



GMS Flash Alert

2021-179 | June 21, 2021



Brazil - Tax Treaties with Switzerland, United Arab Emirates Approved

On June 8, 2021, the Brazilian authorities published Decree n. 10.714/2021¹, which enacts the double taxation treaty signed with Switzerland on May 3, 2018.

Additionally, on May 26, 2021, Decree n. 10.705/2021² was published enacting the double taxation treaty with the United Arab Emirates, which was signed with Brazil on November 12, 2018.

The provisions of these two treaties will apply from January 1, 2022.

WHY THIS MATTERS

The treaties' provisions on the avoidance of double taxation should help instill a sense of certainty and clarity in commercial and cross-border labor relations between the two countries party to each treaty and, consequently, should help companies and their global mobility programs protect their cross-border workers against the risk of double taxation. The provisions on the exchange of information provide an additional incentive for Switzerland-Brazil and UAE-Brazil international workers to be compliant with their tax obligations, as well as for the countries' bilateral tax rules to be aligned with the most up-to-date OECD standards.

Double Taxation Treaties ("DTT") Key Considerations

Brazil-Switzerland

The DTT takes account of the OECD's base erosion and profit shifting (BEPS) project by including an anti-abuse clause (also known as "treaty shopping"), which is considered as a situation whereby a person benefits from the DTT between

two jurisdictions without being a resident of one of those jurisdictions. BEPS's Action 6 Report states the requirements to establish a minimum level of protection against treaty abuse.³

Compared with other recent DTTs signed by Brazil, this DTT is different in that it includes singular provisions for earnings related to property income and capital gains, and for the taxation of dividends and interest. Additionally, the treaty has a specific article related to the earnings received by technical workers, which has a distinct definition under this DTT.

Finally, the administrative assistance clause in this Brazil-Switzerland DTT establishes a required cooperation in terms of the exchange of information, addressed by current international standards.⁴

Brazil-United Arab Emirates

Similarly, the DTT signed between Brazil and the UAE is largely based on the OECD Model, and establishes exchange of information cooperation between the countries.

A possible conflict may arise between the applicability of this DTT's provisions and Brazilian domestic legislation, as Brazil still considers the UAE to be a low-tax jurisdiction ('tax haven'). Therefore, more clarity would be required from the Brazilian authorities on withholding taxation for those residents eligible under this treaty.

KPMG NOTE

Brazilian taxpayers and companies with global mobility programs may wish to consult with their qualified tax professionals to discuss the impacts of these treaties on their tax affairs in Brazil.

FOOTNOTES:

1 To see (in Portuguese) the Decree n. 10.714/2021, with the double taxation treaty between Brazil and Switzerland (*Decreto N° 10.714, de 8 de Junho de 2021, Diário Oficial da União (09/06/2021)*), click [here](#). For related coverage, see [GMS Flash Alert 2021-119](#), April 22, 2021.

2 To see (in Portuguese) the Decree n. 10.705/2021, with the double taxation treaty between Brazil and the United Arab Emirates (UAE) (*Decreto N° 10.705, de 27 de Maio de 2021, Diário Oficial da União (27/05/2021)*), click [here](#).

3 OECD. To read "Action 6, Prevention of tax treaty abuse" (in English), click [here](#).

4 OECD. To read the Convention on Mutual Administrative Assistance in Tax Matters (in English), click [here](#).

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Brazil:



Janine Goulart
GMS Country Leader
Tel. +55 11 3940 4372
janinegoulart@kpmg.com.br



Carlos Rogerio Borges
GMS Partner Director
Tel. +55 11 3940 8250
carlosborges@kpmg.com.br

The information contained in this newsletter was submitted by the KPMG International member firm in Brazil.

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