

## Taiwan Tax Update

December 2015

### Taiwan and Japan signed double taxation agreement

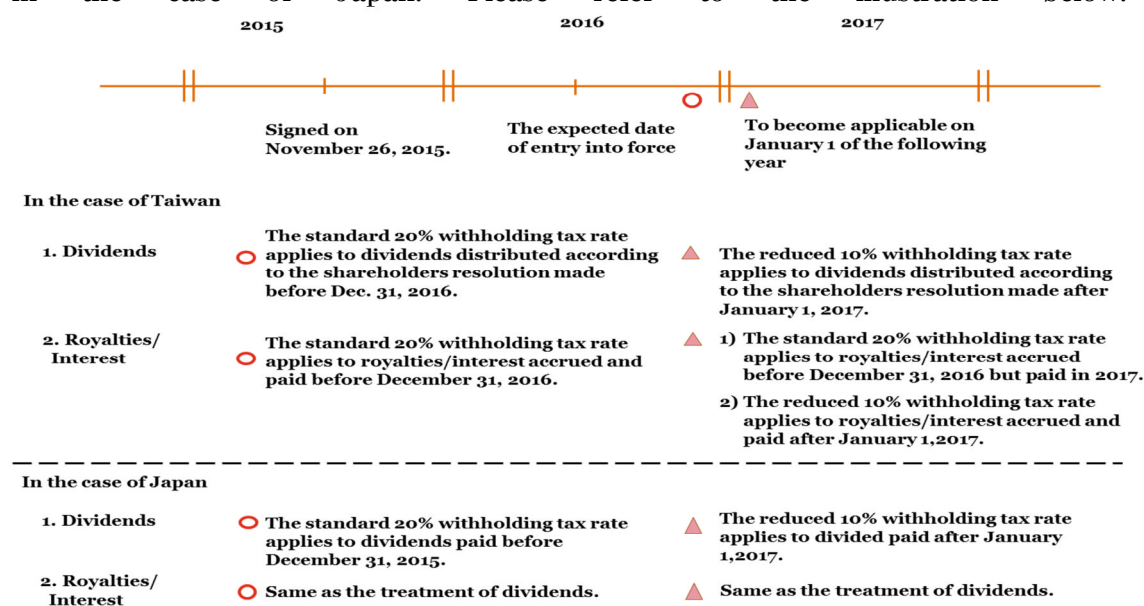
#### I. Japan is the first Northeast Asian country that signed a comprehensive double taxation agreement (“DTA”) with Taiwan, marking the 29th country that Taiwan has entered into a DTA with

On November 26, 2015, representatives from Taiwan and Japan signed the Agreement between the Association of East Asian Relations and the Interchange Association for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (“Taiwan-Japan DTA”). The Taiwan-Japan DTA will need to be approved by the Congress of Japan and the Executive Yuan of Taiwan<sup>1</sup>, as well as submitted to the Legislative Yuan of Taiwan for acknowledgement<sup>2</sup> before it can enter into force. The Taiwan-Japan DTA is expected to come into force in 2016, at the earliest, with income tax reduction or exemption benefits becoming applicable to designated income in 2017.

#### II. Summary of key contents and timing of applicability of reduced withholding tax rates under Taiwan-Japan DTA

##### 1. Timing of applicability of reduced withholding tax rates:

Applicability of reduced withholding tax rates on dividends, interest and royalties is determined based on the accrual date in the case of Taiwan, and on the payment date in the case of Japan. Please refer to the illustration below.



<sup>1</sup> The Taiwan-Japan DTA was approved by Taiwan Executive Yuan on December 10, 2015.

<sup>2</sup> The Taiwan-Japan DTA is not required to be reviewed and passed by Taiwan Legislative Yuan.

2. Key contents of the Taiwan-Japan DTA:

Scope	Persons covered	Individuals and enterprises that qualify under the definition of residents under tax regulations of respective Territories.
	Taxes covered	Mainly income tax.
Principal tax relief measures	Business profits	Where business activities carried out by an enterprise of a Territory do not give rise to a permanent establishment in the other Territory, business profits generated therefrom shall not be taxed in the other Territory.
	Investment income	<ol style="list-style-type: none"> <li>1. Dividends: withholding tax rate limited to 10%.</li> <li>2. Interest: withholding tax rate limited to 10%, but may be exempt in certain cases.</li> <li>3. Royalties: withholding tax rate limited to 10%.</li> </ol>
	Capital gains	Capital gains derived by a resident of a Territory from the alienation of shares in a company located in the other Territory is not taxed in that other Territory unless more than 50% of the value of the shares is constituted, directly or indirectly, by immovable properties in the other Territory.
Transfer pricing between related parties		A corresponding adjustment mechanism is introduced for resolution of dispute arising from double taxation in related party transactions between the two Territories.
Dispute resolution	Mutual agreement procedures	When confronting disputes that involve inconsistencies in the interpretation and application of the Taiwan-Japan DTA, or transfer pricing adjustments or double taxation issues, a resident of a Territory can file a mutual agreement procedure request with the competent authority of that Territory for a resolution. In addition, a resident of a Territory can also apply for a bilateral advance pricing agreement for related party transactions to eliminate risks associated with future tax audits and to increase certainty in future tax liabilities.

***Business entity having dividend income shall adjust non-deductible input VAT ratio when filing the last VAT return of current year***

As a reminder, business entities who receive dividend income (e.g. domestic or foreign paid cash dividends, share dividends, and cash distributed from capital reserve which does not involve capital contributed by shareholders) from their investment in domestic or foreign enterprises, shall report the dividend income as VAT exempt sales in the last VAT return of the year.

Where a dual-status business entity has complete bookkeeping records that clearly identify the actual use of goods or services purchased or imported, it may apply the direct deduction method for computing input VAT that may be deductible from output VAT based on the actual use of goods or services purchased. Where a dual-status business entity also engaged in

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investment activities does not apply the direct deduction method, it should apply the proportionate deduction method, and adjust the VAT due based on the non-deductible input VAT ratio to file the VAT return and pay VAT due.

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