Global Withholding Tax Alert

For Immediate Action

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TURKEY: NEW TREATY WITH SINGAPORE ENTERED INTO FORCE ON AUGUST 27, 2001

A new income tax treaty (the “treaty”) and protocol, between the governments of Turkey and Singapore, entered into force on August 27, 2001. This is the first income tax treaty concluded between the two countries. The new treaty will have effect in Turkey from January 1, 2002. In Singapore, the new treaty will apply to tax chargeable for years of assessment beginning on or after January 1, 2003 (i.e., dividends payable from January 1, 2002).

Please note that the terms "State" and "Contracting State" as used below refer generally to Singapore or Turkey, as the case may be.

For *Global Withholding Tax Reporter* purposes, the salient points of the treaty are:

Definition of Resident: Article 4 of the treaty states that the term “resident” means “any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

Article 3 of the treaty states that the term “person” includes an individual, a company or any other body of persons that is treated as a taxable entity for tax purposes. Article 3 also states that the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes.

Dividends: Article 10 of the treaty provides a 15% general withholding rate provided the income recipient is the beneficial owner. The rate is reduced to 10% of the gross amount of the dividends if the recipient is a company (excluding a partnership) that holds directly at least 25% of the capital of the company paying the dividends.

An exemption from withholding tax applies to dividends paid by a company that is a resident of a Contracting State to the Government of the other Contracting State. For purposes of the exemption, the term “Government”:

(1) in the case of Singapore, means the Government of Singapore and shall include:
   a. the Monetary Authority of Singapore and the Board of Commissioners of Currency;
   b. the Government of Singapore Investment Corporation Pte Ltd;
   c. a statutory body; and
   d. any institution wholly or mainly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting States;

(2) in the case of Turkey, means the Government of Turkey and shall include:
   a. the Central Bank of Turkey;
   b. Eximbank of Turkey;
   c. a statutory body; and
   d. any institution wholly or mainly owned by the Government of Turkey as may be agreed from time to time between the competent authorities of the Contracting States.

With respect to Turkey, domestic law provides that dividends paid from Turkish corporations to nonresident shareholders are not subject to withholding tax at the shareholder level. Please be reminded that for purposes of the *Global Withholding Tax Reporter*, Turkey is covered as a Country of Investment only. Therefore, the taxation of Turkish residents receiving Singapore dividends is not discussed.

Interest: Article 11 of the treaty provides a 10% general withholding rate provided the income recipient is the beneficial owner. The rate is reduced to 7.5% of the gross amount of the interest if the beneficial owner is a financial institution. Note, however, that the treaty does not define the term "financial institution" for this purpose. Also, an exemption from withholding tax applies to interest arising in a Contracting State and paid to the Government of the other Contracting State. For purposes of the exemption, the term "Government" has the same meaning as that reflected above under Dividends.

Please refer to footnotes (c) through (g), Singapore Statutory Rates, and footnotes (d) through (h), Turkey Statutory Rates, of the *Global Withholding Tax Reporter* for domestic law exemptions on interest income paid to nonresident investors.

Capital Gains: Under Article 13 of the treaty, gains derived by a resident of a Contracting State from the alienation of portfolio investments may be taxed in the other Contracting State. Note that the treaty provides for an exemption from tax with respect to derived by a Government of a Contracting State. For the purposes of this Article, the term "Government" has the same meaning as reflected above under Dividends.

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