The Brazil and Switzerland Double Tax Treaty: Why is it so Significant?

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Background

The Brazilian and Swiss Governments signed a Double Tax Treaty (DTT) on 3 May 2018.

Switzerland is one of the biggest investors in the Brazilian market and Brazil and Switzerland have already signed an Automatic Exchange of Information Agreement, which came into force on 1 January 2018.

This new treaty, follows current OECD standards, including Base Erosion and Profit Shifting (BEPS) measures and anti-abuse rules and is anticipated to significantly increase investment between the two countries.

Main Impact

The new DTT not only introduces a number of tax advantages but also provides certainty in terms of tax treatment and will therefore generate increased confidence.

Key Measures

The Treaty is unique from a Brazilian perspective, as certain clauses are not included in any of Brazil’s other 33 DTTs.

- Dividends: will be taxed in the source country, up to the general limit of 15%.

The exception is companies holding more than 10% of the shares for at least one year, where the tax rate will be 10%.

The clauses relating to dividends are only relevant for dividends paid from Switzerland to Brazil. This is due to the fact that where dividends are paid from Brazil to Switzerland, existing domestic rules are more beneficial than the provisions of the Treaty.

- Interest: will be taxed in the source country, up to the general limit of 15%.

If the beneficial owner is a bank and the loan has been granted for at least five years, to finance the purchase of equipment or investment projects, the tax rate will be 10%.

Switzerland does not levy Swiss withholding tax on interest arising from regular loan agreements. However, interest on bonds and bank interest are generally subject to Swiss withholding tax.

- Royalties: will be taxed in the source country, up to the general limit of 10%.

The tax rate will be 15% for royalties arising from the use of trademarks. Technical assistance is included in the definition of royalties, whereas technical services are not.

Switzerland does not levy Swiss withholding tax on royalties.

Additional Important Clauses

Gains from the disposal of shares or comparable interests in ‘land-rich’ entities will be taxable in the country where the land is situated.

- A Swiss company receiving dividends from a Brazilian company will be entitled to the same relief, as if the company paying the dividends were resident in Switzerland, for Swiss tax purposes.

This provision allows a credit even if dividends are not taxed in Brazil (current withholding tax is zero).

Next Steps

The DTT needs to be approved by the Brazilian Congress and Swiss Parliament, before coming into force. It is difficult to anticipate, at this stage, precisely when this date will be, but it is likely to be in the first half of 2019.

Additional Information

If you would like further information regarding the potential for investment between Switzerland and Brazil, please speak to Christine Breitler, in our Swiss office: advice.switzerland@dixcart.com or to Catarina Sardinha: at the Dixcart office in Portugal: advice.portugal@dixcart.com.