SHISHYA

e-tax NEWS

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PNG- NEWZEALAND TAX TREATY

PNG concluded its long awaited tax treaty with New Zealand last week. The PNG foreign minister, Rimbink Pato, and his New Zealand (NZ) counterpart, Murray McCully, signed the Agreement for Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, in Port Moresby last week.

This move is expected to foster the trade relation between the two nations and provide competitive advantage to businesses of both countries. More particularly it will allow NZ companies doing/willing to do business in PNG an equal footing with their Australian and other Asian counterparts. This newsletter aims to highlight the salient feature of this agreement.

"Basic principle"

- A tax treaty overrides the domestic tax provisions excepting where it is inconsistent with general anti-avoidance rules and transfer pricing provisions.
- In order to obtain benefits under a tax treaty a taxpayer has to be tax resident in either of the treaty country.
- A taxpayer is taxable in a treaty country only if his business activities give rise to a Permanent Establishment. This rule does not apply to passive income such as dividends, interest, royalty, technical fees, etc.

"Taxes covered"

The treaty only applies in relation to both countries income taxes. The PNG income taxes which are covered by this agreement are -

- Income Tax
- Salary or wages tax
- Additional Profits Tax
- Dividend withholding tax
- Foreign contractor withholding tax
- Management fee withholding tax
- Business Payments tax
- Interest withholding tax
- Royalty withholding tax

"Permanent Establishment (PE)"

Some of the activities rendered by a resident of one country in another country and subjected to tax earlier may be exempted now since they are excluded from definition of PE, such as -

- Building site, or a construction, installation or assembly project and related supervisory activities completed within 90 days;
- Exploration or exploitation of natural resources/timber, completed within 90 days;
- Operation of substantial equipment work, completed within 90 days;
- Consultancy services rendered in relation to same or connected project, for a period or periods aggregating 183 days in a 365 day period;

"Dividends"

Dividends paid by residents of either country will be now subjected to a reduced withholding tax rate of 15% as against 17%, provided the payee satisfies the beneficial ownership test.

"Interest"

Interest paid to a resident of other state will be now subjected to a reduced withholding tax rate of 10% as against 15%. No tax will apply where the lender is a Government of either country.

"Royalty"

Royalty paid to an associated entity resident in other state will be now be subjected to a reduced withholding tax rate of 10% as against 30% charged earlier.

"Technical/Management fee"

The treaty does not contain any separate article for technical/management fee. Hence where such fee is not falling under definition of royalty then it may not be charged with any tax in either country.

"Independent Professionals/ Consultants"

Where an individual resident of one state provides services in other contracting state in his own capacity then he will be liable to tax, only if any one of the following conditions are met–

- He has a fixed base regularly available to provide services
- His total income exceeds US$10,000 or equivalent local currency in a calendar year
- He spents 183 days in any year of income

This exemption rule does not apply to entertainers/sportspersons.

"Expatriate employees"

Expatriate employees providing employment will not be liable to tax in that other country, if any of the conditions are met-

- He spents 183 or less days in any year of income
- Remuneration is paid by non-resident employer
- Remuneration is not borne or deducted in arriving PNG income of the PE of the non-resident employer.

This exemption rule does not apply to entertainers/sportsperson

"Entertainers or Sportsperson"

Entertainers or Sportsperson are liable to tax in the other country from services income earned except where any special programme of cultural exchange is agreed upon between the Governments of both countries. For e.g., NZ athletes participating in 2015 Pacific Games are exempt from tax on any income earned from their participation in such games.

Entry into Force

The treaty will come into force once the parliament of both countries has ratified the agreement and it is gazetted.

Contact us

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