KPMG

Tax Alert

February 2021

Protocol amending the Mauritius-Eswatini (previously known as Swaziland) Double Taxation Avoidance Agreement

Background

In January 2021, the Protocol amending the Double Taxation Avoidance Agreement ("**DTAA**") between Mauritius and the Kingdom of Eswatini ("**Eswatini**") has been published in the Government gazette in Mauritius. It is expected that the provisions of the Protocol amending the DTAA will come into force in January 2022 once necessary internal procedures are completed.

Key changes to the DTAA made through the Protocol are as follows:

Article	Rates under DTAA	Changes brought by Protocol
Interests	5%	7.5%[1]
Management fees or professional fees	Not covered. Hence, rates as per domestic law were applicable.	5% [2]

Where the rates under the domestic laws are more favourable than the DTAA and the Protocol, the rates under the domestic laws will apply.

1. No withholding tax is levied in Mauritius on payment of interest to non-residents if paid by banks or by companies holding a Global Business License out of their foreign source income.

2. No withholding tax is levied in Mauritius on payment of management fees except if paid to an individual

Changes to the Permanent Establishment ("PE") article

Where an insurance company incorporated in Eswatini collects premiums in Mauritius or insures risks in Mauritius through a dependent agent, the Eswatini insurance company may create a PE in Mauritius. The same principle applies to a Mauritian insurance company operating in Eswatini.

Inclusion of an article to facilitate Exchange of information

The competent authorities of Mauritius and Eswatini may share information with each other for the enforcement of the DTAA or domestic laws. Any information received from the other competent authority will be shared only with the concerned persons or authorities where required.

Where information is used for any other purpose, approval of the competent authority of the Supplying State should be obtained.

Inclusion of an article to facilitate Collection of taxes

The competent authorities of Mauritius and Eswatini will henceforth lend assistance to each other in the collection of taxes.

KPMG Comments

The Mauritius–Eswatini DTAA was signed in 1994 and the changes brought through the Protocol are important to align the DTAA with best international tax principles and also encourage the flow of funds between the two jurisdictions.

It is important to note that Eswatini has not yet signed the OECD Multilateral Instrument ("**MLI**") and Eswatini's signature to the MLI will have to be monitored to ensure correct interpretation of the DTAA and the Protocol. The purpose of the MLI is to implement tax treaty related measures to prevent Base Erosion and Profit Shifting (BEPS). Mauritius is a signatory to the MLI which applies with treaty partners of Mauritius having signed the MLI as well.

Contact Us

We hope you find this tax alert useful. Feel free to contact us if you have any question.

Wasoudeo Balloo
Partner, Head of Tax

T: (+230) 406 9891
E: wballoo@kpmg.mu

Kevin Mees
Manager, Tax

T: (+230) 406 9768
E: kmees1@kpmg.mu

Pechal Chundydyal
Manager, Tax

T: (+230) 406 9845
E: pchundydyal@pmg.mu

Joshita Lutchoomun
Manager, Tax

T: (+230) 406 9850
E: jlutchoomun@kpmg.mu

kpmg.com/mu
kpmg.com/socialmedia