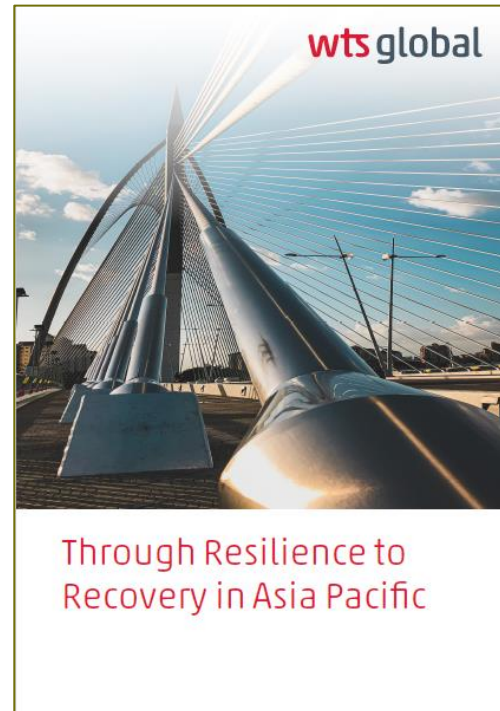


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Withholding taxes on cross-border transactions in Asia Pacific

WEBINAR - September 1, 2021

wts global

Today's Panelists



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WTS Global at a glance



Founded in 2003 by WTS Germany



Locally rooted - Globally connected:

Present in more than 100 countries with more than 3,500 tax professionals



Tax-focused:

Coverage of the entire range of tax advisory services



Independent & free of conflict:

No audit



Quality assurance:

Stringent quality reviews



Diverse customer base:

From multinationals to private clients



Central management & coordination:

Centrally managed global tax practice

Strong local presence on all continents

Our network firms include (amongst others)



Agenda

1

Regional overview

2

Jurisdiction-specific interpretations of activities as services vs. royalties?

3

Implications on withholding taxes from constituting a PE?

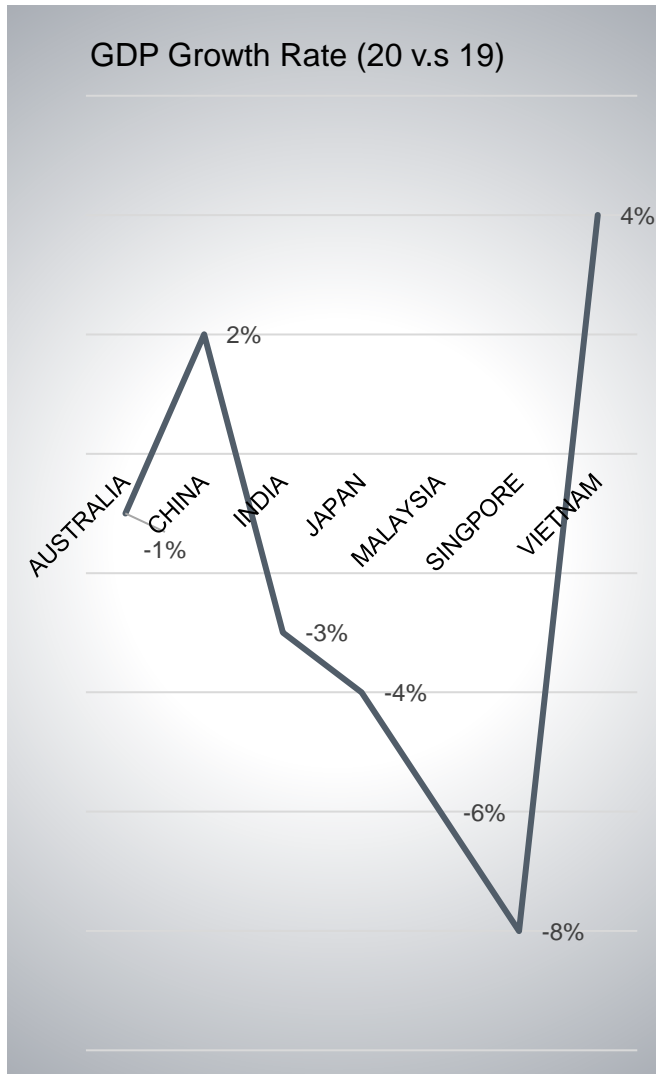
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Appendix

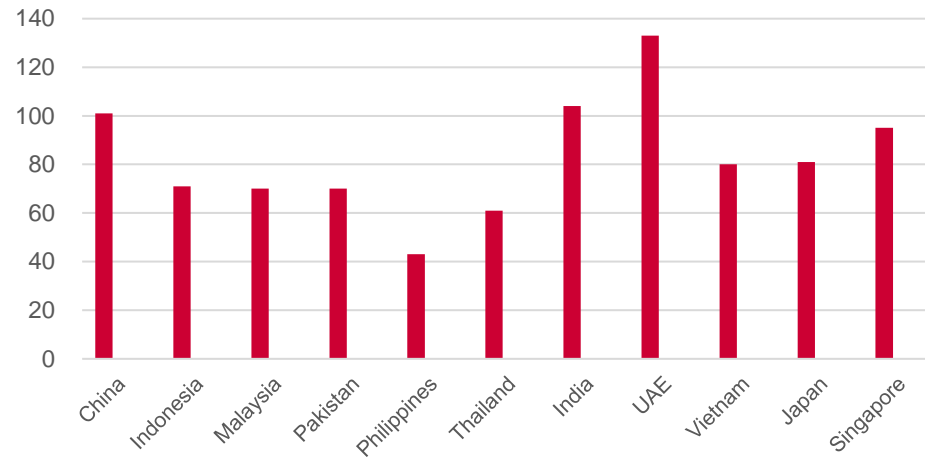


Regional overview

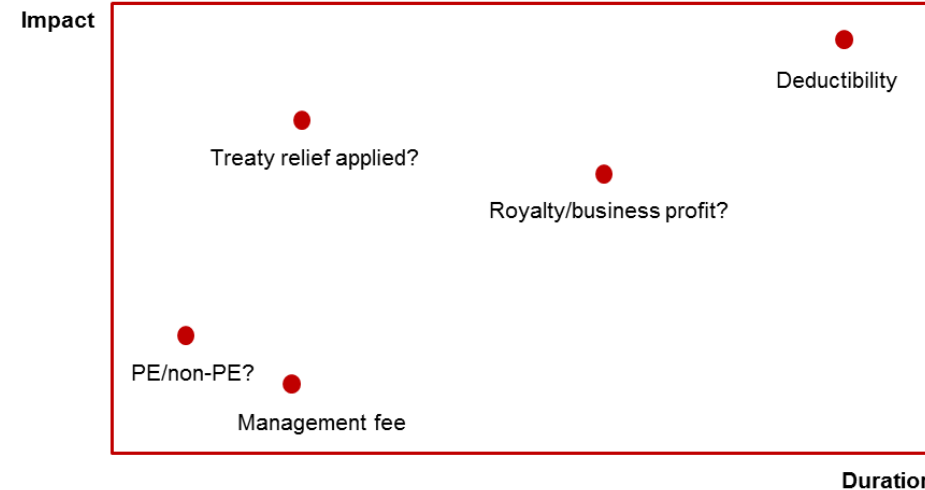
Asia Pacific overview



Tax Treaty Overview (as of Aug. 2021)



Main Controversial Areas in Cross-border Tax Issues



Tax filing practice in cross-border transaction

- | | |
|-----------------------------|---|
| Tax filing frequency | <ul style="list-style-type: none"> » PE registration necessity » Withholding approach? » Periodical filing or filing after payment |
| VAT registration | <ul style="list-style-type: none"> » Reverse-charge / withholding mechanism? » VAT registration threshold may apply » Single-tier regime in some locations. |
| Treaty application | <ul style="list-style-type: none"> » TRC requirement » Substance check (beneficial ownership) |
| Deductibility issue | <ul style="list-style-type: none"> » Deduction linked to withholding tax filing » Substance test » Transfer pricing consideration » Special items based on local practice |

Key highlights for the Asia Pacific overview



Philippines

New requirements in the availment of tax treaty benefits in the Philippines

- » Need for Application with the tax authority for tax treaty relief/CONFIRMATION OF ENTITLEMENT to tax treaty benefits
 - › Procedures
 - › Documentary requirements
 - › Timing
- » Effect of Non-Application

Key highlights for the Asia Pacific overview



Indonesia

- » WHT is main income tax source in Indonesia.
- » WHT in self-assessment tax system

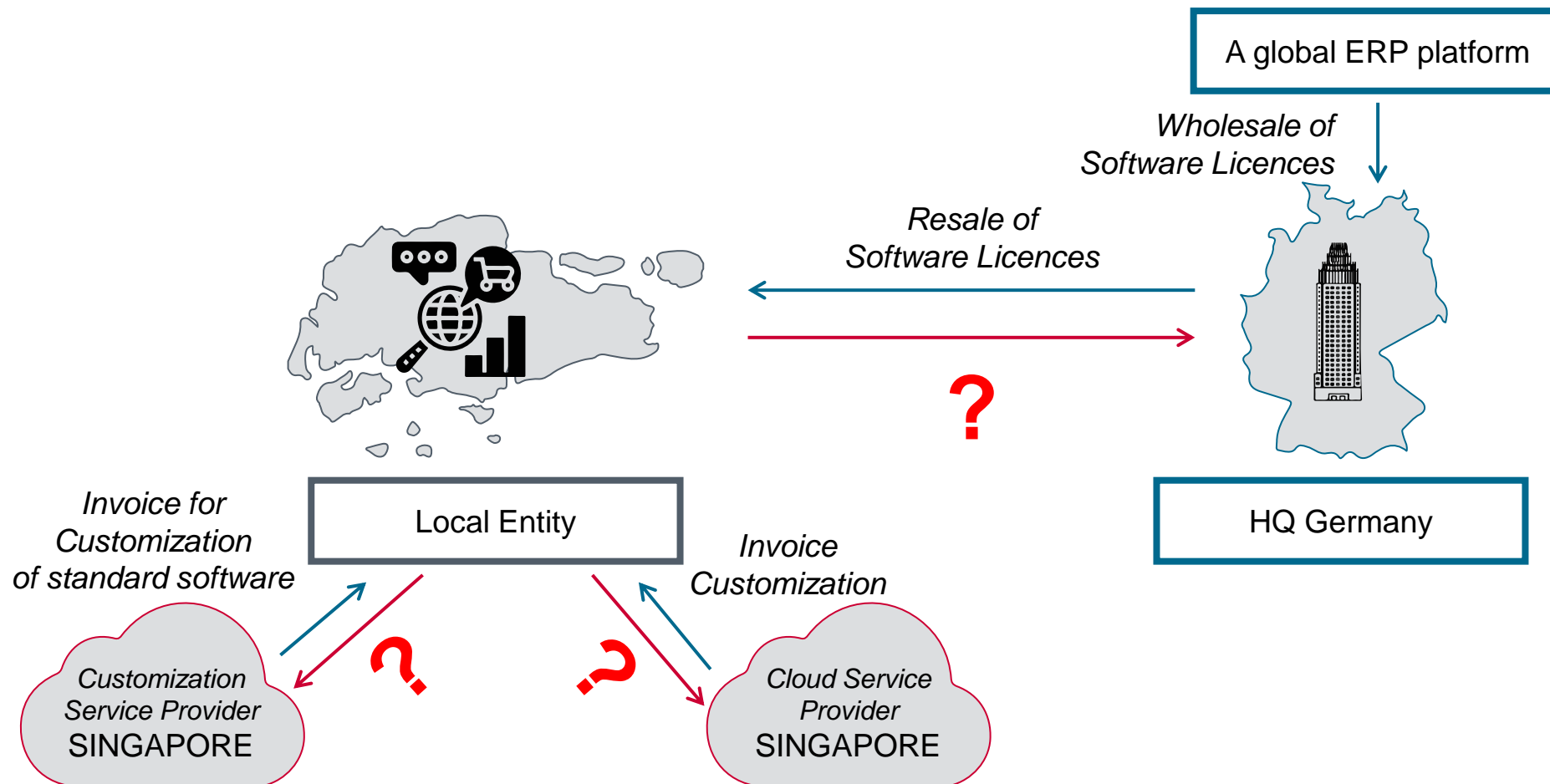


Jurisdiction-specific interpretations of activities
as services vs. royalties?

Case study 1: Jurisdiction-specific interpretations of activities as services vs. royalties?

Which withholding taxes apply?

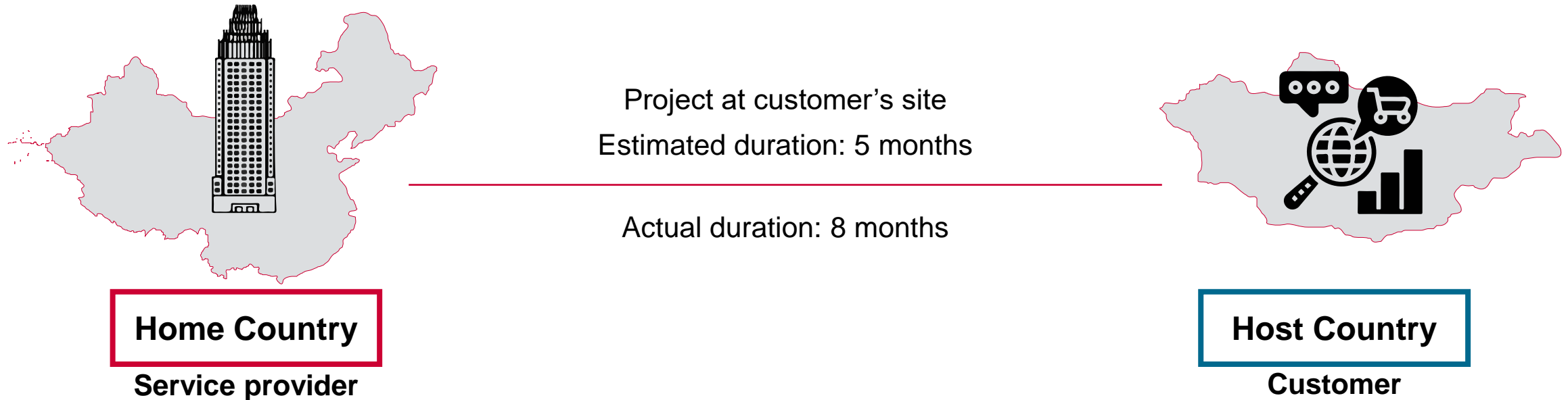
A company in your home country plans to change from a locally sourced accounting software to SAP. The data is moved to a cloud server based in Singapore. The customization of the software is provided by a Singaporean consultant. The licences for the accounting software (SAP) are centrally bought by the HQ in Germany and resold to the subsidiary in your country.





Implications on withholding taxes from constituting a PE?


Case study 2: Implications on withholding taxes from constituting a PE?





Considerations:

- » Retro-active creation of permanent establishment ("PE")
- » Retro-active withholding tax ("WHT") responsibility on customer
- » Corporate income tax ("CIT") exposure for service provider
- » No Double Taxation Avoidance Agreement ("DTAA") exemption for service provider's employees

Case study 2: Implications on withholding taxes from constituting a PE?

-  What is the current policy adopted by your country on the application of international tax treaty rules concerns related to the creation of PE due to temporary closure of construction sites led to COVID-19 pandemic, especially on restricting travel and implementing strict quarantine requirements?

-  What is the tax exposure for the foreign service provider and the customer if the foreign service provider has created a PE in your country in light of the prolonged duration due to the unprecedented measures imposed if compared to a non-PE situation in your country?

-  What is the WHT refund mechanism available should there be an excess of the WHT paid to the tax authority in your country? Any other specific administrative issues that should be highlighted for discussion purpose?



Appendix

China

Key contacts



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Country overview: China

DTA situation	<ul style="list-style-type: none">» 101 (to be 107) DTAs» Treaty override may exist in local interpretations
Tax filing practice for cross-border transactions	<ul style="list-style-type: none">» Tax filings are required at the time of payment» Withholding approach is preferred by tax bureau» Require TRC for treaty application» Subject to scrutiny (e.g. BO, beneficial test etc.)
Tax development for cross-border transactions	<ul style="list-style-type: none">» More simplified tax filing procedures in theory, but the practice is more relied on local requirement
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none">» China follows the OECD commentary when DTA applies, otherwise will tax any profit arising from China
VAT registration requirement	<ul style="list-style-type: none">» PE temporary tax registration instead of pure VAT registration» Withholding approach is preferred to ensure the creditability of VAT
Deductibility issue for payer	<ul style="list-style-type: none">» Fees failed in beneficial test may be denied for deductibility (e.g. mgt. fee)» Passive income may not be deductible without payment/tax withholding
Main controversial area(s)	<ul style="list-style-type: none">» Management (service) fee» Royalty v.s. service fee» PE vs. non-PE

DTA & Non-DTA Withholding Tax: China

Domestic Withholding Tax Rates

No.	Type of payment	Resident Corporation Rate (%)	Resident Individuals Rate (%)
1.	Dividends	10%	20%
2.	Interest	10%	20%
3.	Royalties	10%	progressive rates from 3%-45%
4.	Technical fees	25%	progressive rates from 3%-45%

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	Malaysia	10%	10%	10% / 15%	
2.	Indonesia	10%	10%	10%	
3.	Philippines	10% / 15%	10%	10% / 15%	
4.	Singapore	5% / 10%	7% / 10%	10%	
5.	Thailand	15% / 20%	10%	15%	

DTA & Non-DTA Withholding Tax: China

Non-DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	Malaysia	10%	10%	10%	
2.	Indonesia	10%	10%	10%	
3.	Philippines	10%	10%	10%	
4.	Singapore	10%	10%	10%	
5.	Thailand	10%	10%	10%	

Key contact



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India

Country Overview: India

DTA situation	<ul style="list-style-type: none">» 96 Full Scope DTAs and 8 limited scope» Domestic regulations or DTA's – The more beneficial provisions to the taxpayer shall prevail.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none">» Require TRC for treaty application» Payer needs to report tax payments made to non-residents in quarterly statements.» WHT payment is required to be made to the tax authority within 7th of the following month of payment or credit.» NRs are required to file tax return in respect of payments subject to tax (subject to FTS and Royalty if taxed under the domestic tax laws).
Tax development for cross-border transactions	<ul style="list-style-type: none">» Widening the scope of equalization levy (at the rate of 2%) to include e-commerce supply or services by e-commerce operators who are non-residents.» Sale of computer software shall not be treated as royalty and therefore shall not be taxable in the hands of the NR [where there is no PE in India]. Accordingly, there will be no WHT obligations in the hands of the payer.
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none">» No concept of PE under the domestic tax laws. Domestic tax laws provide for the concept of 'business connection' which is wider in scope.» DTA countries shall rely on the clause under Article 5 of the respective countries i.e. Fixed place PE and deemed PE such as Agency PE, Construction PE and Service PE.» India does not have very detailed rules for profit attribution – Widely followed approach by the tax authorities is based on global profitability.

Country Overview: India

VAT registration requirement

- » GST in India is a single-tier regime.
- » There is no formal link between PE & GST regime but existence of fixed base is one of the factor considered for GST purpose.

Deductibility issue for payer

- » Expenses would not be allowed for deduction for corporate tax purpose if non-compliance of the WHT requirements.
- » Arm's length principle and TP compliance shall be observed.

Main controversial area(s)

- » Royalty/FTS vs. Business Profit
- » PE existence
- » Profit attribution – in absence of detailed rules

DTA & Non-DTA Withholding Tax: India

Domestic Withholding Tax Rates (*payment to resident - as per the Income-tax Act, 1961¹*)

No.	Type of payment	Rate (%)
1.	Dividends	10%
2.	Interest	10%
3.	Royalties	10%
4.	Professional fees / Technical fees	10% / 2%

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	10% (Article 10)	10% (Article 11)	10% (Article 12)	10% (Article 12)
2.	Indonesia	10% (Article 10)	10% (Article 11)	10% (Article 12)	10% (Article 12)
3.	Malaysia	5% (Article 10)	10% (Article 11)	10% (Article 12)	10% (Article 13)
4.	Pakistan	NA	NA	NA	NA
5.	Philippines	15%/20% (Article 11)	10%/15% (Article 12)	15% (Article 13)	Nil (Article 7 – Business profits)
6.	Thailand	10% (Article 10)	10% (Article 11)	10% (Article 12)	Nil (Article 7 – Business profits)

¹ Income-tax Act, 1961: <https://www.incometaxindia.gov.in/pages/acts/income-tax-act.aspx>

DTA & Non-DTA Withholding Tax: India

Non-DTA Withholding Tax Rates (*payment to non-resident as per section 115A of the Act excluding surcharge and cess*)

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	20%	20%	10%	10%
2.	Indonesia	20%	20%	10%	10%
3.	Malaysia	20%	20%	10%	10%
4.	Pakistan	20%	20%	10%	10%
5.	Philippines	20%	20%	10%	10%
6.	Thailand	20%	20%	10%	10%

Key contact



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Indonesia

Country Overview: Indonesia

DTA situation	<ul style="list-style-type: none"> » 71 DTAs » DTA overrides domestic regulations.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » Tax filings are required on the 10th of the following month. » Formal requirements: COD and DGT Form » Practically, form over substance approach
Tax development for cross-border transactions	<ul style="list-style-type: none"> » Three aspects to be observed: (i) withholding tax, (ii) self-assessed VAT and (iii) deductibility in CIT
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none"> » As per DTA - if available, otherwise domestic definition of PE prevails.
VAT registration requirement	<ul style="list-style-type: none"> » PE registration is firstly triggered, then VAT registration. » VAT registration for annual delivery of VAT-able good and/or VAT-able service in Indonesia exceeds IDR 4.8 billion (approx. US\$ 350K).
Deductibility issue for payer	<ul style="list-style-type: none"> » For PE → payment made to HO in the form of (i) royalties or other rewards in connection to the use of property, patents, or other rights, (ii) management fees and other services, and (iii) interest, except those related to banks, are non-tax deductible. » Arm's length principle and TP compliance shall be observed.
Main controversial area(s)	<ul style="list-style-type: none"> » Adjustment on Transfer Pricing charges » Formal requirements to claim DTA's relief: COD and DGT Form » Representative office is deemed as PE and subject to domestic tax.

DTA & Non-DTA Withholding Tax: Indonesia

Domestic Withholding Tax Rates

No.	Type of payment	Rate (%)
1.	Dividends	20%
2.	Interest	20%
3.	Royalties	20%
4.	Technical fees	20%

DTA Withholding Tax Rates

DTA WHT rates usually in the range of 10% -15% for passive income (dividend, interest, and royalty), and exempt for active income (services) if it does not create PE (less than time-test).

Key contact

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Japan

Country Overview: Japan

DTA situation	<ul style="list-style-type: none"> » 81 treaties, etc., applicable to 144 countries and regions (as of 1 August 2021) » Tax treaty overrides domestic law.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » Specific tax filings are not required at the time of payment, but the notification form of payment for non-resident needs to be submitted once year. » Payer will be required to submit an application form due to exemption or deduction granted under the tax treaties.
Tax development for cross-border transactions	<ul style="list-style-type: none"> » The reverse-charge mechanism is applicable for the digital service (B2B cross-border electronic service).
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none"> » Japan follows the commentaries on the OECD Model Tax Convention when DTA applies, otherwise will tax any profit arising from Japan. » Under the domestic law, PE is generally classified into the following three types: 1. a fixed place of business; 2. building site or construction or installation project constitutes that lasts more than 12 month; and 3. Agent PE.
VAT registration requirement	<ul style="list-style-type: none"> » No VAT registration is required. » There is no link between WHT and VAT. When there are transfers of taxable assets, etc. conducted by enterprise in Japan as business, VAT is subject.
Deductibility issue for payer	<ul style="list-style-type: none"> » Expenses would not allow for tax deduction for corporate tax purpose if expenses would be deemed it is economic profit because it is not reasonable to bear.
Main controversial area(s)	<ul style="list-style-type: none"> » Royalty vs. business profit, especially for software licenses or services

DTA & Non-DTA Withholding Tax: Japan

Domestic Withholding Tax Rates

No.	Type of payment	Rate (%) ¹
1.	Dividends ²	20.42
2.	Interest	15.315
3.	Royalties	20.42
4.	Technical fees	0

¹ Include the rate of Special Income Tax for Reconstruction

² Dividends from Listed Stocks, etc. ⇒ The withholding rate is 15.315% (in addition to a 5% inhabitant tax). Dividends Other Than Those from Listed Stocks, etc. ⇒ The withholding tax rate is 20.42% (no inhabitant tax applies).

DTA & Non-DTA Withholding Tax: Japan

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	10	10	10	0
2.	Indonesia	15 ¹	10	10	0
3.	Malaysia	15 ²	10	10	0
4.	Pakistan	10 ³	10	10	10
5.	Philippines	15 ⁴	10	10 ⁵	0
6.	Thailand	20 ⁶	25 ⁷	15	0

¹ If the beneficial owner is a company which owns at least 25% of the voting shares of the company paying the dividends during the period of 12 months immediately before the end of the accounting period for which the distribution of profits takes place. ⇒10%

² If the beneficial owner is a company which owns at least 25% of the voting shares issued by the company paying the dividends during the period of 6 months immediately before the end of the accounting period for which the distribution of profits takes place. ⇒5%

³ (a) If the beneficial owner is a company that has owned directly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 50% of the voting shares of the company paying the dividends. ⇒5%; (b) If the beneficial owner is a company that has owned directly, for the period of 6 months ending on the date on which entitlement to the dividends is determined, at least 25% of the voting shares of the company paying the dividends. ⇒7.5%

⁴ If the beneficial owner is a company which holds directly at least 10% either of the voting shares of the company paying the dividends or of the total shares issued by that company during the period of 6 months immediately preceding the date of payment of the dividends. ⇒10%

⁵ The royalties that are paid in respect of the use of or the right to use cinematograph films and films or tapes for radio or television broadcasting. ⇒5%

⁶ If the recipient is the beneficial owner of the dividends and is a company which owns at least 25% of the voting shares of the company paying the dividends during the period of 6 months immediately before the end of the accounting period for which the distribution of profits takes place. However, in the case of the dividends paid by a company engaged in an industrial undertaking, the tax so charged shall not exceed 15%.

⁷ If it is received by any financial institution (including an insurance company). ⇒10%

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Malaysia

Country overview: Malaysia

DTA situation	<ul style="list-style-type: none"> » More than 70 tax treaty » Generally, tax treaty overrides domestic law, a reduced WHT granted by tax treaty should apply.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » WHT payment is required to make to the tax authority within 1 month after paying or crediting or upon the submission of the tax return. » Certificate of Residence must be retained in tax audit to substantiate eligibility of the reduced WHT granted under tax treaty.
Tax development for cross-border transactions	<ul style="list-style-type: none"> » Expansion of the scope of royalties includes any payment for the use of, or the right to use any software. » WHT is applicable to payments for both technical and non-technical services provided in Malaysia.
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none"> » Domestic law has introduced the definition of PE non-DTA countries, generally a PE shall be created if the period of presence is more than 5 months. » DTA countries shall rely on the clause under Article 5 of the respective countries, e.g., minimum time period of 6 months or 9 months.
VAT registration requirement	<ul style="list-style-type: none"> » Unlike GST/VAT in most countries, the service tax in Malaysia is a single-tier regime. » There is no formal link between PE & service tax regime but existence of PE may be one of the factor considered for service tax purpose.
Deductibility issue for payer	<ul style="list-style-type: none"> » Expenses would not allow for tax deduction for corporate tax purpose if non-compliance of the WHT requirements.
Main controversial area(s)	<ul style="list-style-type: none"> » Royalty vs. service fee » PE vs. Non-PE » Wide application of “other income” - Sec 109F

DTA & Non-DTA Withholding Tax: Malaysia

Domestic Withholding Tax Rates

No.	Type of payment	Rate (%)
1.	Dividends	NIL
2.	Interest	15
3.	Royalties	10
4.	Service Fee – only works performed in Malaysia	10

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	NIL	10	10	10
2.	Thailand	NIL	15	10	10
3.	Indonesia	NIL	10	10	10
4.	Philippines	NIL	15	10	10
5.	Singapore	NIL	10	8	5

Key contact



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Pakistan

Country overview: Pakistan

DTA situation	<ul style="list-style-type: none"> » 66 Full Scope DTAs and 4 limited scope » Overriding provisions of treaty were made subservient to general anti-avoidance provisions in domestic law.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » Payer (in some cases remitter) needs to report tax payments made to Non-residents in quarterly statements. » Payments to NR without tax deduction require prior tax clearance. » Withholding approach is followed for tax collection. » NTN [Tax registration] of NR are required. » NRs are required to file tax return in respect of payments subject to tax.
Tax development for cross-border transactions	<ul style="list-style-type: none"> » Fee for Offshore Digital Services provided by NR subject to tax in domestic legislation.
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none"> » Pakistan follows the UN as well as OECD Model conventions. » PE definition is also provided in domestic law.
VAT registration requirement	<ul style="list-style-type: none"> » No VAT registration is required. » Concept of reverse charge is applicable.
Deductibility issue for payer	<ul style="list-style-type: none"> » Non deduction of due tax on payments disqualifies deduction for payer. » Test of “wholly and exclusively” for the purpose of business applies (substantiation of services actually rendered or not). » Passive income may not be deductible without payment/tax withholding.
Main controversial area(s)	<ul style="list-style-type: none"> » Royalty/Fee for Technical Services vs. Business Profit » Fee for offshore Digital Service vis-a-vis DTA (new concept)

DTA & Non-DTA Withholding Tax: Pakistan

Domestic Withholding Tax Rates

No.	Type of payment	Rate (%)
1.	Dividends	15%
2.	Interest	15%
3.	Royalties	15%
4.	Technical fees	15%

DTA & Non-DTA Withholding Tax

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	10%	10%	12.5%	12.5%
2.	Malaysia	15%/20% ¹	15%	15%	-
3.	Indonesia	10%/15% ²	15%	15%	15%
4.	Philippines	15%/25% ³	15%	15%/25% ⁴	-
5.	Singapore	10%/12.5%/15% ⁵	12.5%	10%	10%

¹ 15% of the gross amount of the dividends, if the recipient company holds directly at least 20% of the capital of the company paying the dividends and the latter company is engaged in an industrial undertaking.

² 10 per cent of the gross amount of the dividends if the recipient is a company which owns directly at least 25 per cent of the capital of the company paying the dividends.

³ 15% of the gross amount of the dividends if the beneficial owner is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the paying company during the part of the paying company's taxable year which precedes the date of payment of the dividends and during the whole of its prior taxable year.

⁴ 15 per cent of the gross amount of the royalties where the royalties are paid by an enterprise registered with, and engaged in preferred areas of activities in that Contracting State.

⁵ 10 per cent of the gross amount of the dividends if the beneficial owner is a company and the company paying the dividends is engaged in an industrial undertaking or 12.5 per cent of the gross amount of the dividends if the beneficial owner is a company and the company paying the dividends is not engaged in an industrial undertaking.

Key contact



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Philippines

Country overview: Philippines

DTA situation	<ul style="list-style-type: none"> » 43 DTAs to date » DTAs are part of the laws of the Philippines and have the effect of any other domestic laws.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » No rule requiring the registration and filing for PEs (other than a branch). » Tax dues are paid through the final withholding tax system.
Tax development for cross-border transactions	<ul style="list-style-type: none"> » New rule/requirement in the application for the availment of tax treaty relief.
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none"> » No local definition for a PE » The Philippines usually follows the commentaries on the OECD Model Tax Convention in the interpretation of the provisions of the DTAs, including the determination of the presence or absence of a PE.
VAT registration requirement	<ul style="list-style-type: none"> » No VAT registration is required. » VAT on services rendered by non-residents is paid through the withholding tax system.
Deductibility issue for payer	<ul style="list-style-type: none"> » No deduction is allowed to the payor unless the applicable withholding tax is paid.
Main controversial area(s)	<ul style="list-style-type: none"> » Whether or not there is a need to apply for tax treaty relief for the availment of tax treaty benefits » Royalty vs. business profit, specially for software licenses

DTA & Non-DTA Withholding Tax: Philippines

Domestic Withholding Tax Rates

No.	Type of payment	Rate (%)
1.	Dividends	0% if paid to corporations; 10% if paid to individuals
2.	Interest	20%/15%/12%/5%/2%/0%
3.	Royalties	20%/2%/0%
4.	Technical fees	Same as royalties if treated as royalties; 15%/10%/0% if treated as service fee

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	10%/15%	10%	15%/10%	If royalties, same as the rate on royalties, otherwise, 25%
2.	Malaysia	15%/25%	15%	15%/25%	
3.	Indonesia	15%/20%	15%	15%/25%	
4.	Thailand	10%/15%	10%/15%	15%	
5.	Singapore	15%/25%	15%	15%/25%	

DTA & Non-DTA Withholding Tax: Philippines

Non-DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.		Foreign corporation – 25%/15%	Foreign corporation – 20%	Foreign corporation – 25%	Foreign corporation – 25%
		Non-resident individual, engaged in business in the Philippines – 20%	Non-resident individual, engaged in business in the Philippines – 20%/12%/5%	Non-resident individual, engaged in business in the Philippines – 20%	Non-resident individual, engaged in business in the Philippines – 20%
		Non-resident individual not engaged in business in the Philippines - 25%	Non-resident individual not engaged in business in the Philippines - 25%	Non-resident individual not engaged in business in the Philippines - 25%	Non-resident individual not engaged in business in the Philippines - 25%

Key contacts



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Singapore

Country Overview: Singapore

DTA situation	<ul style="list-style-type: none"> » 95 DTAs (including 7 DTAs that have been signed but have not been ratified). » 8 limited treaties. » The provisions of a DTA will override provisions in the domestic income tax statute in the event of any inconsistencies.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » Where a person (“payer”) is liable to pay to a non-Singapore tax resident (“NR”) person certain prescribed payments (such as interest, royalties for use of moveable property, know-how payments, show-how payments, management fees, rent for use of moveable property, gains from sale of immovable property by a property trader, director’s fees, REIT distributions, etc.), the payer must withhold tax at the applicable rate and immediately give notice of the withheld tax (by electronically filing a Form IR37) and pay to the Comptroller of Income Tax (“Comptroller”) the amount of tax withheld. » Unless otherwise provided, the amount of tax withheld must be paid to the Comptroller by the 15th day of the second month following the date of payment to the NR person. There are penalties for failure to withhold and for late payment of the withheld tax.
Tax development for cross-border transactions	<ul style="list-style-type: none"> » Proposed introduction of goods and services tax (“GST”) on low-value goods (i.e., goods of S\$400 or less) imported via air or post with effect from 1 January 2023. » Proposed introduction of GST on B2C imported non-digital services (e.g., live interaction with overseas providers of educational learning, fitness training, telemedicine, etc.) with effect from 1 January 2023.

Country Overview: Singapore

Definition of PE (local, DTA/Non-DTA)

- » Singapore's DTAs generally adopt the definition of permanent establishment ("PE") set out in the OECD Model Tax Convention. Where there is a DTA between Singapore and a foreign jurisdiction, the definition set out in the PE Article of that DTA will apply to determine whether or not a person has a PE in Singapore.
- » The definition of PE is also set out in Singapore's domestic income tax statute although this definition is not relevant for the purposes of determining whether a particular gain or profit derived by a person is taxable in Singapore. In the absence of a DTA between Singapore and a foreign jurisdiction (such as the U.S. and Hong Kong), regard must be had as to whether that gain or profit is sourced in or remitted to Singapore from outside Singapore to ascertain whether or not it is taxable in Singapore.

VAT registration requirement

- » The presence of a PE in Singapore will not automatically trigger Singapore GST registration. A person will be liable to register for GST if its taxable turnover in the past calendar year was more than S\$1 million or if it reasonably expects its taxable turnover in the next 12 months to be more than S\$1 million.
- » The supply of B2C digital services by a supplier belonging outside Singapore to a customer belonging in Singapore may be subject to GST through the Overseas Vendor Registration ("**OVR**") regime. An overseas supplier may be required to register, charge and account for GST on the supply of services if it has an annual global turnover exceeding S\$1 million and makes B2C supply of such services to customers in Singapore exceeding S\$100,000. The OVR regime will be extended to B2C non-digital services with effect from 1 January 2023.

Country Overview: Singapore

Deductibility issue for payer

- » Under Singapore domestic tax rules, a payer will be allowed to deduct revenue expenses that are wholly and exclusively incurred during a tax period by it in the production of income. Provided that the qualifying conditions are satisfied, the full amount of revenue expense incurred by the payer (i.e., including the withheld tax) may be deductible against its taxable income.
- » With respect to withholding tax (“WHT”) on interest payments made by a payer to a NR lender, where the payer is contractually required to bear the WHT, it will be allowed to deduct the interest expense (including the WHT borne) provided the loan was taken to finance income-producing assets. On the other hand, where the payer bears the WHT even though there is no contractual requirement to do so, the deductibility of the WHT borne will depend on the purpose of the loan. If the payer had taken the loan for a revenue purpose (e.g., to finance the purchase of its trading stock), the interest expense (including the WHT borne) will be deductible. If, however, the payer had taken the loan for a capital purpose (e.g., to finance the acquisition of capital assets), the interest expense (including the WHT borne) will not be deductible.

Main controversial area(s)

- » Whether a payment ought to be characterised as a royalty payment or business profit.
- » Whether companies newly incorporated in Singapore can qualify as Singapore tax residents if they do not hold their board meetings in Singapore due to COVID-19 travel restrictions and whether foreign-owned investment holding companies can qualify for a certificate of tax residence.
- » Payers who are not aware that they have an obligation to withhold taxes when making payment to a NR.

DTA & Non-DTA Withholding Tax: Singapore

Domestic Withholding Tax Rates

No.	Type of payment	Rate (%)
1.	Dividends	0
2.	Interest	0
3.	Royalties	0
4.	Technical fees	0

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	0 if payer is a Singapore tax resident company	7 ¹ / 10	10	17 / 22 ²
2.	India		10 ¹ / 15	10 ³ / 15	10 ⁴ / 15
3.	Indonesia		10	8 ⁵ / 10	17 / 22 ²
4.	Japan		10	10	17 / 22 ²
5.	Malaysia		10	8	5

¹ If paid to / received by a bank or a financial institution.

² Under Singapore domestic tax rules, a non-final WHT of 17% is applied if the NR person is a company or 22% if the NR person is an individual. However, the WHT rate is 0% if the services are performed by the NR person outside Singapore.

³ If payment is made for the use of (or right to use) industrial, commercial or scientific equipment.

⁴ If payment is made for managerial, technical or consultancy services that are ancillary and subsidiary in nature.

⁵ If payment is made for the use of (or right to use) industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

DTA & Non-DTA Withholding Tax: Singapore

Non-DTA Withholding Tax Rates

No.	Country	Rates (%)				
		Dividends	Interest	Royalties	Technical Fees (Know-How)	Technical Fees (Show-How)
1.	United States	0 if payer is a Singapore tax resident company	15 (final)	10 (final)		17 (non-final) if NR company
2.	Hong Kong					22 (non-final) if NR individual

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South Korea

Country Overview: South Korea

DTA situation	<ul style="list-style-type: none"> » 94 DTAs » DTA overrides domestic regulations
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » Withholding tax filings are required at 10th day of following month with the tax payment » A tax form should be submitted to the payer for the purpose of application of the reduced rate under the tax treaty with a certificate of residence before the date of payment » Frequent scrutiny for beneficial owner
Tax development for cross-border transactions	<ul style="list-style-type: none"> » Service PE will be subject to the preliminary withholding tax at the rate of 22% in the case of non-registration of PE with the tax authority » Extended PE definition: i) if preparatory or supportive activities of a foreign corporation is complementary each other with the activities of another PE in Korea ii) if each specific activity places (which are not a PE under the tax treaty) are complementary and combined activities of such places are not preparatory or supportive.
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none"> » DTA: Korea follows the OECD Model Tax Convention and the UN Model Double Taxation Convention, although there are some exceptions. » Non-DTA: same PE definition except for service PE conditions (more than six months for any 12 months period or less than six months for two years if similar services are provided continuously and repeatedly)
VAT registration requirement	<ul style="list-style-type: none"> » VAT registration is mandatory if PE conditions are met. » Offshore e-commerce service provider is required for a simplified VAT registration for payment of VAT in the case of B2C transactions with the consumers in Korea even though there is no PE in Korea.
Deductibility issue for payer	<ul style="list-style-type: none"> » With overseas related companies: deductible but subject to the transfer pricing investigation » With non-related companies: no deduction issues
Main controversial area(s)	<ul style="list-style-type: none"> » Application of tax treaty: Beneficial ownership issues » Royalty vs. Personal service income (or Business income) » Transfer pricing issue for the royalty and personal service fee

DTA & Non-DTA Withholding Tax: South Korea

Domestic Withholding Tax Rates

No.	Type of payment	Rate (%)
1.	Dividends	22%
2.	Interest	22% (bond: 15.4%)
3.	Royalties	22%
4.	Technical fees	22%

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	Netherlands	15% (10% for more than 25% equity)	15%	10% (15% for copyrights)	n.a
2.	Germany	15% (5% for more than 25% equity)	10%	10% (2% for use of equipment)	n.a
3.	USA	15% (10% for more than 10% equity)	12%	15% (10% for films and copyrights)	n.a
4.	Belgium	15%	10%	10%	n.a
5.	Singapore	15% (10% for more than 25% equity)	10%	5%	n.a

DTA & Non-DTA Withholding Tax: South Korea

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
6.	Ireland	15% (10% for more than 10% equity)	0%	0%	n.a
7.	UK	15% (5% for more than 25% equity)	10%	10% (2% for use of equipment)	n.a
8.	Austria	15% (5% for more than 25% equity)	10%	10% (2% for use of equipment)	n.a
9.	Italy	15% (10% for more than 25% equity)	10%	10%	n.a
10.	France	15% (10% for more than 10% equity)	10%	10	n.a

Non-DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	Korea	22%	22% (15.4%)	22%	22%

Key contacts



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Taiwan

Country overview: Taiwan

DTA situation	<ul style="list-style-type: none">» 33 (to be 34) DTAs» DTAs are seen as special laws, which prevail over domestic tax laws (Article 124 of Income Tax Act).
Tax filing practice for cross-border transactions	<ul style="list-style-type: none">» Withholding tax filings are required within 10 days after the payment is made.» The withholding tax rate can be reduced via applying for tax preference available under DTAs or domestic tax. The latter is simpler and faster compared with the former.» The tax that is withheld before the tax preference is granted can be applied for tax refund afterward.
Tax development for cross-border transactions	<ul style="list-style-type: none">» Rules for cross-border e-commerce sales of digital services and goods.» TP rules for intangible assets
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none">» As per DTA, but there is a general definition in domestic rules in relations to DTAs.
VAT registration requirement	<ul style="list-style-type: none">» When having fixed place of business in Taiwan» Minimum VAT registration threshold (i.e., annual sales amount exceeding TWD480,000) for cross-border e-service providers who provide e-services to Taiwanese individuals (note that if the business model is B2B, no VAT registration will be required).

Country overview: Taiwan

Deductibility issue for payer

- » Withholding tax will be levied upon payments. Taxpayers can claim a deduction for costs and expenses so to request tax authority to reassess the taxable income, however, the said claim shall be applied within 5 years after the tax is withheld and relevant document (e.g., financial statements audited and certified by CPAs) are required to be provided for the said tax reassessment. In practice, the claim for deduction of cost/ expense pertaining to tax reassessment is always challenging.

Main controversial area(s)

- » Cross-border service-for defining whether it is Taiwan-source income.
- » Apportionment of management fees incurred in the headquarter, the parent company or group service centers.
- » PE vs non-PE (especially when defining “service PE”)
- » To define which part of the service is contributed onshore and therefore be subject to Taiwan tax; and which part of the service is contributed offshore and therefore not be subject to Taiwan tax.

DTA & Non-DTA Withholding Tax: Taiwan

Domestic Withholding Tax Rates

No.	Type of payment	Rate (%)
1.	Dividends	21
2.	Interest	15, 20
3.	Royalties	20
4.	Technical fees	20

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	Australia	10,15	10	12.5	0 (non-resident + without PE)
2.	Austria	10	10	10	0 (non-resident + without PE)
3.	Belgium	10	10	10	0 (non-resident + without PE)

DTA & Non-DTA Withholding Tax: Taiwan

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
3.	Belgium	10	10	10	0 (non-resident + without PE)
4.	Canada	10, 15	10	10	0 (non-resident + without PE)
5.	Czech Republic	10	10	5, 10	0 (non-resident + without PE)
6.	Denmark	10	10	10	0 (non-resident + without PE)
7.	France	10	10	10	0 (non-resident + without PE)
8.	Gambia	10	10	10	0 (non-resident + without PE)
9.	Germany	10,15	10,15	10	0 (non-resident + without PE)

DTA & Non-DTA Withholding Tax: Taiwan

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
10.	Hungary	10	10	10	0 (non-resident + without PE)
11.	India	12.5	10	10	0 (non-resident + without PE)
12.	Indonesia	10	10	10	0 (non-resident + without PE)
13.	Israel	10	7,10	10	0 (non-resident + without PE)
14.	Italy	10	10	10	0 (non-resident + without PE)
15.	Japan	10	10	10	0 (non-resident + without PE)
16.	Kiribati	10	10	10	0 (non-resident + without PE)

DTA & Non-DTA Withholding Tax: Taiwan

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
17.	Luxembourg	10,15	10,15	10	0 (non-resident + without PE)
18.	North Macedonia	10	10	10	0 (non-resident + without PE)
19.	Malaysia	12.5	10	10	0 (non-resident + without PE)
20.	New Zealand	15	10	10	0 (non-resident + without PE)
21.	Netherlands	10	10	10	0 (non-resident + without PE)
22.	Paraguay	5	10	10	0 (non-resident + without PE)
23.	Poland	10	10	3, 10	0 (non-resident + without PE)

DTA & Non-DTA Withholding Tax: Taiwan

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
24.	Senegal	10	15	12.5	0 (non-resident + without PE)
25.	Singapore	40	not stipulated	15	0 (non-resident + without PE)
26.	Slovakia	10	10	5,10	0 (non-resident + without PE)
27.	South Africa	5,15	10	10	0 (non-resident + without PE)
28.	Eswatini	10	10	10	0 (non-resident + without PE)
29.	Sweden	10	10	10	0 (non-resident + without PE)
30.	Switzerland	10, 15	10	10	0 (non-resident + without PE)

DTA & Non-DTA Withholding Tax: Taiwan

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
31.	Thailand	5,10	10,15	10	0 (non-resident + without PE)
32.	UK	10	10	10	0 (non-resident + without PE)
33.	Vietnam	15	10	15	0 (non-resident + without PE)

Non-DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	Non-DTA countries	21	15, 20	20	20

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Thailand

Country Overview

DTA situation	<ul style="list-style-type: none"> » Currently 61 DTAs, including all major industrial nations. Some white spots (e.g. Portugal) » RD usually honours the DTAs (no “official” treaty override), but interprets certain terms in its favour.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » Specific tax filings are not required at the time of payment, but documentation of purpose of payment needs to be submitted to the Bank of Thailand. » Withholding tax to be submitted based on a self-declaration system. » International withholding tax certificates to be separately applied for if requested by the receiver. Application process requires proof of residency of the receiver, if DTA benefits are applied. » Withholding tax deduction be subject to scrutiny during general tax audits.
Tax development for cross-border transactions	<ul style="list-style-type: none"> » For intercompany transactions – companies with revenue exceeding THB200 million (approx. USD7 million) need to disclose their worldwide intercompany transactions.
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none"> » Thailand follows the OECD commentary when DTA applies, otherwise will tax any profit arising from Thailand. » Sometimes local RD try to reinterpret the term.
VAT registration requirement	<ul style="list-style-type: none"> » PE tax registration instead of pure VAT registration, registration process time consuming (4-6 months).
Deductibility issue for payer	<ul style="list-style-type: none"> » General rules apply – payer must prove that he received services worth the payment.
Main controversial area(s)	<ul style="list-style-type: none"> » Management (service) fee » Royalty vs. service fee

DTA & Non-DTA Withholding Tax: Thailand

Domestic Withholding Tax Rates

No.	Type of payment	Resident Corporation Rate (%)	Resident Individuals Rate (%)
1.	Dividends	0% ¹ / 10%	10%
2.	Interest	0% ² / 1%	15%
3.	Royalties	3%	progressive rates = PIT rates
4.	Technical fees	3%	3%

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	10	10 ³ /15	15	
2.	Malaysia	10	10/15	15	
3.	Indonesia	10	10/15	15	
4.	Philippines	10	10/15	15	
5.	Singapore	10	10/15	5 / 8 / 10 ⁴	

¹ Zero rate applies to (i) a recipient company listed on the Stock Exchange of Thailand and (ii) any other limited company that holds at least 25% of the total shares with voting rights in the company paying the dividend without any cross shareholding

² Zero rate applies to interest paid to banks or finance companies, except where interest arises from bonds or debentures

³ The 10 % rate applies to interest paid to a recipient that is a bank or financial institution. Same regarding Malaysia, Indonesia, Philippines, Singapore

⁴ 5% rate applies: Payments for rights of use of copyrighted literary, artistic or scientific works; 8%: Patents, trademarks, design (specific IP); 10%: Others

DTA & Non-DTA Withholding Tax

Non-DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	Non-DTA countries	10	15	15	15

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United Arab Emirates

Country Overview: UAE

DTA situation	» 133 DTAs
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » There are no corporate tax filings » There are no withholding tax filings » Federal Tax Authority issues TRCs to tax residents of UAE who fulfil the required conditions
Tax development for cross-border transactions	<ul style="list-style-type: none"> » Economic Substance regulations issued in 2020 » Ultimate Beneficial Owner Regulations issued in 2020 » Country-by-Country Reporting introduced in 2020 for UAE headquartered MNE Groups » MAP Guidance issued in 2021
Definition of PE (local, DTA/Non-DTA)	» No specific provisions for PE taxation in the absence of a corporate tax regime
VAT registration requirement	
Deductibility issue for payer	» Not applicable
Main controversial area(s)	» None in the absence of corporate tax and withholding tax provisions

DTA & Non-DTA Withholding Tax: UAE

Country: United Arab Emirates Domestic Withholding Tax Rates

No.	Type of payment	Rate (%)
1.	Dividends	Not applicable
2.	Interest	
3.	Royalties	
4.	Technical fees	

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1	Albania	0/5/10	0	5	
2	Algeria	0	0	10	
3	Andorra	0	0	0	
4	Angola	8	8	8	
5	Argentina	10/15	12	10	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
6	Armenia	0/3	0	5	
7	Austria	0	0	0	
8	Azerbaijan	5/10	0/7	5/10	
9	Bangladesh	5/10	10	10	
10	Barbados	0	0	0	
11	Belarus	5/10	0/5	5/10	
12	Belgium	0/5/10	0/5	0/5	
13	Bosnia and Herzegovina	0/5/10	0	0/5	
14	Brazil	5/15	0/10/15	15	
15	Brunei	0	0	5	
16	Bulgaria	0/5	0/2	0/5	
17	Canada	5/10/15	0/10	0/10	
18	China, People's Republic of	0/7	0/7	10	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
19	Comoro Islands	0	0	0	
20	Costa Rica	0/5/15	0/5/10	12	
21	Croatia	5	5	5	
22	Cyprus	0	0	0	
23	Czech Republic	0/5	0	10	
24	Egypt	5/10	0/10	10	
25	Estonia	0	0	0	
26	Fiji	0	0	10	
27	Finland	0	0	0	
28	France	0	0	0	
29	Georgia	0	0	0	
30	Germany	5/10/15	0	10	
31	Greece	0/5	0/5	10	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
32	Guinea	0	0	0	
33	Hong Kong	0/5	0/5	5	
34	Hungary	0	0	0	
35	India	10	0/5/12.5	10	
36	Indonesia	10	0/5	5	
37	Ireland	0	0	0	
38	Italy	5/15	0	10	
39	Japan	5/10	0/10	10	
40	Jersey	0	0	0	
41	Jordan	7	0/7	10	
42	Kazakhstan	0/5	0/10	10	
43	Kenya	5	10	10	
44	Korea, Republic of	5/10	0/10	0	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
45	Kosovo	0/5	0/5	0	
46	Kyrgyzstan	0	0	5	
47	Latvia	0/5	0/2.5	5	
48	Lebanon	0	0	5	
49	Liechtenstein	0	0	0	
50	Lithuania	0/5	0	5	
51	Luxembourg	0/5/10	0	0	
52	Malaysia	0/10	0/5	10	
53	Maldives	0	0	0	
54	Malta	0	0	0	
55	Mauritius	0	0	0	
56	Mexico	0	0/4.9/10	10	
57	Moldova	5	6	6	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
58	Montenegro	0/5/10	0/10	0/5/10	
59	Morocco	0/5/10	0/10	0/10	
60	Czech Republic	0/5	0	10	
61	Egypt	5/10	0/10	10	
62	Estonia	0	0	0	
63	Fiji	0	0	10	
64	Finland	0	0	0	
65	France	0	0	0	
66	Georgia	0	0	0	
67	Germany	5/10/15	0	10	
68	Greece	0/5	0/5	10	
69	Guinea	0	0	0	
70	Hong Kong	0/5	0/5	5	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
71	Hungary	0	0	0	
72	India	10	0/5/12.5	10	
73	Indonesia	10	0/5	5	
74	Ireland	0	0	0	
75	Italy	5/15	0	10	
76	Japan	5/10	0/10	10	
77	Jersey	0	0	0	
78	Jordan	7	0/7	10	
79	Kazakhstan	0/5	0/10	10	
80	Kenya	5	10	10	
81	Korea, Republic of	5/10	0/10	0	
82	Kosovo	0/5	0/5	0	
83	Kyrgyzstan	0	0	5	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
84	Latvia	0/5	0/2.5	5	
85	Lebanon	0	0	5	
86	Liechtenstein	0	0	0	
87	Lithuania	0/5	0	5	
88	Luxembourg	0/5/10	0	0	
89	Malaysia	0/10	0/5	10	
90	Maldives	0	0	0	
91	Malta	0	0	0	
92	Mauritius	0	0	0	
93	Mexico	0	0/4.9/10	10	
94	Moldova	5	6	6	
95	Montenegro	0/5/10	0/10	0/5/10	
96	Morocco	0/5/10	0/10	0/10	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
97	Mozambique	0	0	0/5	
98	Netherlands	0/5/10	0	0	
99	New Zealand	15	0/10	10	
100	North Macedonia	0/5	0/5	0/5	
101	Pakistan	10/15	0/10	12	
102	Panama	5	0/5	5	
103	Philippines	0/10/15	0/10	10	
104	Poland	0/5	0/5	5	
105	Portugal	5/15	0/10	5	
106	Romania	0/3	0/3	3	
107	Russia	0	0	N/A	
108	San Marino	0	0	10	
109	Saudi Arabia	5	0	10	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
110	Senegal	5	5	5	
111	Serbia	0/5/10	0/10	10	
112	Seychelles	0	0	5	
113	Singapore	0	0	0/5	
114	Slovakia	0	0/10	0/10	
115	Slovenia	0/5	0/5	5	
116	South Africa	5/10	10	10	
117	Spain	0/5/15	0	0	
118	Sri Lanka	0/10	0/10	10	
119	Sudan	0	0	0/5	
120	Switzerland	0/5/15	0	0	
121	Syria	0	0/10	18	
122	Tajikistan	0	0	10	

DTA & Non-DTA Withholding Tax: UAE

DTA Withholding Tax Rates

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
123	Thailand	5/10	0/10/15	15	
124	Tunisia	0	2.5/5/10	7.5	
125	Turkey	5/10/12	0/10	10	
126	Turkmenistan	0	0	10	
127	Ukraine	0/5	0/3	0/10	
128	United Kingdom	0/15	0/20	0	
129	Uruguay	5/7	0/10	0/5/10	
130	Uzbekistan	0/5/15	0/10	10	
131	Venezuela	0/5/10	0/10	10	
132	Vietnam	0/5/15	0/10	10	
133	Yemen	0	0	10	

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Vietnam

Country Overview: Vietnam

The Foreign Contractor Withholding Tax (FCWT) is not a special tax but a certain form of calculating and paying Value Added Tax (VAT) and either Personal Income Tax (in case of business individuals) or Corporate Income Tax (all other forms of businesses, also including partnerships).

DTA situation	<ul style="list-style-type: none"> » 80 DTAs, 76 DTAs are in force » The benefits of a DTA are not applied automatically, a dossier must be filed case by case.
Tax filing practice for cross-border transactions	<ul style="list-style-type: none"> » No filing is to be made by the Foreign Contractor. Tax filings by the Vietnamese partner are required on each payment to the Foreign Contractors. » Withholding method will be applied. » The Certificate of Residence is required for dossier enjoying the tax exemption or reduction under the DTA. The Foreign Contractor must file the dossier on DTA exemption.
Tax development for cross-border transactions	<ul style="list-style-type: none"> » Good preparation of the cross-border contract by implementing a correct tax clause and price-split would make the handling rather easy. In very many cases, this is not done which causes several problems. » E-platform for managing tax compliance of cross-border e-commerce business will be implemented. That will allow the foreign entities in this field of business to declare and pay taxes directly.
Definition of PE (local, DTA/Non-DTA)	<ul style="list-style-type: none"> » The definition of a PE under Vietnamese Law is very broad. Relevant Double Taxation Agreements (DTA) might stipulate a more limited approach; in which case the definition of the DTA prevails.

Country Overview: Vietnam

VAT registration requirement	<ul style="list-style-type: none"> » For the Foreign Contractor, no registration is required under the normally applied Withholding Method. With choosing another declaration method, the Foreign Contractor must register an own tax code. » Under the Withholding Method, the Vietnamese contracting party shall be responsible for submitting a tax registration dossier to be granted a tax code to pay on behalf of all the foreign contractors. No registration per Foreign Contractor is required.
Deductibility issue for payer	<ul style="list-style-type: none"> » The Vietnamese party is responsible for withholding and paying tax before payment to foreign contractors. However, the FCWT is a tax obligation of the Foreign Contractor. It must be deducted from the invoiced amount. » The paid FCWT-VAT is input VAT for the Vietnamese party. Deductibility depends on the status and correct handling of the Vietnamese party.
Main controversial area(s)	<ul style="list-style-type: none"> » In many contracts, the nature and handling of the FCWT and the DTAs is not taken care of. This leads to: <ul style="list-style-type: none"> › Higher tax rates are to be applied as necessary in case of correct price split. › Payments of the Vietnamese party must be recorded as non-deductible expense. › Avoidable double taxation is not avoided › Dispute about correct handling of the FCWT.

DTA & Non-DTA Withholding Tax: Vietnam

Domestic Withholding Tax Rates

Applicable FCWT-VAT-rates for different lines of business are as follows:

No.	Business Line	Rate (%) for VAT calculation
1.	Services, leasing equipment, machinery, insurance; construction, installation excluding the supply of raw material, machinery, equipment.	5
2.	Manufacture, transportation, service attached to goods; construction, installation including the supply of raw material, machinery, equipment.	3
3.	Other business activities.	2

DTA & Non-DTA Withholding Tax: Vietnam

Applicable FCWT-CIT-rates for different lines of business are as follows:

No.	Business Line	CIT-Rate
1.	Trade: Distributing and supplying goods, raw materials, machinery and equipment (attached to services); on spot export/import; supply of goods under delivery conditions of Incoterms	1%
2.	Services; insurance; leasing machinery and equipment; leasing drilling rigs	5%
	Separate:	10%
	- Restaurant; hotel; casino management services	
	- Derivative financial services	2%
3.	Leasing airplanes, airplane engines, spare parts of airplanes and ships.	2%
4.	Construction and installation including or excluding materials, machinery and equipment attached to the construction ¹	2%
5.	Other production and business; transport (by sea; by air)	2%
6.	Transferring securities, reinsurance abroad, reinsurance transfer commission.	0.1%
7.	Loan interest	5%
8.	Copyright Income	10%

¹ Where a foreign contractor subcontracts the supply of materials, machinery and equipment and solely performs the remaining construction and installation services, the contractor contract will be liable to 5% CIT (services).

DTA & Non-DTA Withholding Tax: Vietnam

DTA Withholding Tax Rates

Please note, that first the FCWT-VAT must be withheld, and the FCWT-CIT will be withheld from the remainder. In no case the rates under national law are exceeding the limitations given under these DTAs.

No.	Country	Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	China	10	10	10	-
2.	Indonesia	15	15	15	-
3.	Malaysia	10	10	10	10
4.	Pakistan	15	15	15	15
5.	Philippines	10	10	10	10
6.	Thailand	15	10/15	15	-

Non-DTA Withholding Tax Rates

the Vietnamese FCWT- VAT and FCWT-CIT tax rates will be applied on respective activities.

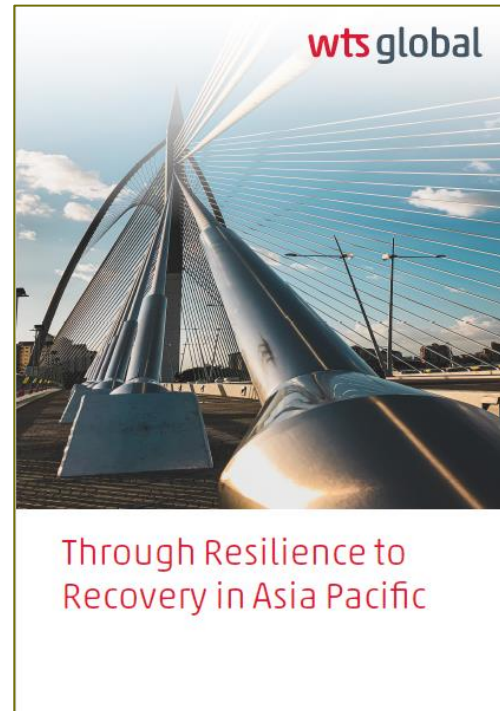
No.		Rates (%)			
		Dividends	Interest	Royalties	Technical Fees
1.	FCWT-VAT	-	0%	0%	5%
2.	FCWT-CIT	-	5%	10%	5%

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