

Tax Insight

Uruguay - Japan

Double Tax Treaty

October 2019



In Montevideo, on September 13th the Japanese and Uruguayan Government signed a tax treaty to avoid double taxation and prevent fiscal evasion with respect to taxes on income (DTT) which substantially follows the OECD Model Tax Convention.

This new Convention joins the Agreement for the Liberalization, Promotion and Protection of Investments subscribed by both countries in 2015.

The DTT is expected to enter into force 30 days after Congress approval in both countries and the exchange of ratifying notes is done. At the same time, most of its provisions will start applying from January 1st of the next year after entry into force.



The DTT signed by Japan and Uruguay follows in general terms, the OECD Model Tax Convention. Below we include a summary of the most relevant provisions that the DTT contains.

Permanent Establishment (PE)

It is included in PE definition building sites, constructions, and related activities when such work lasts for a period exceeding six months. According to Uruguayan domestic tax law, a construction PE is deemed to exist if the activities carried out exceed three months. As such, the DTT provides a lengthier period for constituting a PE regarding construction and related activities. This is the minimum period established by the same provision in the UN Model Convention.

In addition, the DTT defines that a Services PE will exist when the activities exceed 183 days in any twelve-month period.

Business profits

Profits of a company of a Contracting State are taxable only in the State of residence, except when a PE in the country of source exists. If that case, its benefits may be taxed in the latter but only if they are attributable to that PE.

Dividends

It is provided that the dividends may be subject to taxes in the State of residence of the beneficiary of said income.

However, dividends may also be taxable in the State in which the entity that pays the dividends is resident, with certain limits established by de DTT. In this regard, taxes levied on dividends shall not exceed 5% of the gross amount of the dividends if the beneficial owner is a Company who has owned directly, during a period of 183 days, at least 10% of the voting power in the case where the entity that pays the dividends is a resident of Japan or at least 10% of the capital of the payer of such dividends if the entity is resident of Uruguay. In all other cases, the tax cannot exceed 10%.

Interests

The tax authority is granted to the State in which the beneficiary of the interest is resident. However, the DTT establishes that interest may also be taxed in the source country up to 10% of the gross amount of the interest.

Royalties

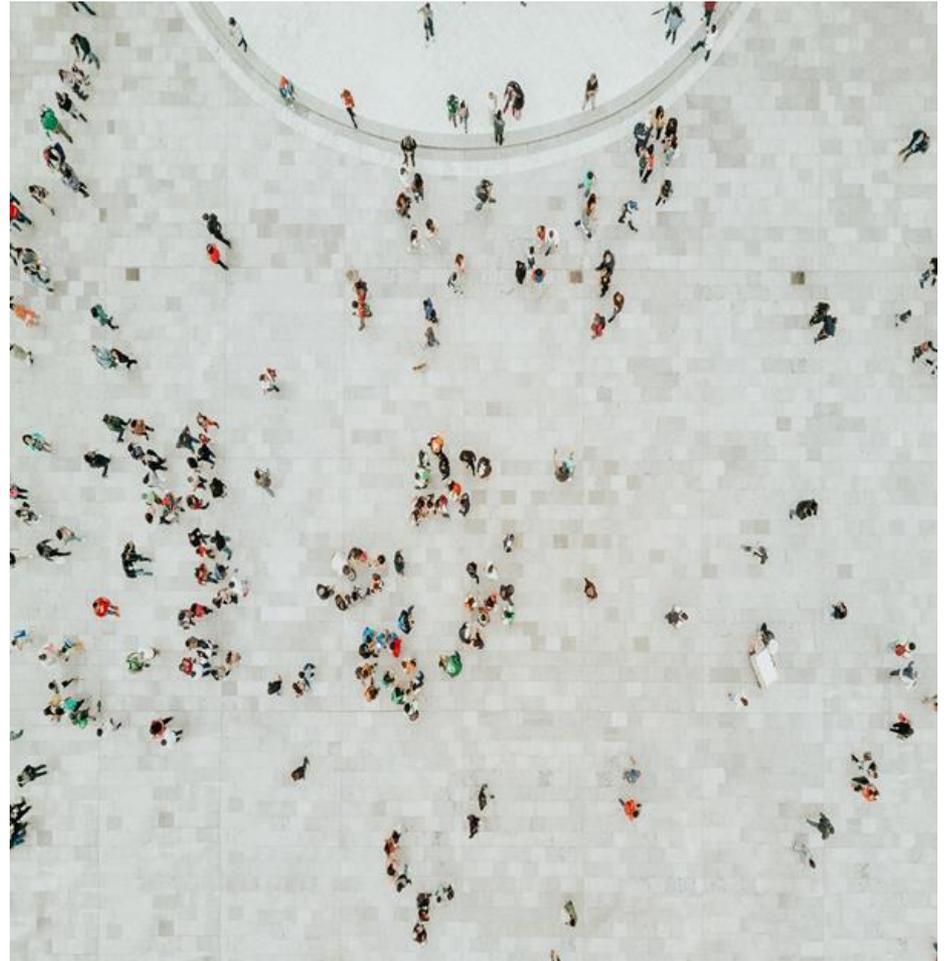
The DTT grants the right to tax royalties to the State in which the beneficiary of said rents is resident. It also states that royalties may also be subject to taxation in the country of the source up to 10% of the gross amount of the royalties.

Methods for the elimination of double taxation

As to provisions to eliminate double taxation, this DTT defines which taxes and persons are in its scope, and foresees the mechanism to avoid double taxation, taking the option of the concession of credit (with the limitation of the tax that the source country applied on such income).

Limitation of benefits clause

Among other provisions, this clause establishes that the benefits of the agreement are not granted in those cases that it is reasonable to conclude that the agreement or operation that generates the right to receive the benefit has as its main objective, obtaining such benefit. This provision is framed in the guidelines and recommendations of the OCDE Model for cases where countries try to avoid “treaty shopping”.



Final Reflection

This DTT is another step in the path of adherence to the international tax standards that Uruguay has formed. As of today, our country has signed over 30 international agreements.

Among the information exchange agreements are France, Iceland, Denmark, Greenlandia, Argentina, Norway, Canada, Australia, Faroe Islands, Sweden, Netherlands, Chile, United Kingdom, Guemesey and Sotuh Africa.

In terms of DTTs, currently those held with Hungary, Mexico, Spain, Germany, Switzerland, Liechtenstein, Portugal, Ecuador, Malta, South Korea, Finland, India, Romania, United Arab Emirates, Vietnam, United Kingdom, Luxembourg, Singapore, Belgium, Chile and Paraguay. Regarding Brazil, on September 9, a bill of law was remitted to congress consideration in order to ratify the DTT signed with Brazil in June of the current year.

It should be noted that Uruguay and Japan are both adhered to the Multilateral Instrument applicable for Tax treaties.

The DTT adopts the guidelines of the BEPS measures, particularly referring to the minimum standard. In this sense, the preamble of the DTT states that it is not intended to create opportunities for double non-taxation, non-taxation or reduced taxation through tax evasion or avoidance. In addition, the DTT adopts the provisions in relation to the dispute resolution mechanisms and establishes a rule of limitation of benefits and principal purposes test.

Contacts

Patricia Marques

patricia.marques@pwc.com

Diego Tognazzolo

diego.tognazzolo@pwc.com

Eduardo Rodríguez

eduardo.h.rodriguez@pwc.com

Eliana Sartori

eliana.sartori@pwc.com

Carolina Techera

carolina.techera@pwc.com

MONTEVIDEO

Cerrito 461, piso 1
11.000 Montevideo, Uruguay
T: (+598) 2916 04 63

WTC FREE ZONE

Dr. Luis Bonavita 1294, piso 1, of. 106
11.300 Montevideo, Uruguay
T: (+598) 2626 23 06

ZONAMERICA BUSINESS & TECHNOLOGY PARK

Ruta 8, km 17.500
Edificio M1, of. D
91.600 Montevideo, Uruguay
T: (+598) 2518 28 28

PUNTA DEL ESTE

Avda. Córdoba y Tailandia
20.000 Maldonado, Uruguay
T: (+598) 4224 88 04



@PwC_Uruguay



PwC Uruguay



PwC Uruguay

This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

© 2019 PricewaterhouseCoopers Ltda., PricewaterhouseCoopers, PricewaterhouseCoopers Professional Services Ltda. y PricewaterhouseCoopers Software Ltda. Todos los derechos reservados. PwC refiere a la firma miembro de Uruguay y en algunas ocasiones a la red PwC. Cada firma miembro es una entidad legal separada. Por favor visite www.pwc.com/structure para más detalles.