

# International tax alert

Foreign Tax Desk news

## Japan and Hong Kong agree on tax treaty

### Executive summary

On 31 March 2010, the Ministries of Finance of Japan and Hong Kong announced that they have reached a decision to conclude a treaty for the avoidance of double taxation.

Under the new treaty it will be possible to apply for tax authority negotiation and it is also anticipated that double taxation may now be avoided in cases where businesses had previously been subject to taxation in both jurisdictions. The treaty contains reduced withholding tax rates for dividends, interest and royalties to encourage mutual investment and trade between Japan and Hong Kong. Following the trend of recent treaties concluded by Japan the treaty will contain provisions to prevent treaty abuse.

The tax treaty will enter into force after signing and ratification by both countries.

### Summary of key aspects of the proposed treaty

To enhance mutual investment the withholding tax rates have been reduced as follows:

	Dividends		Interest	Royalties
	Qualifying dividends (Minimum shareholding)	Other		
Treaty	5% (10%)	10%	0% (government etc.) 10% (other)	5%

- ▶ A provision for exchange of information between tax authorities in each country will be included in the proposed treaty.
- ▶ Measures to prevent treaty abuse will also be included.

## Impact

Although the official text of the treaty is yet to be published, the details released indicate that this is an important improvement that is expected to enhance existing, and encourage new investments between Japan and Hong Kong. Particularly from a Japan inbound investment perspective, the proposed withholding tax rate reductions will facilitate cash repatriation and inbound financing of Hong Kong company operations in Japan.

The measures to prevent treaty abuse should be reviewed for certain investors who may not satisfy the qualified person criteria that would entitle them to certain benefits under the proposed Japan-Hong Kong treaty. This may impact upon existing structures, financing and repatriation arrangements and thus it is strongly recommended that existing structures be reviewed once the full text of the treaty is available.

For additional information with respect to this alert, please contact the following:

### Ernst & Young Shinnihon Tax, Tokyo, Japan

#### International Tax

Kenji Amino	Partner	+81 3 3506 2164	kenji.amino@jp.ey.com
Kazuhiro Mukaida	Partner	+81 3 3506 2540	kazuhiro.mukaida@jp.ey.com
Chizuko Tomita	Partner	+81 3 3506 2111	chizuko.tomita@jp.ey.com

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