

Spain-Canada's new Double Taxation Agreement

Canada's Ambassador to Spain, Jon Allen, and Spain's Finance Minister, Cristóbal Montoro have signed the Protocol which, when ratified by both countries Parliaments, will substitute the original Double Taxation Agreement (Ottawa 1976) in force since 1980.

The new agreement stimulates trade between the two countries, eliminating tax barriers while promoting job, business and investment opportunities.

It adapts the provisions of the current agreement to the economic relationship between our two countries, adapting its text to the latest OECD Model Tax Convention.

Highlights:

1. Dividends

While the withholding tax rate on payments of dividends and interest by the source country is 15 % of the gross amount of the dividend, where the beneficial owner is a company that holds directly at least 10 % of the capital of the company paying the dividend income, the rate will now be reduced to 5%.

Dividend income paid to certain pension plans will now be exempt from withholding tax.

2. Repatriated profits from the permanent establishment can be taxed by the source country at maximum rate of 5 %.

3. Interest's withholding tax will not exceed 10% of the gross amount of the interest.

4. The revised agreement also includes new provisions on:

- Foreign tax credits
- Dispute resolution
- Assistance in the collection of taxes
- Organization for Economic Co-operation and Development's new standard for the exchange of tax information

Non residents taxation on pensions and annuities

Pensions are periodic payments made after retirement in consideration of past employment or by way of compensation for injuries received in connection with past employment. Annuities are a

stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Most double tax agreements establish that pensions will be taxable where the pensioner is resident. Social security pensions are generally assimilated to private pensions and covered under "other pensions" section. Public pensions are normally taxed in the payment country.

Exemptions:

DTA Brazil

Pensions and similar remunerations < US\$ 3.000 / calendar year: taxable where the pensioner is resident. Excess shall be taxed in both countries.

DTA Canada

Pensions and annuities can be taxed where the pensioner is resident.

- Pensions can also be taxed in the paying country. For periodic payments, however, the tax will not exceed the lesser of: 15 % of the gross amount of the payment and the amount the recipient of the payment would otherwise be required to pay if he were resident in the paying country.
- Annuities may be taxed in the paying country. Max: 15% (certain lump fees do not apply the max).
- Periodic or non-periodic social security pensions and other similar allowances and war veterans' pensions: not taxable where the beneficial owner is resident provided they are not subject to tax in the paying country.
- Alimony and other similar payments: taxable only where the beneficial owner is resident.

DTA USA

- Pensions and other similar remunerations: taxable where the pensioner is resident.
- Social security benefits: taxable only in payment country.
- Annuities: taxable only where the pensioner is resident.
- Alimony: taxable only where the pensioner is resident.
- Periodic payments for the support of a minor child (as per a separation/ divorce agreement), separate maintenance, or compulsory support,: taxable only y paying country.

DTA Luxembourg

Pensions and social security payments: shared taxation.

DTA Sweden

Social security payments and life insurance pensions: taxable in paying country provided the beneficial owner is a national.
