



Hong Kong signs Double Taxation Agreement with Spain

The signing of the Hong Kong and Spain double taxation agreement (DTA) on 1 April 2011 brings the number of DTAs concluded by Hong Kong to twenty.

The DTA will provide investors with greater certainty on their tax liabilities from cross-border economic activities and foster closer economic and trade ties between Hong Kong and Spain.

The withholding tax on dividends, interest and royalties is as follows:

	Spain Non - treaty Rate	Treaty Rate¹
Dividends	19%	0 / 10% ²
Interest	19%	0 / 5% ³
Royalties	24%	5%

(1) The DTA contains provisions to deny relief where the main purpose or one of the main purposes of an arrangement by a person is to take advantage of the reduced withholding tax rates.

(2) Withholding tax on dividends is reduced to nil for a company which holds directly at least 25 percent of the capital of the company paying the dividend.

(3) Interest is exempt from withholding tax where it is paid:

- (a) to the Contracting Party or the central bank, a political subdivision or local authority thereof;
- (b) by the Contracting Party in which the interest arises or by a political subdivision, a local authority or statutory body thereof;
- (c) in respect of a loan, debt-claim or credit that is owed to, or made, provided, guaranteed or insured by, the Contracting Party or a political subdivision, local authority or export facilitating agency thereof;
- (d) to a financial institution;
- (e) to a pension fund that is approved for tax purposes by the other Contracting Party and the income of that fund is generally exempt from tax in that other Party.

Profits of a Spanish company operating in Hong Kong through a branch are currently taxed in both Hong Kong and Spain, with a tax credit for Hong Kong Profits Tax available under Spanish domestic legislation. Under the DTA, Profits Tax paid in Hong Kong will continue to be allowed as a credit against tax payable in Spain. Moreover, once Hong Kong is removed from Spain's designated "black list", a Spanish company will also be able to apply to have the non-controlled foreign corporation profits of a Hong Kong branch exempted from Spanish tax.

Hong Kong is currently included on Spain's designated "black list" of tax havens. However, Spanish tax legislation provides that a country can be removed from Spain's black list when they sign a DTA with Spain that includes an exchange of information clause. Accordingly, Hong Kong will now be removed from Spain's black list.

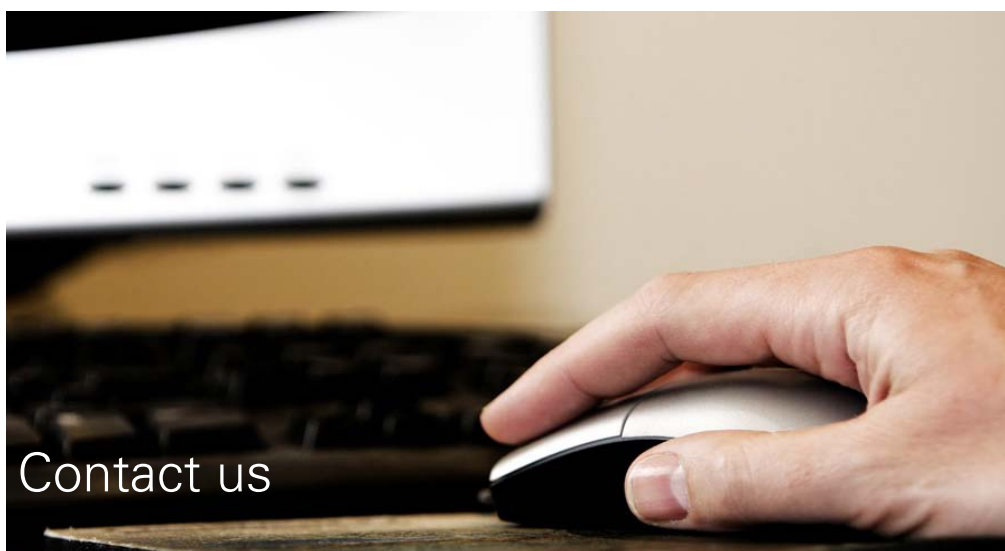
The DTA will have effect in Hong Kong, for any year of assessment beginning on or after 1 April in the calendar year, following that in which the DTA enters into force.

In Spain, the DTA will have effect:

- (i) In respect of taxes withheld at source, on amounts paid or credited to non-residents, on or after 1 April in the calendar year following that in which the DTA enters into force;
- (ii) In respect of other taxes, for taxation years beginning on or after 1 April in the calendar year following that in which the DTA enters into force;
- (iii) In all other cases, on or after 1 April in the calendar year following that in which the DTA enters into force.

Details of the DTA can be found at:

http://www.ird.gov.hk/eng/pdf/Agreement_Spain_HongKong.pdf



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