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TAX UPDATES

THE AMENDED JAPAN-UK TAX TREATY – NOTES EXCHANGED CONCERNING NEW ARTICLE ON BUSINESS PROFITS (ARTICLE 7)

While the amended Japan-UK tax treaty (signed on 17 December 2013) became applicable on 1 January 2015 in principle, the timing of application of the new Article 7 (Business profits) was not definite since diplomatic notes concerning such timing were not exchanged. (Please refer to [KPMG Tax e-Tax News No.84](#) (released on 13 November 2014) for details of the timing of application and the main points of the amendments to the tax treaty.)

On 23 July 2015, the Ministry of Finance of Japan (MOF) issued a statement on their website that both governments exchanged notes concerning the new Article 7 on 22 July 2015. ([Press release of the MOF](#))

Through the exchange of notes, both governments agreed that the new Article 7 will be applicable:

1. in Japan, with respect to profits for any taxable year beginning on or after 1 April 2016; and
2. in the UK,
 - (i) in respect of profits charged to income tax or capital gains tax, for any year of assessment beginning on or after 6 April 2016; and
 - (ii) in respect of profits charged to corporation tax, for any financial year beginning on or after 1 April 2016.

The new Article 7 introduces provisions concerning taxation of business profits attributable to a permanent establishment of a foreign enterprise, under which business profits are calculated by recognizing internal dealings between a head office and its branches and by applying the arm's length principle. This is almost the same as Article 7 of the OECD Model Tax Convention amended in 2010, which adopted the Authorised OECD

Approach as an approach to calculate income attributable to a permanent establishment. The Japan-UK tax treaty is the first tax treaty for Japan to include the new type of Article 7 of the OECD Model Tax Convention.

Please note that the amendments to adopt the Authorised OECD Approach as an approach to calculate income attributable to a permanent establishment were also made for Japanese tax purposes, and will be applied to corporate income tax to be imposed on foreign companies for any fiscal year beginning on or after 1 April 2016 and individual income tax to be imposed on non-resident individuals for 2017 income and onwards.

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