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TAX UPDATE: SOUTH AFRICA INTRODUCES DIVIDEND WITHHOLDING TAX

As long ago as 2007 the South African Minister of Finance announced that Secondary Tax on Dividends (STC) would be replaced with a Dividend Withholding Tax (DWT). The implementation date for the final changeover of 1 April 2012 is now nearly here.

Key differences between STC and DWT

STC was a tax levied on the company when it declared a dividend whereas DWT is a tax levied on the beneficiary of the dividend. As such DWT is more in line with international norms and the move has been promoted as a step to enable South Africa's tax competitiveness to be more easily assessed. Whilst STC was triggered by the declaration of a dividend, DWT is triggered on payment thereof and is withheld by the company making the payment or various agents.

There are a number of exemptions from the DWT the most important of which is a payment to a local company. Making use of the exemption will require notification to be made.

Reduced rate under a treaty

South Africa is a signatory to numerous Double Tax Treaties. Many of these provide for a reduced rate of withholding tax on dividends. In order to qualify for the reduced rate it will normally be required to have a shareholding of at least 25% in the paying company. It will also be necessary for the recipient to declare their status to the paying company in order to qualify for the reduced rate using the attached form (Download the Beneficial owner declaration of status form by visiting this link: <http://www.osiristrust.com/whatsnew/form.pdf>).

It will also be possible to reduce the amount of DWT due by way of any unutilised STC credits for a period of 5 years. It is important therefore that companies with STC credits carefully consider their position going forwards.

Importance of Double Tax Treaties

For large investors into South Africa it is more important than ever to carefully consider the route used for the investment into the country to maximise the position. It is interesting to note that of all of the countries with which South Africa has a treaty, only some 7 of them reduce the rate below 10%, and a number of those are down to 0% with some of the more interesting ones being Cyprus and Ireland at 0% and China at 5%.



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