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Philippines and Mexico: Friends Forever

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Top of Mind
21 August 2018

The ratification of the RP-Mexico Tax Treaty is indeed a positive change and hopefully, it will help bolster investments between the two countries.

The long-shared history of the Philippines and Mexico finds its roots in the Manila-Acapulco Galleon Trade in 1565. The trade paved way not only for the exchange of goods between the two countries but also for the exchange of people, culture and literature. In a span of almost half a millennia, political and commercial ties between the Philippines and Mexico have been constantly prospering. The first governor-general of the Philippines was Miguel López de Legazpi, a former mayor of Mexico City. The Mexican Airforce was one of the forces alongside United States that helped liberate Manila from the Japanese occupation in 1945. Mexico ranked as the Philippines' 28th trading partner (out of 223), 19th export market (out of 211), and 40th import source (out of 203) in 2015.

The friendship between the two countries was reinforced on November 17, 2015, when Philippine President Benigno Aquino III and Mexican President Enrique Peña Nieto signed the RP-Mexico Tax Treaty, or specifically the Agreement Between the Government Of The Republic Of The Philippines And The Government Of The United Mexican States For The Avoidance of Double Taxation With Respect To Taxes On Income And The Prevention Of Fiscal Evasion. The treaty aims to further develop the economic relationship and enhance the cooperation in tax matters of the two countries.

The Philippine Senate ratified the RP-Mexico Tax Treaty on February 19, 2018 and under Revenue Memorandum Circular (RMC) No. 58-2018, the RP-Mexico Tax Treaty shall have effect on income that arises in the Philippines beginning January 01, 2019.

Accordingly, effective January 01, 2019, dividends that will be earned by a resident of Mexico from a Philippine company is entitled to a preferential final withholding tax (FWT) rate of 15%. This can be further reduced to 5% if the recipient holds directly at least 70% of the dividend payor, and to 10% if the recipient holds directly at least 10% of the dividend payor.

In case of a Philippine branch, the profits it will remit to its head office in Mexico is entitled to a preferential 5% FWT rate.

Interest income that will be earned by a resident of Mexico from the Philippines is entitled to a preferential 12.5% FWT rate but note that if the recipient is the Government of Mexico or its political subdivision or local authority, the interest income may be exempt from FWT.

Royalties that will be earned by a resident of Mexico from the Philippines is entitled to a preferential FWT rate of 15%.

Capital gains that will be earned by a resident of Mexico from the Philippines from alienation of shares shall not be subject to Philippine capital gains tax provided that not more than 50% of the assets of the Philippine company whose shares are being disposed of are immovable property. The treaty also provides that no tax shall apply in the case of transfer of property between members of the same group of companies, to the extent that the consideration received by the transferor consist of participation or other rights in the capital of the transferee.

Business profits earned by a resident of Mexico from the Philippines shall be taxable only in Mexico provided that the Mexican entity has no permanent establishment in the Philippines.

For individuals, remuneration received by a resident of Mexico in respect of employment exercised in the Philippines shall not be subject to tax in the Philippines provided that the recipient does not stay in the Philippines for a period not exceeding 183 days in any twelve month period; the remuneration is paid by the employer in Mexico; and the remuneration is not recharged to a Philippine entity.

Take note, however, that there are administrative requirements that must be complied with before the RP-Mexico Tax Treaty benefits can be availed of.

For interest income, dividends and royalties, RMC No. 08-2017 requires that the non-resident income payee to file with its Philippine withholding agent a CORTT (Certificate of Residence for Tax Treaty Relief) Form. The non-resident income payee may opt to use the prescribed certificate of residency of its country of residence but it is still required to accomplish A, B, and C of Part I of the CORTT Form. The Philippine withholding agent can withhold at a reduced rate or exempt the nonresident based on the duly accomplished CORTT Form submitted to them. Failure to submit a CORTT Form to the withholding agent would mean that the nonresident is not claiming any tax treaty relief and therefore such income be subject to the normal rate provided under the Tax Code.

For business profits, capital gains, or other types of income in the treaty, a tax treaty relief application (TTRA) should be filed with the International Tax Affairs Division of the Bureau of Internal Revenue pursuant to Revenue Memorandum Order No. 72-2010.

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