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TAX UPDATES

ENTRY INTO FORCE OF THE PROTOCOL AMENDING THE JAPAN-UK TAX TREATY

■ Timing of entry into force and application

On 12 November 2014, an exchange of diplomatic notes for the entry into force of the Protocol amending the current tax treaty between Japan and the UK (signed on 17 December 2013) took place in London.

Accordingly, the Protocol will enter into force on 12 December 2014 (the thirtieth day after the date of the exchange of diplomatic notes) and will apply to the following:

(1) General principle

Japan

(i) Withholding taxes

For amounts taxable on or after 1 January 2015

(ii) Taxes on income which are not withheld at source

As regards income for any taxable year beginning on or after 1 January 2015

UK

(i) Withholding taxes

For income derived on or after 1 January 2015

(ii) Income tax and capital gains tax

For any year of assessment beginning on or after 6 April 2015

(iii) Corporation tax

For any financial year beginning on or after 1 April 2015

(2) Exceptions

The new Article 7 (Business profits) will be applicable with respect to profits for any taxable year or chargeable period beginning on or after a date to be agreed between both governments through another exchange of diplomatic notes.

Amendments to Article 25 (Mutual agreement procedure), Article 26 (Exchange of information) and Article 26A (Assistance in the collection of taxes) will have effect from 12 December 2014, without regard to the taxable year or chargeable period to which the matter relates. For the purposes of the provisions concerning the arbitration process in the course of the mutual agreement procedure, no case may be submitted to arbitration earlier than 12 December 2016.

Press release from the Japanese Ministry of Finance:
Protocol Amending Tax Convention With The United Kingdom Will Enter Into Force

■ Main points of amendments

(1) Dividends (Article 10)

Taxation on dividends in the source country is reduced as follows:

	Dividends from subsidiaries (shareholding requirement)	Others
Current tax treaty	Exemption (at least 50%) 5% (at least 10%)	10%
Amended tax treaty	Exemption (at least 10%)	10%

(2) Interest (Article 11)

Taxation on interest in the source country is reduced as follows:

Current tax treaty	Exemption (financial institutions, etc.) 10% (others)
Amended tax treaty	Exemption in principle

(3) Capital gains (Article 13)

Under the current tax treaty, where a parent company holding 25 percent or more of shares in a company in the other country sells 5 percent or more of the shares in a taxable year, the capital gains from the sale which are not subject to tax in the residence country of the parent company may be taxed in the residence country of the subsidiary. This clause will be eliminated from the amended tax treaty. Note that the right to tax capital gains from sales of shares in a real estate holding company by the country of the real estate will remain.

Although capital gains derived from a sale of shares in a Japanese subsidiary by its UK parent company are generally subject to Japanese corporation tax under the current tax treaty, such tax will be basically exempt under the amended tax treaty unless the Japanese subsidiary is treated as a real estate holding company.

(4) Business profits (Article 7)

Article 7 will be amended to be in line with Article 7 of the OECD Model Tax Convention amended in 2010, under which business profits attributable to a permanent establishment are calculated by recognizing internal dealings and by applying the arm's length principle.

(5) Others

Clauses stipulating arbitration proceedings will be added to Article 25 (Mutual agreement procedure). Moreover, Article 26A (Assistance in the collection of taxes) stipulating that the tax authorities of the two countries shall lend assistance to each other in the collection of revenue claims will be newly introduced.

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