

## Tax Alert

# Spain and the United States have signed a new Double Taxation Treaty

July 19, 2019

On 17 July 2019 a new Double Taxation Treaty (DTT) was signed by the Spain-US Chamber of Commerce, replacing the existing Spain-US treaty (which entered into force in 1990). The new protocols will mean less confusion, more certainty and often fewer taxes for investors between Spain and the United States thus facilitating bilateral foreign direct investment. Most notably, the new agreement reduces taxes at source on dividends, interest and profits and allows for the tax-free transfer of pension plans.

The key changes contained in the official text are summarized below:

### **Reduction or elimination of withholding tax on dividends**

Dividend distribution withholding tax is reduced to 5% between associated companies (10% of participation, previously 25%), when they derive from non-qualifying participation. Dividend withholding tax is eliminated for parent companies who own 80% or more of the shares with voting rights in the paying entity for a 12-month period.

### **Elimination of withholding tax on interest and royalty payments**

No withholding tax will apply to interest and royalty payments made by companies of one state to residents in the other State, provided that the recipient is the beneficial owner.

Previously, interest payments made to US entities were subject to a 10% withholding. Elimination of this tax will equalize US entities with EU entities which are exempt from such withholding taxes in Spain. Meanwhile, Spain traditionally taxed royalties for technology, applying a tax rate of 5%, 8% or 10%.

### **Elimination of taxation on capital gains**

The new treaty eliminates the taxation on the capital gains at the source of shares. However, one exception applies to shares of holding companies of real estate assets which will continue to be subject to capital gains tax at the source.

## **Permanent establishment**

The minimum threshold for a building site or construction or installation project to constitute a permanent establishment is extended from 6 to 12 months.

We understand that the new DTT will facilitate the access to US investors into the Spanish economy, given that the Spanish tax burden would be increasingly reduced. The new agreement contains numerous other technical provisions which are targeted at improving the exchange of information and mutual assistance between the tax authorities of Spain and the United States with the intention of establishing more clear rules for doing business.

For further information, please contact:

[Toni Prat](#)

[toni.prat@AndersenTaxLegal.es](mailto:toni.prat@AndersenTaxLegal.es)

[María Olleros](#)

[maria.olleros@AndersenTaxLegal.es](mailto:maria.olleros@AndersenTaxLegal.es)