

Mauritius – Rwanda Double Taxation Agreement



Background

A new DTA between the Republic of Mauritius and the Republic of Rwanda was signed on 20 April 2013. The new DTA replaces the previous Mauritius and Rwanda 2001 DTA and has now entered into force on 4 August 2014. The provisions of the new DTA shall be deemed to apply as follows:

- in Rwanda, in respect of any income year beginning on or after 1 January 2013; and
- in Mauritius, in respect of any period beginning on or after 1 July 2013.

The key changes brought by the new DTA compared to the previous 2001 DTA have been summarized in the table below. Other salient features of the new DTA are also set out below.

Summary of Key Changes			
Article	Previous 2001 DTA	New DTA	Domestic Rates in Rwanda
Dividends	■ Exempt	■ 10%	■ 15%
Interests	■ Exempt	■ 10%	■ 15%
Royalties	■ Exempt	■ 10%	■ 15%
Management or Professional fees	■ Not covered	■ 12%	■ 15%
Capital Gains on sale of shares	■ Taxing right to Resident State	■ Taxing Right to Resident State	■ Taxable together with business income

Residence

- The term "resident of a Contracting State" has been defined to mean any person who, under the laws of that state, is liable to tax therein by reason of his domicile, residence, place of effective management, or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof

Permanent Establishment (PE)

- PE includes furnishing of services including consultancy services by an enterprise through employees or other personnel provided such activities continue for same or connected project for a period(s) of more than 6 months within any 12 month period

PE (cont'd)

- PE also includes a building site, construction, installation or assembly project including supervisory activities in connection therewith only if the site, project or activity lasts more than 6 months

Business Profits

- While determining the profits of a PE, expenditure which are incurred for the purpose of PE, including executive and general administrative expenses shall be allowed as deduction
- Deduction would not be allowed in respect of amounts paid by the PE to the Head Office or any other office of the enterprise (other than reimbursement of actual expenses), by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of banks, by way of interest on moneys lent to the PE

Dividends

- Dividends may be taxed in the state in which the recipient is resident. However, it may also be taxed in the state in which it arises, but if the beneficial owner is resident of other state, tax so charged shall not exceed 10% of the gross amount of dividend provided

Interest

- Interest may be taxed in the state in which the recipient is resident. However, it may also be taxed in the state in which it arises, but if the beneficial owner is resident of other state, tax so charged shall not exceed 10% of the gross amount of the interest

Royalties

- Royalties may be taxed in the state in which payee is resident. However, it may also be taxed in the state in which it arises, but if the beneficial owner is resident of other state, tax so charged shall not exceed 10% of the gross amount of the royalty
- The term 'royalty' has been defined to mean payment of any kind received as a consideration for the use of, or right to use, any copyright of literary, artistic or scientific work including cinematograph films and films, tapes or discs for radio or television broadcasting, any patent, trade mark, design or model, computer programme, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience

Management or Professional Fees

- Management or Professional fees may be taxed in the state in which the recipient is resident. However, they may also be taxed in the state in which they arise, but if the beneficial owner is resident of other state, tax so charged shall not exceed 12% of the gross amount of dividend provided

- "Management or Professional fees" means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a technical, managerial, professional or consultancy nature not covered under any other Articles of the DTA

Capital Gains

- Capital gain arising from transfer of shares of a company shall be taxable only in the state in which alienator is a resident
- Accordingly, where in case the alienator is resident in Mauritius, the provisions of the DTA confers the taxing right to Mauritius in the case of sale of shares. However, the same shall not be subject to tax in Mauritius as capital gains are not subject to tax in Mauritius

Exchange of Information

- Any information exchanged under the Article shall be treated as secret in the manner as information obtained under the domestic tax laws of the respective state. It shall be disclosed only to the authorities concerned with the assessment, collection, enforcement, etc

Our comments

The new DTA still provides for beneficial tax treatments such as reduced withholding tax rates in respect of dividends, interests and royalties. Further, taxation of capital gains on sale of shares is conferred to the State of Residence and since capital gains are not subject to tax in Mauritius, this may undeniably reduce the tax cost of the Mauritian alienator at the time of exit.

Mauritius, therefore, remains the preferred International Financial Centre for investment into Rwanda.

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This document is based on our interpretation of the current income tax law and international tax principles. These principles are subject to change occasioned by future legislative amendments and court decisions. You are therefore cautioned to keep abreast of such developments and are most welcome to consult us for this purpose.

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