

Tax & Legal Alert

Changes to the Poland-Denmark double tax treaty (“DTT”)

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The protocol to the Poland-Denmark DTT (which was concluded in 2009) came into force on 25 November 2010. This means that the provisions of the protocol apply from 1 January 2011.

Regulations contained in the protocol to the DTT

The protocol changes the method of avoidance of double taxation for Polish tax residents. It introduces a so called “exemption with progression method” as a rule. This means that a Polish entrepreneur operating through a branch in Denmark should not include in its taxable base, revenues and costs generated by its Danish branch (this should not also affect CIT rate in Poland, since Poland applies flat CIT rate).

According to the protocol, the credit method will still apply to income received by Polish tax residents in the form of dividends, interest, royalties and capital gains taxable in the source country (which include, based on Art. 13 DTT, i.a. gains from the alienation of immovable property, shares, rights or an interest in a company the assets of which consists principally of immovable property).

The protocol aligns the wording of Art. 25 of the DTT (which relates to exchange of information) with regulations contained in the OECD Model Tax Convention on Income and Capital. According to the new Art. 25 of the DTT, if one state asks for certain information another state, this another state should endeavor to obtain and disclose such information, even if it does not need it for its own tax purposes. Moreover, according to the new Art. 25 of the DTT, the state may not refuse to disclose the information, because the information is held by a bank or other financial institutions (i.e. when the information is e. g. covered with banking secrecy.).

If you are interested in more detailed information concerning tax consequences arising from the entry into force of the protocol, please contact us.

Should you be interested in obtaining further information on the outlined issues and their implications please contact Magdalena Zasiewska, +48 22 523 4867 , magdalena.zasiewska@pl.pwc.com or your contact person at PwC.

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