



New Double Tax Treaty between Italy and China

Tax Alert

10 April 2019



Offices

Milan

Via Vittor Pisani 31, 20124
T: +39 02 676441

Ancona

Via I° Maggio 150/a, 60131
T: +39 071 2916378

Bologna

Via Innocenzo Malvasia 6, 40131
T: +39 051 4392711

Florence

Viale Niccolò Machiavelli 29, 50125
T: +39 055 261961

Genoa

P.zza della Vittoria 15/12, 16121
T: +39 010 5702225

Naples

Via F. Caracciolo 17, 80122
T: +39 081 662617

Padua

Piazza Salvemini 2, 35131
T: +39 049 8239611

Perugia

Via Campo di Marte 19, 06124
T: +39 075 5734518

Pescara

P.zza Duca D'Aosta 31, 65121
T: +39 085 4210479

Rome

Via Adelaide Ristori 38, 00197
T: +39 06 809631

Turin

C.so Vittorio Emanuele II 48, 10123
T: +39 011 883166

Verona

Via Leone Pancaldo 68, 37138
T: +39 045 8114111

On 23 March 2019, the Chinese and Italian governments signed a new agreement for the avoidance of double taxation and the prevention of fiscal evasion (the 'Agreement'). The Agreement is one of the 29 commercial and trade agreements signed by the two countries during the President of China's recent visit to Italy.

The Agreement will result in a general revision of the current double tax treaty ('DTT'), signed in 1986 and in force since 1990, in order to align it with the recommendations of the OECD/G20 BEPS project. It will enter into force after its ratification by both China and Italy and after exchange of the ratification instruments.

Main amendments

The Agreement introduces new WHT rates for dividends, interest and royalties.

Income	Current DTT	Agreement
Dividends	10%	5% ^a /10%
Interest	10%	0% ^b /8% ^c /10%
Royalties	10%	5% ^d /10%

- a) The WHT rate for dividends has been reduced to 5% in all cases where the beneficial owner (i) directly holds at least 25% of the share capital and (ii) meets this first condition for a minimum holding period of 365 days.
- b) Exemption for interest paid to public bodies.
- c) The 8% WHT applies if the interest is paid to financial institutions of the other country on loans maturing after a minimum of three years and used to fund investment projects.
- d) The 10% WHT will apply only to 50% of the gross royalty (effective WHT rate of 5%) when the consideration is paid for the use of, or the right to use, industrial, commercial or scientific equipment.

Capital gains

The Agreement modifies the allocation of taxing rights: any capital gains not governed by article 13 of the DTT will be taxed only in the transferor's country of residence.

However, the source state's right to tax is confirmed when capital gains derive from the alienation of:

- immovable property;
- movable property that is part of the business property of a permanent establishment;
- shares representing at least 25% of the share capital of an entity resident in a contracting state.

KPMG's comments

The reduced WHT rates introduced by the Agreement and the likely effects of the OECD MLI (e.g. compulsory arbitration clauses in Mutual Agreement Procedures) should encourage cross-border investments and should result in greater tax efficiency, certainty and clarity for companies of both countries. At the same time, confirmation of the source state's right to tax certain capital gains, under article 13 of the DTT, could still lead to Italian tax leakage in the disposal of shares in an Italian company.

Contacts

KPMG, Tax & Legal

Eugenio Graziani

Partner,
International Tax Services
T: +39 045 8114111
E: egraziani@kpmg.it

kpmg.com/it

kpmg.com/it/socialmedia

Lorenzo Bellavite

Senior Manager,
International Tax Services
T: +39 045 8114111
E: lbellavite@kpmg.it

kpmg.com/app



Tax Alert / KPMG in Italy / 10 April 2019

© 2019 Studio Associato - Consulenza legale e tributaria, an Italian professional partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ('KPMG International'), a Swiss entity. All rights reserved.

The KPMG name, logo are registered trademarks or trademarks of KPMG International Cooperative ('KPMG International').

Studio Associato - Consulenza legale e tributaria is a leading Italian law firm and a member firm of KPMG International for tax and legal services.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.