



# World Tax Advisor

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## France enacts austerity measures

A series of austerity measures enacted at the close of 2011 have increased the tax burden on businesses and individuals. Measures affecting business include a temporary 5% surcharge, a restriction on certain acquisition-related interest deductions and removal of the cap on registration duties, among others. The tax burden was increased at an indirect level by the introduction of a beverage tax on certain drinks and an increase to the reduced VAT rate from 5.5% to 7% (with some exceptions). The measures also increased taxes on individuals by raising some rates, failing to index personal income tax brackets for inflation and expanding the scope of the exit tax.

The measures were included in the Fourth Amended Finance Act for 2011 and the Finance Act for 2012 (published in France's official journal on 29 December 2011).

### Additional temporary 5% contribution to corporate tax

A new surtax was introduced for companies with a turnover exceeding EUR 250 million before tax. Within tax groups, the surtax will be imposed if the turnover collectively exceeds this threshold. The 5% contribution is calculated on the amount of corporate tax due, regardless of the applicable rate (i.e. 33.1/3% standard rate or the 15% and 19% reduced rates), before deducting tax credits and before additional social surtax of 3.3%.

The surtax is paid once a year, together with the balance of the corporate tax due, and applies for the first time on the corporation tax due for the year ended 31 December 2011. For companies having a closing date on 31 December, it will apply to FY 2011 and FY 2012.

	Actual rate including temporary and social surtaxes			
	Turnover < EUR 250 million		Turnover > EUR 250 million	
Basic CIT (regular rate)	Basic CIT < EUR 763,000	Band of basic CIT > EUR 763,000	Basic CIT < EUR 763,000	Band of basic CIT > EUR 763,000
33.1/3%	33.1/3%	34.433%	35%	36.10%
19%	19%	19.627%	19.95%	20.577%
15%	15%	15.495%	15.75%	16.245%

### Financial expenses relating to the acquisition of participating shares

For fiscal years beginning on or after 1 January 2012, a new anti-abuse limitation for the deduction of financial charges applies. The measure is designed to allow full deductibility of acquisition-related interest expense only if the shareholding is actually managed from France.

The burden of proof is on the taxpayer to demonstrate that (1) decisions on share-related transactions are made in France, and (2) the control of the subsidiary's management is effectively undertaken from France. Such autonomy is measured at the time the investment decision is made, and is done so at the level of management control of the subsidiary. Failing autonomy, a portion of the interest expenses relating to the acquisition will be disallowed each year in an amount corresponding to the ratio between the acquisition price and the average of the overall company's indebtedness for the fiscal year concerned. The disallowance applies until the end of the eighth fiscal year following the acquisition (i.e. over a maximum nine-year period). The provision applies to future share acquisitions, as well as previous acquisitions for which the maximum nine-year period has not expired (and only for the remainder of the nine-year period).

Evidence of the requisite autonomy must be made (one time only) for the financial years covering the twelve-month period following the acquisition (for shares acquired after 1 January 2012) or the first financial year opened after 1 January 2012 (for shares held at 31 December 2011). The interest disallowance only applies, however, for fiscal years beginning on or after 1 January 2012.

The measure also applies to reorganizations (e.g. mergers), in which case it will affect the company absorbing the entity that initially acquired the shares.

The measure does not apply to situations in which any of the following apply:

- The value of the shares held by the company does not exceed EUR 1 million;
- The French company demonstrates that the indebtedness ratio of the group exceeds, or at least equals, its own; or
- The acquisition of shares was not funded by loans (the borrower being the acquiring company or another company of the tax group).

It should be noted that the provision operates regardless of whether the acquisition of shares is of shares in a foreign or French company or whether the seller is a related party.

Clearly, proving the autonomous nature of the decisions made by the company may be difficult. If the decision process has been located in another company established in France or in a controlling sister company, the holding company nevertheless will have to prove that the acquisition decision results from an industrial or financial strategy initiated in France and not in the state of residence of the shareholders of the head of the French group. Also, the disallowance will particularly impact situations in which a group has reorganized its corporate structure to have a French holding company become the owner of foreign subsidiaries if no practical measure has been taken in terms of transferring management to France.

### Registration duties on sale of shares

Prior to the austerity package, a 3% registration duty applied to the sale of company shares. For the sale of shares in joint stock companies (SA, SAS or SCA), the duty was capped at EUR 5,000 per sale. (For transfers of shares in a SARL, SNC or partnership, the duty is uncapped but a rebate applies. The rules addressing these types of entities are unchanged.)

The new law abolished the EUR 5,000 cap for joint stock companies and introduced a progressive schedule for the disposal of their shares:

- 3% on the portion of the price below EUR 200,000;
- 0.5% on amounts between EUR 200,000 and EUR 500 million; and
- 0.25% on the portion exceeding EUR 500 million.

The law also provides new exemptions for all types of companies (SA, SAS, SARL, SNC, etc.) from registration fees for:

- Acquisitions by a company of its own shares;
- Acquisitions of shares under safeguard proceedings or receivership (i.e. equivalent of a U.S. Chapter 11 bankruptcy reorganization);
- Acquisitions of shares when the seller is an affiliate of the same tax group; and
- Transactions within the scope of the tax merger regime.

In addition, the law clarified that, for listed shares, sale of shares in SAs SASs and SCAs will be subject to registration duty in France when the deed was signed abroad.

**Sale of shares of real estate companies** – From 1 January 2012, the basis of the 5% registration duty on the sale of shares in real estate companies also changed. For registration duty purposes only, the value of the shares sold will now be determined on a deemed price taking into account only the deduction of debts relating to the acquisition of property and property rights. Other liabilities will not be considered.

### Deductibility of royalties for patents

Prior to amendment to the rules for sublicensing, the 15% CIT rate applied under certain conditions to royalties received through sublicenses of patents and, at the same time, the licensee could deduct from its taxable result at the standard CIT rate the royalty payments made to the owner of the patent even if said owner was a related party. Conditions for the full deduction at the standard rate of license fees required that the patent had to be actually exploited and evidence provided for the following:

- The license agreement added value to the company (i.e. income exceeding the amount of the royalty fee) throughout the license period;
- There was a true business run with the patent; and
- The sublicense was not an artificial arrangement to circumvent French tax laws.

Post-amendment, the primary company sublicensing the rights no longer can deduct the fees paid to the grantor from its taxable income at the standard rate (33.1/3%), but will instead deduct the fees from the result taxable at the reduced rate of 15% (i.e. taxation on the margin). When the fees paid exceed the proceeds, the excess is deductible from the result at the standard rate, but only within the limits of 15/33.

As an anti-abuse measure, if a sublicense agreement is signed in a financial year following the year of the license agreement, the company may be required to reinstate the royalty fees fully deducted (i.e. at 33.1/3%) in the years preceding the sublicense for 18/33, subject to a grandfather provision.

### Sale of shares between related companies

Previously, a sale of shares between related parties within two years after acquisition could generate a short-term tax loss that was immediately deductible even though the group intended to hold the shares for a long-term period. Under an anti-abuse provision contained in the Budget Law for 2011 (voted in December 2010), the short-term result (loss or gain) resulting from the sale of shares (other than predominantly real estate companies not listed) between related companies was frozen until the end of the second year of the acquisition. The effect of the provision was to treat the result as a long-term gain or loss. For fiscal years beginning on or after 1 January 2012, the austerity measures provide that only short-term capital losses will be frozen. Short-term capital gains will be taxed at the standard rate (33.1/3%).

### Other measures affecting companies

**Research tax credit** – Expenses that qualify for the research tax credit include depreciation of fixed assets allocated to research operations. Prior to amendment, a company would lose its corresponding research tax credit calculated on

depreciation if the asset was accidentally destroyed. To overcome this difficulty, the new law provides that the basis for calculating the tax credit will be increased by a theoretical depreciation corresponding to the difference between the cost of replacement and the compensation received from the insurance company (if any). Moreover, the measure applies retroactively from 1 January 2009.

**Calculation of reserve for compulsory employee profit sharing** – The new measures abolished the Labor Code provision that companies cannot deduct tax losses from prior years more than five years old in determining earnings used to calculate employee profit sharing rights. For fiscal years opened as from 21 September 2011, the losses taken into consideration for calculating the employee profit sharing are the same as the tax losses.

**Special annual tax for emission allowances** – A special annual tax was introduced from 1 January 2012 to fund the reserve for new entrants. The tax applies to companies whose facilities receive allowances for gas emissions of at least 60,000 tons. The rate varies between 0.03% and 0.07% of the total price of delivery of goods and services. The tax is capped, however, so that the amount for each taxpayer will not exceed EUR 6.18 times the total number of emission allowances in greenhouse gas emissions allocated to the taxpayer for all facilities for the period from 1 January 2008 to 31 December 2012.

**Mandatory e-filing and payment** – As of 2013, all companies subject to corporate income tax must electronically file their tax returns (including small companies, which previously were exempt from e-filing requirements). Further, electronic payment of corporate income tax will be required as of 1 October 2012 (payment to be made on 15 December 2012 at the latest) and the same rules (filing and paying) will apply for value-added tax.

For individual professionals and partnerships or other entities (e.g. *societe civile*, SNCs, *societe en participation*, GIEs) that have not elected corporate tax treatment, the e-filing obligation will be widespread by 2015 and will apply even sooner (2014) for those taxpayers whose turnover exceeds EUR 80,000. As regards VAT, these taxpayers will have to file their VAT returns and make VAT payments electronically as of 1 October 2013.

## VAT and indirect taxes

In addition to the new VAT e-filing and electronic payment requirements discussed above, a second (higher) reduced VAT rate was introduced, as were new taxes on non-alcoholic beverages. On the positive side, the 2% tax on hotels that was to apply for the first time on 1 November 2011 was repealed as of that date.

**Changes to reduced VAT rate** – The 5.5% reduced VAT rate will continue to apply to basic necessities (i.e. equipment and services for the disabled, food, gas and electricity, as well as networks of energy supplies) and the provision by providers of meals in schools. All other products previously subject to the 5.5% rate are now subject to a 7% rate with the exception of books (other than e-books), which will be subject to the 7% rate from 1 April 2012. Certain transitional measures apply in the area of housing.

**New taxes on packaged beverages** – As of 1 January 2012, there are two new contributions on certain beverages containing added sugar or artificial sweeteners. In both cases, the rate of contribution in both cases is set at EUR 7.16 per hectoliter (i.e. 0.2 cents per 33cl), and only the sugar contribution will apply if the beverage contains both added sugars and artificial sweeteners. Contributions are paid to the customs administration by manufacturers, operators of “sources” (i.e. water springs), importers and persons who make intra-Community acquisitions. Direct shipments to other EU Member States or another EEA Member State and exports to third countries are exempt from the contribution.

The contribution applies to beverages and liquid preparations for beverages that are intended for human consumption and are packed in containers for retail sale (to include non-alcoholic, unfermented fruit and vegetable juices, various waters, and alcoholic drinks not exceeding 1.2% alcohol by volume (0.5% for beer)). The contributions do not apply to infant formula, certain growth and milk products, certain nutrition products for the sick or undernourished or products that require transformation by the consumer prior to drinking (e.g. powdered drinks and syrups).

## Personal income tax

**Exceptional contribution on high incomes** – A new contribution applies (beginning with 2011 revenues) at progressive rates to the “income tax reference” amount (ITR). ITR is composed of net income and capital gains included in the basis of the individual income tax, before the deduction of certain charges and after adding income tax relief granted (i.e.

exemptions and reductions) and income subject to a withholding tax. For unmarried individuals, the rate is 3% on ITR EUR 250,000 to EUR 500,000, and 4% on ITR exceeding this amount. For married couples, the 3% rate applies on ITR EUR 500,000 to EUR 1 million, and 4% on the excess.

**No inflation indexing** – The brackets for income tax, wealth tax and rates and the allowances applicable to inheritance and gift taxes were not indexed for inflation contrary to prior years. Thus, the 2012 income tax scale applicable to 2011 income is:

2012 income tax bracket	Rate (%)
up to EUR 5,963	0
EUR 5,964 to EUR 11,896	5.5
EUR 11,897 to EUR 26,420	14
EUR 26,421 to EUR 70,830	30
above EUR 70,830	41

**Gains from the sale of shares** – Previously, legislation was passed to reduce gains for individuals from the sale of shares in companies established in the European Union, Iceland and Norway by a third per year beyond the fifth year, leading to an exemption of capital gains on sales of shares after eight years. The reduction of one third should have applied for the first time to disposals made in 2012. The mechanism has been amended as follows:

- The company must be liable to corporation tax and have engaged in activity of an industry, commerce, craft, professional services (e.g. legal and accounting), agricultural or financial nature (other than management of its own property or real estate assets).
- The transferor must have held (directly, indirectly or through family members (i.e. children, spouse, parents, siblings or spouse's parents or siblings)) continuously for eight years at least 10% of the shares of the company whose shares are sold.
- At least 80% of the capital gain must be reinvested within 36 months by subscription in cash (or initial capital in a capital increase fully paid) to capital of a "qualifying" company (as discussed above) and subsequently held directly or "wholly" owned (as opposed to usufruct, for example) by the taxpayer for at least five years (i.e. cannot be transferred or cancelled). The tax deferral also will end if the taxpayer leaves France before the expiration of the five years.

**Domestic withholding tax** – The optional (final) withholding tax for dividends and interest derived by French resident taxpayers on or after 1 January 2012 was increased from 19% to 24% for interest and from 19% to 21% for dividends (including dividends paid by French companies to individuals resident in an EEA Member State).

The domestic rate of withholding tax on income from movable capital paid to nonresidents also was increased from 25% to 30% (unless reduced by a tax treaty) and from 50% to 55% for payments to recipients in a non-cooperative country.

**Additional optional pension schemes** – Contributions due by beneficiaries of the additional optional pension scheme are replaced for annuities paid from 1 January 2012.

Annuities (pensions liquidated)		Rate (%)
Before 1 January 2011	After 1 January 2011	
up to EUR 500	up to 400	0
EUR 501 to EUR 1,000	EUR 401 to EUR 600	7
EUR 1,001 to EUR 24,000	EUR 601 to EUR 24,000	14
above EUR 24,000	above EUR 24,000	21

**Tax niches** – In general, rate reductions, tax credits and the maximum allocation of individual incentives were reduced by 15%. The change does not apply, however, to the reduction or tax credit for employment of an employee at home (i.e. domestic help, tutors, healthcare providers, nannies, etc.), the tax credit for childcare costs and the reduction of tax for rental investments in low-income housing in France's overseas territories. In addition, the overall ceiling of deductions, reductions and tax credits obtained also was amended to EUR 18,000 (unchanged) plus an amount equal to 4% (instead of 6%) of the taxable income. These measures apply to income derived in 2012 (and onwards) for expenses paid from 1 January 2012.

**Exit tax** – The first amended finance act for 2011 introduced an exit tax for individuals expatriating from France and having an interest in a company of at least 1% (or valued at more than EUR 1.3 million). The scope of the exit tax has been extended to taxpayers who own several investments that collectively exceed EUR 1.3 million.

**Real estate capital gains** – From 1 February 2012, a capital gains exemption applies on the first sale of a home that is not the transferor's principal residence provided the transferor does not have a principal residence and did not have one during the four years preceding the sale. Additionally, the benefit is limited to that portion the transferor reinvests in acquiring or constructing a new main residence within two years after the sale.

**SIIC/OPCI shares held by individuals** – From 1 January 2012, the 40% deduction for dividends paid by French real estate investment trusts (SIIC or OPCI) is eliminated and the shares of the REIT are no longer eligible for *Plan d'Epargne en Actions* ("PEA," a tax-favored share savings plan). However, existing listed SIIC shares in a PEA on 21 October 2011 will continue to benefit from the deduction.

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## **Argentina: Extension of tax incentive regime**

The Argentine Congress has extended the tax incentive regime that provides tax benefits for investments in new capital assets earmarked for industrial activities.

The tax benefits consist of either accelerated depreciation (three, four or five years) or a reimbursement of VAT for the relevant investment, although the taxpayer will be able to request both benefits in certain cases. Companies wishing to obtain benefits for investments in new capital assets earmarked for industrial activities must participate in a special bidding process on a date to be determined. There must be a disbursement of funds equal to at least 7.5% of the total amount of the project between 1 October 2007 and 31 December 2012.

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## **Malta: 2011 tax developments**

As supported by positive figures for 2011 regarding employment and economic growth, Malta has positioned itself as an EU domicile of choice in a number of areas. Tax changes during 2011 further bolstered Malta's competitive fiscal regime and contained specific incentives, including incentives for the financial sector. While Malta also joined a global trend by enacting rules targeting abusive transactions, the 2012 budget contains a number of taxpayer-favorable proposals, including one that would broaden the scope of the royalty exemption for intellectual property.

### **Corporate income tax**

**Clarification of the tax treatment of hybrid loans** – Following approval by the Economic and Financial Affairs Council of recommendations adopted by the EU Code of Conduct Group on profit participating loans (PPLs), guidance was issued 27 April 2011, with immediate effect, confirming the treatment in Malta of income from hybrid loans as interest, and not as

income from share capital or from an equity holding. In turn, it was confirmed that amounts payable on a PPL are deductible as interest, provided that they otherwise satisfy the tests for the deductibility of interest.

**Introduction of tax regulations for securitization vehicles** – Malta introduced special tax rules 12 August 2011 (effective from that date) expanding the deductions available to securitization vehicles, effectively eliminating taxable income in Malta at the level of those vehicles. While a comprehensive and flexible legal system for securitization vehicles and transactions already existed in Malta, the new tax rules make it advantageous from a fiscal perspective as well to structure securitization via Malta.

**Changes to the tax accounts rules** – Malta is well-known for its tax credit system. First, Malta operates a full tax imputation system that provides relief from economic double taxation. Second, any shareholder upon receipt of a dividend distributed by a Malta registered company is entitled to claim a partial or full credit of the Malta tax paid at the level of the company. This typically results in an effective Malta tax rate of 0%, 5% or 10%.

To trace profits and subsequent distributions thereof, however, Malta's tax rules allocate profits to one of five tax accounts, one of which is the Immovable Property Account. A Malta tax credit can be claimed by any shareholder with respect to any kind of income derived by a Maltese company other than income derived, directly or indirectly, from immovable property situated in Malta and, therefore, allocated to the Immovable Property Account.

In an amendment mainly targeting abusive practices in respect of tax account allocations, the tax accounting rules were updated to include additional situations that require an Immovable Property Account allocation (generally effective 1 January 2012).

**Changes to capital gains taxation** – Capital gains taxation in Malta is limited solely to gains derived from specified chargeable assets. While the list of chargeable assets already included shares that participate in any way in the profit of the company and whose return is not limited to a fixed rate of return, the list was extended to include any interest in a partnership (generally effective 1 January 2011).

### **Personal income tax**

A beneficial flat tax rate of 15% (as opposed to the standard progressive rates up to 35%) was introduced (and deemed to have come into force 1 January 2010) in relation to employment income derived by qualifying expatriates working in the financial services or the I-gaming industry.

The 15% flat rate also applies (effective 1 January 2011) to foreign source income derived by High Net Worth Individuals (HNWIs) in Malta. In terms of updated rules, HNWIs who wish to apply for the scheme are required to stay in Malta at least 90 days per year and to acquire or rent property in Malta of a minimum value.

Both schemes are subject to a minimum annual tax obligation.

### **Treaties**

To date, Malta's tax treaty network consists of 57 active tax treaties. An additional eight treaties are pending. Tax treaties with the Isle of Man, Jersey, Jordan, Serbia and the U.S., as well as a revised treaty with Libya, became generally applicable as of 1 January 2011. During 2011, new tax treaties were initialed, signed and/or ratified with Azerbaijan, Bahrain, Hong Kong, Israel, Mexico, Switzerland, Turkey and Uruguay. In addition, protocols to existing treaties with Germany (applicable as of 19 May 2011) and Poland (applicable as of 1 January 2012) were ratified, as was a revised treaty with China (applicable as of 1 January 2012), while a revised treaty with India was initialed. Finally, Malta signed a tax information exchange agreement with Bermuda. The agreement must still be ratified before it can enter into force.

### **2012 outlook**

The 2012 budget proposes incentives to boost existing industries (such as pharmaceutical and life sciences industries) and the attraction of highly skilled human resources to the country. Such proposals include:

- **Extension of royalty exemption** – In 2010 Malta introduced a “patent box” regime, providing a tax exemption in relation to royalties and similar income derived from qualifying patents, whether registered in Malta or elsewhere and irrespective of the place where the underlying research and development is performed. The current proposal would extend the patent box regime to include works protected by copyright, including books, film scripts, music and art.
- **Highly qualified expatriates** – The beneficial flat tax rate of 15% for highly qualifying expatriates, discussed above, would be extended to qualifying individuals working in the manufacturing industry.

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## **Panama: Treaty with Luxembourg in effect**

Panama’s first tax treaty with Luxembourg entered into force on 1 November 2011 and applies as from 1 January 2012. The treaty generally follows the OECD model treaty and, in addition to providing for beneficial withholding tax rates, contains an exchange of information clause. The principal benefits available under the treaty are as follows:

**Dividends and branch profits** – Dividends paid by a Panamanian entity to a Luxembourg resident shareholder are subject to a general withholding tax of 15%. However, the rate is 5% if the beneficial owner of the dividends is a corporation that holds directly at least 10% of the capital of the Panamanian entity. The treaty also provides for a reduced 5% withholding tax on profit remittances from a permanent establishment (PE).

Under Panama’s domestic law, profit distributions made by a resident entity are subject to a 10% dividend tax where the dividends are paid out of domestic profits; the rate drops to 5% where the dividends are paid out of foreign-source or export profits, or out of certain income (e.g. interest from government bonds and capital gains derived from the sale of such bonds and interest on bank deposits) that is exempt under Panama’s Tax Code. A 20% dividend withholding tax is levied on distributions to holders of bearer shares.

**Interest** – Under the treaty, a 5% withholding tax applies to interest paid by a Panamanian entity to a resident of Luxembourg, with an exemption for interest paid to a central bank or the state, its political subdivisions or local entities or if the interest is paid in relation to a credit sale of merchandise or equipment. Under Panama’s domestic law, interest is subject to a 12.5% withholding tax.

**Royalties** – The treaty provides that royalties paid by a Panamanian entity to a Luxembourg resident are subject to a 5% withholding tax. The term “royalties” means payments of any kind received as consideration for the use of, or the right to use, a copyright of literary, artistic or scientific work, including software and cinematograph films, a patent, trademark, drawing, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial commercial or scientific experience. A resident of one contracting state that receives royalties from the other contracting state may elect (after application of the 5% withholding tax) to be taxed on a net basis as a resident of the other contracting state.

Under Panama’s domestic law, payments of intellectual property rights, royalties, know-how, etc., are subject to a 12.5% withholding tax.

**Independent personal services** – According to the treaty, fees paid for independent personal services are subject to a 5% withholding tax provided the services qualify as professional services, consulting services, industrial commercial advice, technical or management services or similar services. The term “professional services” includes independent scientific, literary, artistic, educational or teaching activities, as well as services provided by doctors, dentists, lawyers, engineers, architects and accountants.

Panama domestic law taxes payments to nonresident beneficiaries on 50% of the amount invoiced, at the standard corporate income tax rate of 25% (an effective rate of 12.5%). Withholding tax will apply where the payments relate to services rendered within or outside Panama in connection with taxable income-generating activities.

**Capital gains** – Capital gains derived from the sale of real property and the sale of assets connected to a PE are taxable in the source country. Gains derived by a resident of one of the contracting states from the alienation of shares or comparable interests deriving more than 50% of their value directly or indirectly from immovable property situated in the other state may be taxed in that other state. However, this will not apply to gains derived from the alienation of shares or other comparable interests of companies listed on a stock exchange of one of the contracting states, to gains derived from the alienation of shares in the course of a corporate reorganization or where the real property from which the shares derive their value is immovable property in which a business is carried on.

**Other income** – Income not specifically covered by the treaty may be taxed only in the country in which the recipient is resident, except where the income is attributable to a PE in the other country through which the recipient carries out business activities.

### Comparison of benefits

The table shows the tax treatment of certain types of income under Panama’s domestic legislation as compared to the treatment under the treaty with Luxembourg.

Income type	Panama (%)	Treaty (%)
Dividends	10, 5, 20	5, 15
Interest (paid to a bank and other interest, respectively)	12.5	5, 0
Royalties	12.5	5
Technical assistance fees	12.5	5
Independent personal services	12.5	5
Share transfers:		
Shares listed on stock exchange (in Panama)	0	0
Unlisted shares	10	0, 10
Leasing income:		
Assets	12.5	12.5
Real property	12.5	12.5
Capital gains:		
Assets	10	10
Real property	10	10

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## Saudi Arabia: New tax treaty with Bangladesh in effect

The tax treaty between Saudi Arabia and Bangladesh entered into force on 1 October 2011 and applies generally as from 1 January 2012. The treaty is expected to result in an increase of Saudi investments in Bangladesh because the treaty provides reduced withholding tax rates on dividends, interest and royalties, and potentially exempts government investments from tax in Bangladesh. In addition, the treaty provides clear timelines for triggering a permanent establishment, especially with respect to services provided on the ground in a contracting state.

### Highlights of the treaty

- Interest is subject to a maximum withholding tax rate of 7.5%.
- Dividend and royalty payments are subject to a maximum withholding tax rate of 10%.

- Income from investments of the government of each contracting state (including the Saudi Arabian Monetary Agency in the case of the Kingdom of Saudi Arabia, the Bangladesh Bank in the case of Bangladesh and wholly owned state/public entities) in the other contracting state and income derived from such investments (including gains derived from their alienation) are exempt from taxation in the other state.
- The following activities should not create a permanent establishment:
  - The use of facilities for storage or display purposes, the maintenance of a stock of goods for the purpose of processing by another company and preparatory and auxiliary activities, e.g. advertising, supply of information and research;
  - Construction sites, assembly and installation projects and related activities carried out for a period of less than six months; and
  - Services (including consultancy services) carried out for a period of less than six months in any 12-month period.

## Domestic tax rules

Under Saudi Arabian tax legislation, withholding tax rates on payments made to nonresidents range from 0% to 20%, depending on the type of payment and the relationship between the payer and the recipient (i.e. whether the two parties are related). Applicable rates are as follows:

- Management fees – 20%
- Dividends, interest, rent, technical or consulting services – 5%;
- Royalties and payments in respect of services paid to the head office or related companies – 15%.

Under Bangladesh domestic rules, interest and royalties paid to nonresidents are subject to a 10% withholding tax, while dividends are subject to a 20% rate.

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## Uruguay: New treaty with Germany in effect

The double income tax treaty signed 9 March 2010 to replace the treaty between Uruguay and Germany dating from 1987 entered into force on 28 December 2011 and applies from 1 January 2012. As there are no grandfathering provisions in the 2010 treaty, the 1987 treaty ceases to apply from that date.

Notable changes between the 1987 and 2010 treaties are discussed below.

### Permanent establishment

The only essential difference between the two treaties in this context is that the period for creating a construction permanent establishment (PE) was reduced from 12 months to nine months. Language changes to the exact PE definition are not relevant; the concepts remain the same, with the basic definition still implying the existence of a fixed place of business and the exemptions still addressing auxiliary activities.

### Associated enterprises

Article 9 addresses transfer pricing, with the 1987 treaty providing that, if an entity's profits are affected because of its relationship with a related company, an adjustment should be made at the level of the entity whose profits were reduced as a consequence of the relationship. The 2010 treaty adds a second paragraph to the article, providing that an imputation of income to an entity of one contracting state regarding the benefits obtained by an entity of the other contracting state as a direct consequence of being a related party will result in an opposite adjustment in the contracting state that initially taxed

the benefits. The 2010 treaty also imposes an obligation on the tax authorities of each contracting state to consult with one another on proposed adjustments to avoid double taxation.

### **Dividends, interests and royalties**

The 1987 treaty restricted the taxation of dividends, income and royalties to the source country, at a rate not to exceed 15%. The 2010 treaty allows both residence and source country taxation of the income, with the source country limited to the following rates:

- Dividends – 5% if paid to a beneficiary that is an entity (other than a partnership) that holds directly at least 10% of the capital of the entity paying the dividends; otherwise the rate is 15%.
- Interests and royalties – 10%.

The 2010 treaty also includes exemptions from taxation by the source country on:

- Interest corresponding to a credit sale of industrial, commercial or scientific equipment and from merchandise sales from one entity to another; and
- Interest generated by a bank loan, destined to finance long-term (at least three years) investment projects covered in Uruguay's Law No. 16,906 (e.g. employment or export increasing projects or research, development and innovation projects, etc.).

As a general rule, however, Germany does not impose withholding tax on interest under its domestic provisions (except for interest on deposits with German banks/financial institutions (at 25%) and certain hybrid instruments).

The definition of "royalties" also was amended, with the 2010 treaty no longer including within its definition payments for the use or concession of use of industrial, commercial or scientific equipment (for example renting of movable property). This change follows the current OECD model treaty because, while the 1977 model treaty considered payment for the renting of movable property as royalties, such payments were later excluded from the definition by the Fiscal Affairs Committee and were included, instead, under article 7 (business profits).

### **Technical services and independent personal services**

The 2010 treaty removes references to technical services (formerly in article 12) and independent personal services (formerly in article 14). As with the current OECD model treaty, these are instead included in article 7.

### **Capital gains**

Article 13(3) of the 1987 treaty provided that "[g]ains derived from the alienation of shares of an entity domiciled in a Contracting State may be taxed in [the State in which the entity is domiciled]." This paragraph is not included in the 2010 treaty. The absence of an express rule on this point leads to a residual hypothesis on paragraph 5 of article 13 ("any property other than the referred") and, in consequence, the profit will be taxable only in the contracting state of which the alienator is a resident.

From a German tax perspective, such a capital gain should be 95% tax exempt for corporate shareholders (40% for individuals). If, however, the shares are held as private assets by an individual and the shareholding is less than 1%, a flat tax rate of 25% on the capital gain should apply (with no exemption available under this scenario).

This new version of article 13 brings the treatment of capital gains from the sale of shares in line with the treatment in the OECD model treaty and its commentary and most of the double income tax treaties that Germany has concluded.

### **Procedural rules for taxation at source**

Article 27 of the 2010 treaty is a peculiar addition and establishes "procedural rules for taxation at source." This article is not included in the 1987 treaty or in any of the other treaties Uruguay has recently signed. In contrast, this article, while seldom used, is included in some of Germany's other treaties (including those with Ireland, Turkey, the United Arab Emirates and the U.K.).

Article 27 stipulates, for dividends, interests, royalties and “other income” (i.e. “Other income” in article 20), that tax may be withheld according to the laws of each country. To the extent the domestic withholding does not correspond to that in the treaty (i.e. the treaty rate is lower), any tax surplus will be subsequently refunded. Under paragraph 3, each contracting state may regulate the procedures for not withholding tax or instead withholding at the maximum rate established by the treaty, and may require, for example, the presentation of a certificate of residence.

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## In brief

**Greece** – Chile has been removed from the list of uncooperative tax countries for purposes of Greece’s anti-avoidance rules.

**Luxembourg** – The Luxembourg VAT authorities have informed taxpayers that the electronic submission of monthly and quarterly VAT returns will become mandatory as from 1 January 2013.

**Malaysia** – The employer’s contribution to the Employees Provident Fund increased from 12% to 13% as from 1 January 2012. The contribution for employees who are 55 years and above increased from 6% to 6.5%.

**United Kingdom** – The European Commission has approved for state aid purposes the increase in the small and medium-sized enterprise research and development relief to 200% as from 1 April 2011. The relief broadly permits a deduction from a company’s income subject to corporation tax of 200% of the qualifying R&D costs incurred. It also includes a payable tax credit in some circumstances. Subject to Parliamentary approval, the rate will increase further to 225% on 1 April 2012.

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## Tax treaty round up

At the end of each month, the World Tax Advisor provides an update on recent tax treaty developments, with a focus on items that directly affect the withholding tax rates of the key jurisdictions covered by the Deloitte International Tax Source (DITS). Additional coverage may include stated negotiating priorities and other important tax treaty trends. For updates on tax information exchange agreements, visit our DITS special feature.

**URL:** <http://www.dits.deloitte.com>

**URL:** <http://www.dits.deloitte.com/Administration/ManageHomePage/Popup.aspx?ChildPage=InfoExchange>

Unless otherwise noted, the developments discussed are not yet in force.

**Finland-Uruguay** – When in effect, the treaty signed on 13 December 2011 provides that the withholding tax rate on dividends will be 5% if paid to a company (other than a partnership) that controls directly at least 25% of the capital of the payer company; otherwise the rate will be 15%. A 10% rate will apply on interest and for royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. The rate on royalties will be 5% if paid for the use of, or the right to use, industrial, commercial or scientific equipment or for the use of, or the right to use, any software.

**Germany-Taiwan** – When in effect, the treaty signed in December 2011 provides that dividends and interest will be subject to withholding tax at a rate of 10%, except in the case of certain real estate investment companies, which will be subject to a 15% rate in both instances. The rate on interest will be 10%.

**Iceland-Slovenia** – When in effect, the treaty signed on 4 May 2011 provides that the withholding tax rate on dividends will be 5% if paid to a company that holds directly at least 25% of the payer company; otherwise the rate will be 15%. The rate on interest and royalties will be 5%.

**Japan-Portugal** – When in effect, the treaty signed on 19 December 2011 provides that the withholding tax rate on dividends will be 5% if paid to a company (other than a partnership) that has owned directly for the 12-month period ending on the date on which entitlement to the dividends is determined at least 10% of the voting shares of the Japanese payer company or 10% of the capital of the Portuguese payer company; otherwise the rate will be 10%. The rate on interest will be 5% if paid to a qualifying bank; otherwise the rate will be 10%. The rate on royalties will be 5%.

**Portugal-Qatar** – When in effect, the treaty signed on 12 December 2011 provides that the withholding tax rate on dividends will be 5% if paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company paying (or if paid to certain government entities); otherwise, the rate will be 10%. The rate on interest and royalties will be 10%.

**Switzerland-Taiwan** – The 2007 “private tax agreement” entered into force 13 December 2011 and applies for withholding and other taxes from 1 January 2011 (1 January 2012 for exchange of information provisions). The 10% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 20% of the payer company; otherwise the rate is 15%. The rate on interest and royalties is 10%, with certain government-related interest exemptions and exemptions for interest paid on loans between banks or in connection with the sale on credit of any industrial, commercial or scientific equipment or of any merchandise or service by one enterprise to another enterprise.

#### Bilateral treaties and protocols in effect as from 1 January 2012

The table below reflects treaties and protocols that entered into effect on 1 January 2012 with respect to their provisions on withholding taxes. Rates shown are as provided in the treaty; domestic withholding tax rates or the EC directives, for example, may provide a lower rate. The table does not include standard exemptions or special rates such as those typically provided for dividends paid to exempt/charitable organizations, government-related shareholders or special investment entities, or for interest paid to government entities, government-related loans and similar payments.

Treaty	Dividends (%)	Interest (%)	Royalties (%)
<b>Austria-Bosnia/Herzegovina</b>	5/15	0/5	5
The 5% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the payer company; otherwise the rate is 15%. Interest is exempt if paid in connection with the credit sale of industrial, commercial or scientific equipment or the credit sale of merchandise by one enterprise to another enterprise; otherwise, the rate is 5%.			
<b>Austria-Bulgaria</b>	0/5	5	5
Dividends paid to companies are exempt; otherwise the rate is 5%.			
<b>Austria-Hong Kong</b>	0/10	0	3
The treaty applies from 1 April 2012 in Hong Kong. Dividends are exempt if paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
<b>Canada-Switzerland</b>	0/5/15	0/10	0/10
Dividends are exempt if paid to a qualifying pension fund. The 5% rate applies if the beneficial owner is a company that owns at least 10% of the voting stock and of the capital in the payer company; otherwise, the rate is 15%. Interest is exempt if paid to an unrelated party; otherwise the rate is 10%. Royalties are exempt if paid for copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or other artistic work (but not including royalties in respect of motion picture films nor royalties in respect of works on film or videotape or other means of reproduction for use in connection with television broadcasting); for the use of, or the right to use, computer software; or, previously subject to an unrelated party requirement, for the use of, or the right to use, any patent or any information concerning industrial, commercial or scientific experience (but not including any such information provided in connection with a rental or franchise agreement). Otherwise, the rate is 10%.			
<b>Canada-Turkey</b>	15/20	15	10
The 15% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the voting power of the payer company; otherwise, the rate is 20%.			
<b>China-Czech Republic</b>	5/10	7.5	10
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
<b>China-Malta</b>	<b>5/10</b>	<b>10</b>	<b>7/10</b>
The 5% rates applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise the rate is 10%. The rate on royalties is 10%, but only applies on 70% of the gross amount of royalties derived in consideration for the use of, or the right to use, industrial, commercial or scientific equipment.			
<b>China-Syria</b>	<b>5/10</b>	<b>10</b>	<b>10</b>
The 5% rate applies to dividends paid to a beneficial owner that holds at least 25% of the payer company; otherwise, the rate is 10%.			
<b>China-Zambia</b>	<b>5</b>	<b>10</b>	<b>5</b>
<b>Colombia-Switzerland</b>	<b>0/15</b>	<b>10</b>	<b>10</b>
Dividends are exempt if paid to a recipient that holds at least 20% of the capital of the payer company; otherwise the rate is 15%. However, dividends paid to foreign companies or entities not domiciled in Colombia may be remitted abroad free of tax if the profits from which the dividends are paid have already been taxed at the corporate level. Otherwise, income tax is imposed by Colombia at the 33% corporate tax rate.			
<b>Cyprus-Denmark</b>	<b>0/15</b>	<b>0</b>	<b>0</b>
Dividends are exempt if paid to qualifying pension funds or similar institutions or to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least one year; otherwise the rate is 15%.			
<b>Cyprus-Slovenia</b>	<b>5</b>	<b>5</b>	<b>5</b>
<b>Czech Republic-Belarus</b>	<b>5/10</b>	<b>0/5</b>	<b>5</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate 10%. Interest paid on a bank loan or credit is exempt; otherwise the rate is 5%.			
<b>Czech Republic-Serbia</b>	<b>10</b>	<b>10</b>	<b>5/10</b>
The 2009 protocol to the treaty between the Czech Republic and the former Serbia and Montenegro entered into force on 28 February 2011 and applies as from 1 January 2012. The protocol confirms that the treaty applies to Serbia. Rates shown are as provided under the 2004 treaty. The 5% rate applies to royalties paid for any copyright of literary, artistic or scientific work except of computer software and including cinematograph films or films or tapes used for radio or television broadcasting. The 10% rate applies to royalties paid for any patent, trade mark, design or model, plan, secret formula or process and computer software, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.			
<b>Denmark-Israel</b>	<b>0/10</b>	<b>0/5</b>	<b>0</b>
Dividends are exempt if paid to qualifying pensions or to a company (other than a partnership) that holds directly at least 10% of the payer company's capital for an uninterrupted period of no less than one year, with the dividends declared within that period; otherwise, the rate is 10%. The rate on interest is 5%, with exemptions provided for pensions and qualifying corporate bonds.			
<b>Estonia-Georgia</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>France-Hong Kong</b>	<b>10</b>	<b>10</b>	<b>10</b>
The treaty will apply in Hong Kong for years of assessment beginning on or after 1 April 2012.			
<b>Germany-Albania</b>	<b>5/15</b>	<b>5</b>	<b>5</b>
The 5% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.			
<b>Germany-Switzerland</b>	<b>0/5/15/30</b>	<b>0</b>	<b>0</b>
Dividends are exempt if derived from a qualifying participation of at least 10% in a corporation that is held for at least 12 months. The 5% rate applies to dividends paid by a company that operates a power plant for the exploitation of water power from the Rhine River between Lake Constance and Basel (border power plant on the Rhine); and a 30% rate applies to dividends if they involve income from shares in a commercial enterprise as a silent partner as defined in German law, from profit-sharing rights, debenture income bonds, or loans with profit participation, and if these sums are deductible when the obligor calculates its profits. Otherwise, the rate is 15%, including dividends that would otherwise qualify for the exemption but are paid by a German quoted real estate investment trust company, a German investment fund or a German investment company.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
<b>Germany-Uruguay</b>	<b>5/15</b>	<b>10</b>	<b>10</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%.			
<b>Greece-Switzerland</b>	<b>0/5/15</b>	<b>7</b>	<b>5</b>
Dividends are exempt if paid to a qualifying pension fund or scheme. The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%.			
<b>Hungary-Hong Kong</b>	<b>5/10</b>	<b>5</b>	<b>5</b>
The treaty applies in Hong Kong from 1 April 2012. The 5% rate applies to dividends paid to a company (other than a partnership that is not liable to tax) that holds directly at least 10% of the capital of the payer company; otherwise the rate is 10%.			
<b>Hungary-Mexico</b>	<b>5/15</b>	<b>10</b>	<b>10</b>
The 5% rate applies to dividends paid to a company (other than a partnership that is not liable to tax) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 15%.			
<b>Hungary-United Kingdom</b>	<b>0/10/15</b>	<b>0</b>	<b>0</b>
For U.K. corporation tax and income and capital gains taxes, the treaty will apply as from 1 April 2012 and 6 April 2012, respectively. Dividends are exempt if paid to a qualifying pension scheme or to a company that controls directly or indirectly at least 10% of the voting power of the payer company (unless the dividends are paid by certain investment vehicles). Otherwise, the rate is 10% (15% if paid out of income (including gains) derived directly or indirectly from certain immovable property by an investment vehicle (i.e. a U.K. real estate investment trust) that distributes most of this income annually and whose income from such immovable property is tax exempt).			
<b>Iceland-Croatia</b>	<b>5/10</b>	<b>10</b>	<b>10</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that hold directly at least 10% of the capital of the payer company; otherwise the rate is 10%.			
<b>Ireland-Albania</b>	<b>5/10</b>	<b>7</b>	<b>7</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly or indirectly at least 25% of the capital of the payer company; otherwise, the rate is 10%.			
<b>Ireland-Hong Kong</b>	<b>0</b>	<b>10</b>	<b>3</b>
The treaty applies in Hong Kong from 1 April 2012.			
<b>Ireland-Montenegro</b>	<b>5/10</b>	<b>10</b>	<b>5/10</b>
The 5% rate applies to dividends paid to a company that directly or indirectly holds at least 10% of the capital of the payer company; otherwise the rate is 10%. The 5% rate applies to royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematographic films and recordings on tape or other media used for radio or television broadcasting or other means of reproduction or transmission); the 10% rate applies to royalties paid for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.			
<b>Italy-Lebanon</b>	<b>5/15</b>	<b>0</b>	<b>0</b>
The 5% rate applies to dividends paid to a company that owns at least 10% of the capital of the payer company for at least 12 months preceding the date the dividends were declared; otherwise, the rate is 15%.			
<b>Italy-Moldova</b>	<b>5/15</b>	<b>5</b>	<b>5</b>
The 5% rate applies to dividends paid to a company that holds at least 25% of the capital of the company paying the dividends; otherwise, the rate is 15%.			
<b>Japan-Hong Kong</b>	<b>5/10</b>	<b>10</b>	<b>5</b>
The treaty applies in Hong Kong from 1 April 2012. The 5% rate applies to dividends paid to a company that has owned directly or indirectly at least 10% of the voting shares of the payer company for the six-month period ending on the date on which entitlement to the dividends is determined (the 5% rate will not apply if the company paying the dividends is entitled to a deduction for dividends paid to its beneficiaries in computing its taxable income in Japan); otherwise, the rate is 10%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
<b>Japan-Netherlands</b>	<b>0/5/10</b>	<b>0/10</b>	<b>0</b>
Dividends are exempt if paid to a company that has owned, directly or indirectly, shares representing at least 50% of the voting power of the payer company for the six-month period ending on the date entitlement to the dividends is determined, and on dividends paid to a pension fund, provided the dividends are not derived from the carrying on of a business, directly or indirectly, by the pension fund. The 5% rate applies to dividends paid to a company that has owned, directly or indirectly, shares representing at least 10% of the voting power of the payer company for the six-month period ending on the date entitlement to the dividends is determined; otherwise, the rate is 10%. The rate on interest is 10%, with an exemption for interest paid to a bank, insurance company or securities company, or any other enterprise. In the latter case, the exemption applies if, in the three taxable years preceding the taxable year in which the interest is paid, the enterprise derives more than 50% of its liabilities from the issuance of bonds in the financial markets or from taking deposits at interest, and more than 50% of the assets of the enterprise consist of debt claims against persons that are not associated parties.			
<b>Japan-Saudi Arabia</b>	<b>5/10</b>	<b>10</b>	<b>5/10</b>
The 5% rate applies to dividends paid to a company that holds, directly or indirectly, at least 10% of the voting shares of the payer company for the 183-day period ending on the date entitlement to the dividends is determined. In the case of Saudi Arabia as the source country, 10% of the total issued shares (rather than voting shares) also will satisfy the ownership test. Otherwise, the rate is 10%. The rate on royalties is 5% if paid for the use of, or right to use, industrial, commercial or scientific equipment; otherwise, the rate is 10%.			
<b>Japan-Switzerland</b>	<b>0/5/10</b>	<b>0/10</b>	<b>0</b>
The 0% rate applies to dividends paid to a company that holds directly or indirectly at least 50% of the voting rights of the payer company for the six-month period ending on the date on which entitlement to the dividends is determined; and on dividends paid to a pension fund. The 5% rate applies to dividends paid to a company that holds directly or indirectly at least 10% of the voting rights of the payer for the six-month period ending on the date on which entitlement to the dividends is determined; otherwise, the rate is 10%. Interest is exempt if paid to financial institutions, such as banks, insurance/reinsurance companies and securities dealers, and interest paid to a pension fund; otherwise, the rate is 10%.			
<b>Luxembourg-Barbados</b>	<b>0/15</b>	<b>0</b>	<b>0</b>
Dividends are exempt if paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company for an uninterrupted period of at least 12 months prior to the decision to distribute the dividends; otherwise the rate is 15%.			
<b>Luxembourg-Panama</b>	<b>5/15</b>	<b>0/5</b>	<b>5</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise the rate is 15%. Interest is exempt if paid in relation to a credit sale of merchandise or equipment; otherwise the rate is 5%. A resident of one of the contracting states that receives royalties from the other contracting state may elect (after application of the 5% withholding tax) to be taxed on a net basis as a resident of the other contracting state.			
<b>Malaysia-Laos</b>	<b>5/10</b>	<b>10</b>	<b>10</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the payer company's capital; otherwise, the rate is 10%.			
<b>Malta-Poland</b>	<b>0/10/D</b>	<b>5</b>	<b>5</b>
Dividends paid from Poland are exempt if paid to a company that holds directly at least 10% of the capital of the payer company for an uninterrupted period of 24 months; otherwise, the rate is 10%. The withholding tax rate on dividends paid by a company resident in Malta will continue to be subject to a rate not to exceed that chargeable on profits from which the dividends are paid.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
<b>Netherlands-Hong Kong</b>	<b>0/10</b>	<b>0</b>	<b>3</b>
The treaty applies from 1 April 2012 in Hong Kong. Dividends are exempt if paid to a (1) company that holds at least 10% of the payer company and the shares are regularly traded on a recognized stock exchange or at least 50% of the shares of the recipient company are owned by a company whose shares are regularly traded on a recognized stock exchange, but only if the latter company is a resident of a contracting state, or a resident of an EU Member State and that company would be entitled to similar or more favorable benefits as provided by the dividends article under a tax treaty; (2) a bank or insurance company established and regulated as such under the laws of the treaty partner jurisdiction of which it is a resident, provided it holds at least 10% of the share capital of the payer company; (3) a headquarters company for a multinational corporate group that provides a substantial portion of the overall supervision and administration of the group and that has, and exercises, independent discretionary authority to carry out these functions, provided it holds at least 10% of the share capital of the payer company; (4) a pension fund or scheme; or (5) a company other than a company mentioned under subparagraphs (1), (2), or (3) provided the competent authority of the contracting party that has to grant the benefits concludes that the establishment, acquisition or maintenance of the company does not have as its main purpose or one of its main purposes to secure the benefits of the dividends provision. The rate in all other cases is 10%.			
<b>Netherlands-Panama</b>	<b>0/15</b>	<b>15</b>	<b>15</b>
Dividends are exempt if paid to a company that holds at least 15% of the capital of the payer company and (1) the shares of the recipient company are regularly traded on a recognized stock exchange; or (2) at least 50% of the shares of the recipient are owned directly or indirectly by one or more individuals who are resident in either contracting state or by one or more companies whose shares are regularly traded on a recognized stock exchange, but only if those companies are residents of either contracting state, or would be entitled to benefits that are similar to or more favorable than the benefits in this provision under a treaty between their state of residence and the contracting state from which these benefits are claimed or pursuant to a multilateral agreement; or (3) the recipient company is engaged in the active conduct of a trade or business in the contracting state of which it is a resident (other than the activities of making or managing investments for the resident's own account, unless these activities are banking or insurance carried on by a bank or an insurance company). The exemption also applies where the dividends are paid to a qualifying pension fund or to a company whose capital is wholly or partly divided into shares, and that is a resident of the other contracting state and holds directly at least 15% of the capital of the payer company, provided the recipient is a headquarters company for a multinational corporate group that provides a substantial portion of the overall supervision and administration of the group and that has, and exercises, independent discretionary authority to carry out these functions (specific rules apply to qualify as a headquarters company). Otherwise, the rate is 15%.			
<b>Netherlands-Switzerland</b>	<b>0/15</b>	<b>0</b>	<b>0</b>
Dividends are exempt if paid to a company that holds directly at least 10% of the capital of the payer company, a pension fund or, as far as Switzerland is concerned, to a social security scheme; otherwise, the rate is 15%.			
<b>New Zealand-Hong Kong</b>	<b>0/5/15</b>	<b>10</b>	<b>5</b>
The treaty applies in Hong Kong from 1 April 2012. Dividends are exempt if paid to a company that holds directly or indirectly at least 50% of the voting power of the payer company and the recipient company (1) has its principal class of shares listed and regularly traded on a recognized stock exchange; (2) is owned directly or indirectly by one or more companies (a) whose principal class of shares is listed and regularly traded on a recognized stock exchange, or (b) which, if that company or each of those companies owned directly the holding in respect of which the dividends are paid, would be entitled to equivalent benefits in respect of the dividends under a tax treaty between the party of which that company is a resident and the contracting party in which the payer company is resident; or (3) does not meet the requirements of (1) or (2) but the competent authority of the first-mentioned contracting party determines that there is no motive to take advantage of the dividends article. The 5% rate applies to dividends paid to a company that holds directly at least 10% of the voting power of the payer company; otherwise, the rate is 15%.			
<b>New Zealand-Turkey</b>	<b>5/15</b>	<b>10/15</b>	<b>5</b>
The 5% rate applies to dividends paid to a company that holds directly at least 25% of the capital of the payer company (provided the dividends are exempt from tax in the other state); otherwise, the rate is 15%. The 10% rate applies to interest paid to a bank; otherwise, the rate is 15%.			
<b>Norway-Turkey</b>	<b>5/15</b>	<b>10/15</b>	<b>10</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 20% of the capital of the payer company; otherwise, the rate is 15%. The rate on interest is 10% if paid to a bank; otherwise, the rate is 15%.			
<b>Philippines-Qatar</b>	<b>10/15</b>	<b>10</b>	<b>15</b>
The 10% rate applies to dividends paid to a company (excluding partnerships) that holds directly at least 10% of the capital of the payer company; otherwise the rate is 15%.			

Treaty	Dividends (%)	Interest (%)	Royalties (%)
<b>Poland-Switzerland</b>	<b>0/15</b>	<b>0/5</b>	<b>0/5</b>
Dividends are exempt if paid to a qualifying pension (or similar) fund or where the beneficial owner is a company (other than a partnership) that directly holds at least 10% of the payer's capital on the date the dividends are paid and has held the participation (or will have done so) for an uninterrupted 24-month period in which that date falls; otherwise, the rate is 15%. Interest and royalties are exempt for payments between associated companies (provided the beneficial owner of the interest is not a partnership); otherwise the rate is 5%.			
<b>Saudi Arabia-Bangladesh</b>	<b>10</b>	<b>7.5</b>	<b>10</b>
<b>Saudi Arabia-Singapore</b>	<b>5</b>	<b>5</b>	<b>8</b>
<b>Singapore-Albania</b>	<b>5</b>	<b>5</b>	<b>5</b>
<b>Singapore-Panama</b>	<b>4/5</b>	<b>5</b>	<b>5</b>
The rate is 4% for dividends paid to a company that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 5%.			
<b>Slovenia-Belarus</b>	<b>5</b>	<b>5</b>	<b>5</b>
<b>Spain-Georgia</b>	<b>0/10</b>	<b>0</b>	<b>0</b>
Dividends are exempt if paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
<b>Spain-Uruguay</b>	<b>5</b>	<b>10</b>	<b>5/10</b>
The 5% rate applies to royalties paid for use of the copyright of literary, scientific or artistic works; otherwise, the rate is 10%.			
<b>Switzerland-Georgia</b>	<b>0/10</b>	<b>0</b>	<b>0</b>
Dividends are exempt if paid to a company (other than a partnership) that directly holds at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
<b>Switzerland-India</b>	<b>10</b>	<b>0/10</b>	<b>10</b>
The protocol applies in India from 1 April 2012. Interest is exempt if paid to a resident of the other contracting state that is engaged in the operation of ships or aircraft in international traffic, such that interest will be taxable only in the residence state to the extent the interest is paid on funds connected with those activities; otherwise, the rate is 10%.			
<b>Switzerland-Tajikistan</b>	<b>5/15</b>	<b>10</b>	<b>5</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 20% of the capital of the payer company; otherwise, the rate is 15%.			
<b>Switzerland-Uruguay</b>	<b>5/15</b>	<b>0/10</b>	<b>10</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 25% of the capital of the payer company; otherwise, the rate is 15%. Interest paid in respect of a credit sale of industrial, commercial or scientific equipment, interest on the sale of merchandise between two enterprises and interest on long-term bank loans is exempt; otherwise, the rate is 10%.			
<b>Taiwan-India</b>	<b>12.5</b>	<b>10</b>	<b>10</b>
The treaty applies in India from 1 April 2012.			
<b>United Kingdom-Oman</b>	<b>0/15</b>	<b>0</b>	<b>8</b>
The 15% rate applies to dividends paid out of income (including gains) derived directly or indirectly from immovable property as defined in the treaty by an investment company or investment fund that distributes most of this income annually and whose income from such immovable property is exempted from tax (i.e. U.K. real estate investment trusts); otherwise, dividends are exempt.			
<b>Venezuela-UAE</b>	<b>5/10</b>	<b>10</b>	<b>10</b>
The 5% rate applies to dividends paid to a company (other than a partnership) that holds directly at least 10% of the capital of the payer company; otherwise, the rate is 10%.			
<b>Vietnam-Qatar</b>	<b>5/12.5</b>	<b>10</b>	<b>5/10</b>
The rate is 5% for dividends paid to a company that holds directly or indirectly at least 50% of the capital of the payer company or has invested more than USD 10 million (or the equivalent in Qatari or Vietnamese currency) in the capital of the payer company; otherwise, the rate is 12.5%. The 5% rate applies to royalties paid for the use of, or the right to use, a patent, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience; otherwise, the rate is 10%.			

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### India

#### ***Vodafone* – Supreme Court holds sale of shares outside India between nonresidents is not taxable**

The Supreme Court has held in *Vodafone* that the sale of shares outside India between two nonresidents is not liable to tax in India and, accordingly, Vodafone did not have an obligation to withhold tax on consideration it paid for the acquisition of a Cayman Islands entity. [Issued: 24 January 2012]

**URL:** [http://www.deloitte.com/view/en\\_GX/global/services/tax/international-tax/58f0e577d4315310VgnVCM2000001b56f00aRCRD.htm](http://www.deloitte.com/view/en_GX/global/services/tax/international-tax/58f0e577d4315310VgnVCM2000001b56f00aRCRD.htm)

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