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Global Withholding Tax Alert

For Immediate Action

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Canada / Turkey: New Treaty Signed

On July 19, 2009, the governments of Canada and Turkey signed a tax treaty and accompanying protocol (the "treaty"). This is the first treaty concluded between the two countries. Pursuant to Article 28 of the treaty, both countries are to notify one another in writing of the completion of the procedures required by their domestic laws for bringing the treaty into force. The treaty will enter into force on the date of the later of the notifications between the two countries. The provisions of the treaty will have effect in respect of tax withheld at the source, on amounts paid or credited to non-residents on or after January 1 in the calendar year following that in which the treaty enters into force. In respect of taxes other than taxes withheld at the source, the treaty will have effect for taxation years beginning on or after January 1 in the calendar year following that in which the treaty enters into force.

The terms "State" and "Contracting State" as used below, refer generally to Canada or Turkey, as the case may be.

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

Definition of Resident: Article 4 (Resident) defines the term "resident of a Contracting State" as any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of registration, place of management or any other criterion of a similar nature.

Article 3 defines the term "person" as an individual, an estate, a trust, a company, and any other body of persons. The term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes.

Dividends: Please refer to Footnotes (a), Canada Statutory Rates, and Footnote (a) Turkey Statutory Rates, in the *GWTR* for information concerning domestic law withholding tax rates applicable to dividend income paid to non-residents. Article 10 (Dividends) of the treaty provides a general withholding tax rate of 20% in the case of both Canada and Turkey. However, the treaty also provides a withholding tax rate of 15% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10% of the capital of the company paying the dividend. *(Please note that information regarding significant shareholdings is not covered by the GWTR currently).*

Interest: Please refer to Footnotes (b) through (g), Canada Statutory Rates, and Footnotes (b) and (c) Turkey Statutory Rates, in the *GWTR* for information concerning the domestic law withholding tax rates applicable to interest income paid to non-residents. Article 11 (Interest) of the treaty provides a 15% general withholding tax rate. However, the treaty also provides that interest arising in Canada and paid to the Government of Turkey or to the Central Bank of Turkey (Turkiye Cumhuriyet Merkez Bankasi) will be exempt from Canadian tax. Further, the treaty provides that interest arising in Turkey and paid to the Government of Canada or to the Bank of Canada shall be exempt from Turkish tax.

Capital Gains: Please refer to Footnote (h), Canada Statutory Rates, and Footnotes (h) through (j) Turkey Statutory Rates, in the *GWTR* for information concerning the domestic law withholding rates applicable to capital gains. Article 13 (Capital Gains) of the treaty generally provides that gains derived by a resident of a Contracting State from the alienation of immovable property and situated in the other Contracting State may be taxed in that other State.

Note that Turkish domestic law does not tax currently capital gains derived by a non-resident

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