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COMMENTARY

NEW TAX TREATIES BETWEEN MEXICO AND HONG KONG AND QATAR

In March 2013, two new income tax treaties signed by Mexico—with Hong Kong and with Qatar—were published in the Mexican Official Gazette. With these new tax treaties, Mexico will have a tax treaty network comprising 54 countries. Both tax treaties will become effective as of January 1, 2014.

While negotiating and executing both tax treaties, Mexico took advantage of the OECD Model Tax Convention on Income and on Capital, incorporating some features from the UN Model Tax Convention (Article 5—period for converting a construction site into a permanent establishment, Article 14—independent personal services, and Article 22—other income taxed in the source country). The tax treaties Mexico signed with Hong Kong and Qatar follow the same approach.

The withholding rates and special source taxation features of these new tax treaties are the following:

TAX TREATY BETWEEN MEXICO AND HONG KONG

Dividends. No withholding tax is imposed, since the treaty sets forth that income derived from dividends paid by a resident of a contracting state in favor of a resident of the other shall be taxed only in that other state. Accordingly, considering that Mexico does not impose any income tax on dividends paid to foreign residents, such dividends shall not be subject to any withholding in that country.

Interest. No withholding tax is imposed when the beneficial owner is the government, a political subdivision, a governmental bank or export banks, or where those entities pay the interest. A 4.9 percent rate applies where the beneficial owner is a banking institution; otherwise, the 10 percent general rate shall apply. Notwithstanding the foregoing, Mexican tax law has in force a 4.9 percent withholding tax rate for interest payments carried out to registered foreign banks and financial institutions.

Royalties. 10 percent rate.

Capital Gains. Capital gains obtained by a resident of a contracting state derived from the alienation of shares of an entity residing within the other contracting state may be taxed by the latter only if, during a 12-month period prior to the sale of shares, a seller owns at least 25 percent of the capital of the legal entity whose shares are being sold. If the seller owns less than 25 percent of the capital of the legal entity, the capital gains are taxed only in the residence country of the seller.

TAX TREATY BETWEEN MEXICO AND QATAR

Dividends. No withholding tax is imposed, since the treaty sets forth that income derived from dividends paid by a resident of a contracting state in favor of a resident of the other shall be taxed only in that other state. In addition, and as mentioned above, Mexican tax law does not impose a withholding tax on dividends paid to foreign residents.

Interest. No withholding tax is imposed when the beneficial owner is the government, a political subdivision, a governmental bank or export banks, or where those entities pay the interest. A 5 percent rate applies where the beneficial owner is a banking institution; otherwise, the 10 percent general rate shall apply. Notwithstanding the foregoing, as mentioned above, Mexican tax law has in force a 4.9 percent withholding tax rate for interest payments carried out to registered foreign banks and financial institutions.

Royalties. 10 percent rate.

Capital Gains. Capital gains obtained by a resident of a contracting state derived from the alienation of shares of an entity residing within the other contracting state, and whose asset value derives in more than 50 percent from immovable property located in such other state. However, no tax shall be imposed over such a transaction where carried out between related parties under specific conditions.

Jones Day has a highly experienced International Taxation Practice that can assist in any matter that may arise on the subject.

LAWYER CONTACTS

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