fund 	Exempt
Other than the above	10%

(2) Interest (Article 11)

[Current treaty] 10 percent

[New treaty]

Beneficial owner	Reduced tax rates
<ul style="list-style-type: none"> • Governments, central banks, etc. • A pension fund • An enterprise of a Contracting State (interest paid by an enterprise of the other Contracting State) 	Exempt
Other than the above	10%

(3) Royalties (Article 12)

[Current treaty] 10 percent

[New treaty] Exempt

2. Anti-Treaty Shopping Provision (Article 22)

- The new treaty includes Limitation on Benefits (LOB) clauses, whereby a person will have to satisfy certain conditions such as a qualified person test in order to get tax exemption for dividends, interest and royalties in a source country.
- Furthermore, the new treaty includes the Principal Purpose Test (PPT) clause. Thus, in principle, a benefit under the new treaty will not be granted if it is reasonable to conclude that obtaining such benefits was one of the principal purposes of any transaction.

3. New Clauses/Provisions

The new treaty includes the following new clauses/provisions:

- Article 1 (Persons Covered) – a clause with respect to the tax treatment of hybrid entities
- Article 9 (Associated Enterprises) – a clause for corresponding adjustments

- Article 20 (Silent Partnership/Tokumei Kumiai) (Income arising in Japan and derived by a silent partner who is a resident of Belgium in respect of a silent partnership contract will be taxed according to the Japanese tax laws.)
- Article 25 (Mutual Agreement Procedure) – clauses for arbitration proceedings
- Article 27 (Assistance in the Collection of Taxes)

4. Enter into Force (Article 30)

After the completion of the necessary domestic procedures in each of the two countries (in the case of Japan, approval by the Diet), each of the two countries shall send through diplomatic channels to the other country the notification confirming the completion of its internal procedures. The new treaty will enter into force on the thirtieth day after the date of receipt of the latter notification and will be applicable:

Japan	Taxes levied on the basis of a taxable period	Taxes for any taxable period beginning on or after 1 January in the calendar year next following that in which the new treaty enters into force
	Taxes not levied on the basis of a taxable period	Taxes levied on or after 1 January in the calendar year next following that in which the new treaty enters into force
Belgium	Taxes due at source	Income credited or payable on or after 1 January in the calendar year next following that in which the new treaty entered into force
	Other taxes on income	Income of taxable periods beginning on or after 1 January in the calendar year next following that in which the new treaty entered into force
	Other taxes	Taxes due in respect of taxable events taking place on or after 1 January in the calendar year next following that in which the new treaty entered into force

[\[Press release of the Ministry of Finance of Japan\]](#)

[New Tax Convention with Belgium was Signed](#)

KPMG TaxCorporation

info-tax@jp.kpmg.com

www.kpmg.com/jp/tax

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