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# Global Withholding Tax Alert

## For Immediate Action

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**Ireland/Turkey: New Treaty Signed**

On October 24, 2008, a new income tax treaty and accompanying protocol ("treaty") was signed between the governments of Ireland and Turkey. This is the first treaty between the two countries. Pursuant to Article 28, 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 have effect in Ireland with respect to income and capital gains tax for any year of assessment beginning on or after January 1st in the year next following the date in which the treaty enters into force. In the case of Turkey, the treaty will have effect on or after January 1st in the year next following the date in which the treaty enters into force.

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

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

Definition of Resident: Article 4 (Residence) 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 management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. The term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

Article 3 defines the term "person" as an "individual, a company, a trust 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 footnote (a), Ireland Statutory Rates, in the *GWTR*, for information concerning the domestic law withholding tax rates applicable to dividend income paid to non-residents. In the case of Turkey, Article 10 (Dividends) provides a 15% general withholding tax rate on the gross amount of the dividends. In the case of Ireland, Article 10 also provides a 15% withholding tax rate on the gross amount of the dividends.

Interest: Please refer to footnotes (b) through (i), Turkey Statutory Rates, and footnotes (d) through (j), Ireland Statutory Rates, respectively, 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 that interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax charged shall not exceed 10% of the gross amount of such interest where it is paid in respect of a loan or other debt claim for a period exceeding two years or if the interest is received by a financial institution; or 15% of the gross amount of the interest in all other cases.

Capital Gains: Please refer to footnote (k), Ireland Statutory Rates, and footnote (h), Turkey Statutory Rates, respectively, 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 from the alienation of immovable property and situated in the other Contracting State may be taxed in that other State. This shall include gains from shares (including stock and any security), deriving the greater part of their value directly or indirectly from immovable property situated in that other State. Generally, gains from the alienation of any other property, are taxable only in the Contracting State of which the alienator is a resident (i.e., no tax is levied in the country of investment).

Pensions and Annuities: Article 18 (Pensions and Annuities) provides that pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such a resident shall be taxable only in that State.

If you have any questions about this Tax Alert, please contact any of the following *GWTR* tax professionals:

Danielle Clark (203) 674-3693

Shalini Natesan (617) 585-1964