

Japan Tax Bulletin

Procedures for claiming tax treaty benefits

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Japan has concluded 65 tax treaties which apply to 96 jurisdictions (shown in the Annex). A taxpayer wishing to claim treaty benefits is required to go through certain procedures provided for in the Law concerning special measures to the Income tax law, the Corporation tax law and the Local tax law in relation to executing tax treaties.

Generally, an application for tax benefits must be submitted to the tax office in advance of payments. The forms required differ depending on the tax benefits that are to be claimed and the tax treaty on which the tax treaty benefits are based. Therefore, a taxpayer should take care to use the correct forms when claiming treaty benefits. The procedures for claiming exemption or reduced rates of withholding tax are discussed below.

1. Procedures for claiming exemption or a reduced rate of withholding tax

A foreign company can sometimes receive income in the form dividends, interest or royalties from a Japanese subsidiary, which is subject to withholding tax under domestic tax law. In order to benefit from reduced rates or a treaty exemption from the withholding tax, the foreign company must submit application forms through the domestic payer, to the tax office which has jurisdiction over the area where the payer's head office is located. The forms must be submitted before the payments are made. Payments include not only actual cash payments but payables that are offset against receivables, capitalising interest payables into principal on a compound basis etc.

The table below contains links to the relevant application forms on the NTA's website (NTA: National Taxation Agency):

Form 1	Dividends
Form 2	Interest income
Form 3	Royalties

2. Limitation of benefits clause

Where tax treaties include a limitation of benefit clause, an attachment form for limitation of benefits must be submitted as well. The form is different depending on the treaty as the limitation of benefits clauses vary with each treaty. Links to the attachment form (Form 17) for various countries are shown below:

US	Netherlands
UK	Switzerland
France	Sweden
Australia	New Zealand

3. Flow-through entities

Where the foreign recipient entity is a flow-through entity for tax purposes in the jurisdiction where it is resident and tax treaty benefits are given to each member/partner/shareholder of the foreign entity under the tax treaty provisions, a list of the members of the entity must be also submitted. Form 16, which is used to show the members of an entity can be found on the NTA's website here:

<https://www.nta.go.jp/tetsuzuki/shinsei/annai/joyaku/annai/pdf2/265.pdf>

Currently, Article 4(6)(a)(c) of the US/Japan treaty, Article 4(5)(a) of the UK/Japan treaty, Article 4(6)(a) of the France/Japan treaty, Article 4(5)(a)(c) of the Australia/Japan treaty, Article 4(5)(a) of the Sweden/Japan treaty and Article 4(5)(a)(c) of the Netherlands/Japan tax treaty are the provisions on treaty benefits

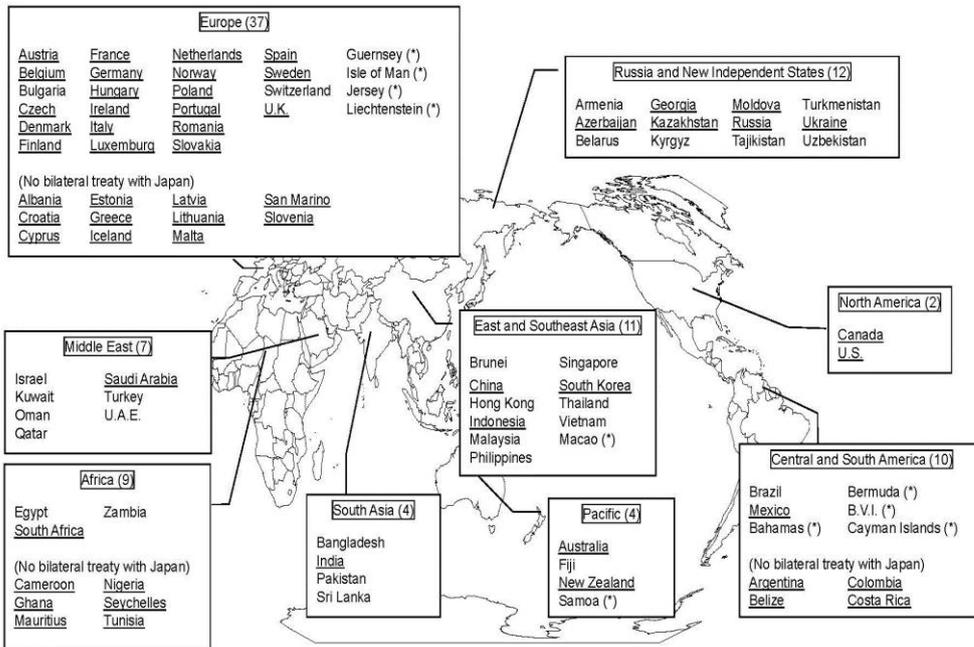
for flow-through entities.

4. Others

Where application forms for treaty benefits are not submitted in time and withholding taxes are deducted at regular rates under domestic tax law, a taxpayer can claim a refund of the difference between the amount of tax withheld under domestic tax law rates and that under the reduced rate in tax treaty, by filing the relevant refund claim form within five years.



Annex



(Note 1) Since the Convention on Mutual Administrative Assistance in Tax Matters is a multilateral treaty, and the tax conventions with the former Soviet Union and with the former state of Czechoslovakia were succeeded by more than one jurisdiction, the numbers of jurisdictions do not correspond to those of tax conventions.

(Note 2) The breakdown of the numbers of conventions and jurisdictions is as follows:

Tax conventions for the avoidance of double taxation and the prevention of fiscal evasion: 54 conventions and 65 jurisdictions.

Tax information exchange agreements: 10 conventions and 10 jurisdictions (these jurisdictions are marked with (*) in the map above).

Convention on Mutual Administrative Assistance in Tax Matters: 58 jurisdictions (these jurisdictions are underlined above).

(Source: the Ministry of Finance)

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