Double Taxation

Conventions / Agreements

SCOF

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Purpose of Treaties

- ⇨ To remove barriers to cross-border trade and investment

How treaties remove tax barriers

- ⇨ Elimination of double taxation
- ⇨ Certainty of tax treatment
- ⇨ Reduce withholding tax rates
- ⇨ Prevention of fiscal evasion
- ⇨ Assistance in collection of taxes
- ⇨ Resolution of tax disputes/interpretation

South Africa – Mozambique Double Taxation Convention

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Introduction

- ⇨ A preliminary briefing was done on 17 August 2005.
- ⇨ Closely follows the OECD Model Convention, which forms the foundation for the vast majority of Double Taxation Agreements (DTA'S) worldwide.
- ⇨ A number of Articles are different from the normal South African approach. These Articles and other Articles of interest in the South Africa – Mozambique Double Tax Convention are as follows:

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Article 5: Permanent Establishment

- Construction:
  - 12 months in OECD Model
  - 6 months in UN Model
  - South Africa – Mozambique DTC
    - Building site, a construction, assembly or installation project or any supervisory activity in connection therewith – continues for more than 6 months.
    - Furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose – period or periods exceeding 180 days in any 12-month period.
    - Performance of professional services - period or periods exceeding 180 days in any 12-month period.

Article 8: International Transport

- ⇨ Paragraph 1: Includes rail and road transport vehicles

- ⇨ Paragraph 3: Profits of an enterprise of a Contracting State from the use or rental of containers used in international transport (including trailers, barges and related equipment for the transport of containers) is included in this Article, therefore, taxable only in the State of residence.

Article 10: Dividends

- Withholding tax of 5% or 15% proposed by OECD Model.

- In practice, withholding taxes vary widely internationally.

- Dividend rate in South Africa – Mozambique DT Convention:
  - 8% for shareholding of at least 25%; and
  - 15% in all other cases.

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Articles 11: Interest

- ⇨ Withholding tax of 10% proposed by OECD Model.
- ⇨ In practice, withholding taxes vary widely internationally.
- ⇨ South Africa – Mozambique DTC:
- ⇨ 8% of the gross amount of interest.

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Article 12: Royalties

- ⇨ No withholding tax proposed by OECD Model.
- ⇨ In practice, withholding taxes vary widely internationally.
- ⇨ South Africa – Mozambique DTC:
- ⇨ 5% of the gross amount of royalties.

Article 17: Pensions and Annuities

- ⇨ Payments under a social security system are taxable only in the State which pays the pension.
- ⇨ Pensions and annuities may be taxed in the Source State.

Article 19: Professors and Teachers

- This Article provides for an exemption from tax in the host State for a period not exceeding two years in respect of visiting professors or teachers. However, the remuneration must be derived from outside the host State.

Article 22: Elimination of Double Taxation

- ⇨ Tax paid for purposes of a foreign tax credit includes exemptions or reductions granted in accordance with laws which establish schemes for the promotion of economic development in Mozambique or South Africa.

- ⇨ A grant given by a Contracting State or a political subdivision thereof to a resident of the other Contracting State in accordance with laws which establish economic development schemes shall not be taxable in the other State.

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Article 26: Assistance in Recovery

- ⇨ Under this Article the two States are empowered to collect taxes covered in the Convention on behalf of each other.
- ⇨ This power is limited to taxes which have been assessed and finally determined in the requesting State.