



PwC Middle East: Oman ratifies the Double Tax Treaty with Qatar

January 2022



In brief

A Royal Decree issued in Oman ratifying the Double Tax Treaty with Qatar

In November 2021, Oman and Qatar (“the contracting states”) signed a Double Tax Treaty (“DTT”), which is marked as the first DTT signed between Oman and a GCC country.

A Royal Decree (RD 4/2022) was issued in January 2022 by His Majesty the Sultan of Oman, ratifying the DTT which was published in the Official Gazette in the same month, along with the Arabic text of the DTT. The English translation of the DTT has not been published yet.

Qatar is yet to ratify the DTT. The DTT is applicable on income tax and tax on capital.

We note that the DTT adopts combination of provisions of Organization for Economic Co-operation and Development (OECD) Model and the UN Model Tax Conventions. Both Oman and Qatar are members of the Base Erosion and Profit Shifting (BEPS) inclusive framework and have signed the Multilateral Instrument (MLI) agreement.

In this news alert, we provide our preliminary analysis of the DTT, which can be summarised as follows :

- Foreign national residents of Oman or Qatar may benefit from the DTT
- The Permanent Establishment (“PE”) wording is mostly in alignment with the OECD Model, except for the ‘service PE’ provision. The DTT also provides that a PE would also arise if a building site, construction, assembly or installation project in the other contracting state lasts for a period of more than six months
- The DTT provisions will become effective as of the first day of January of the calendar year following the entry into force of the DTT for withholding tax (“WHT”), while for other taxes from for any tax year starting from the first day of January of the calendar year following the entry into force. Since Qatar has not yet ratified the DTT, the DTT is expected to enter into force the earliest by January 2023.
- Below are the WHT rates provided in the DTT in comparison with domestic laws of the contracting states :

Payment	Domestic rate Oman	Domestic rate Qatar	DTT
Interest	*10%	5%	exempt
Services (other than technical services)	10%	5%	exempt
Royalties	10%	5%	8%
Technical services	10%	5%	8%
Dividends	*10%	5%	**0/5%

*temporarily suspended for 5 years till 5 May 2024 as part of Oman Vision 2040 Economic Stimulus Plan announced on 9 March 2021

**0% applies if the beneficial owner of the dividends is : (i) a company that owns 20% of the company that pays the dividend or (ii) the contracting state, any statutory bodies related to the Contracting State, pension funds, and any entity that is bound to be owned, directly or indirectly, by a Contracting State or a body from its statutory bodies. Rate capped to 5% in all other cases.



A Royal Decree issued in Oman ratifying the Double Tax Treaty with Qatar. The Royal Decree was published in the Official Gazette on 23 January 2022





Oman-Qatar DTT

In detail

Summary of the key provisions of the DTT

We have summarised below the key provisions contained in the DTT which could have an impact on the cross border transactions of businesses resident in both contracting states:

Persons covered (Article 1) : Oman and Qatar resident individuals and companies have access to the DTT. For individuals, residency for DTT purposes is not limited to Oman and Qatar nationals only. Foreign national individuals who are tax resident in Oman or Qatar may also benefit from the DTT.

Residents covered by the DTT include: (i) any person liable to tax by reason of domicile, residence, place of incorporation or place of management, investment funds (ii) the contracting states, and their public law persons*, (iii) private institutions of public interest*, and (iv) investment funds.

The DTT contains a tie-breaker rule for corporate tax residence which is based on the place of effective management of the company. The current rule for determining DTT residence under the 2017 OECD Model Tax Convention is the mutual agreement procedure.

Taxes covered (Article 2) : the DTT covers taxes on income and capital including taxes on profits resulting from the disposal of movable and immovable property, and taxes on the total amounts of wages or salaries paid by the projects, as well as taxes on capital appreciation.

PE (Article 5) : the definition of a PE under the DTT is similar to the definition under OECD Model Tax Convention. This is also true in respect of the determination of a dependent agent PE.

The DTT does not contain a “service PE” clause, however, it provides that a PE would arise if a building site, construction, assembly or installation project in the other contracting state lasts for a period of more than six months.

Business profits (Article 7): the DTT provides that profits of a company are not subject to tax in the other contracting state unless the company carries on its business in that other contracting state through a PE.

In addition, the DTT provides that items of income that are not specifically dealt with in the DTT are taxable only in the contracting state where the recipient is resident.

As such, income from services that are not delivered through a PE in the other contracting state should be exempt from WHT and other forms of taxation in that state. Where activities do give rise to a PE, the DTT provides guidance on the mechanisms to attribute profits to such PE.

International shipping and air transport (Article 8): the DTT provides that profits derived by an enterprise in a contracting state from the operation of ships and aircraft in international traffic are only taxable in that contracting state.

Dividends (Article 10) :the DTT provides that a rate of zero% would be applied on dividends if the beneficial owner of the dividends is : (i) a company that owns 20% of the company that pays the dividend or (ii) the contracting state, any statutory bodies related to the Contracting State , pension funds, and any entity that is bound to be owned, directly or indirectly, by a Contracting State or a body from its statutory bodies. The rate is capped to 5% in all other cases.

*(The DTT is not clear on which “public law persons, & private institutions of public interest” are meant to be covered.)



Oman-Qatar DTT

Summary of the key provisions of the DTT (Cont'd)

Income from debt claims / interest (Article 11): interest is taxable only in the contracting state in which the recipient is resident. As such, no WHT should apply on interest payments between Oman and Qatar residents. The definition of interest under the DTT includes interest from government securities, bonds and debentures, premiums, other bonds or debentures, and income from arrangements such as Islamic financial instruments, if the essence of the basic contract can be compared to a loan. Penalty charges that apply to the late payment of interest do not benefit from DTT relief.

Royalties (Article 12) : WHT on royalty payments (which includes payments for the use of or the right to use industrial, commercial or scientific equipment) is capped at 8%. This is a reduction from the Oman domestic royalty WHT rate of 10%. WHT rate on royalties in Qatar is 5%.

Fee for technical services (Article 13):WHT on payments towards technical services is capped at 8%. The DTT provides that the term “technical services” shall mean payments of any kind to any person, other than to an employee of the person providing such payments, for any services of a technical, administrative or advisory nature. The Oman domestic law does not differentiate between “technical services” and other types of services, which are all taxed at the WHT rate of 10% (except for services that falls under the defined exclusions provided in the law). WHT rate on technical services fees in Qatar is 5%.

Capital gains (Article 14): no exemption on gains arising on moveable and immovable property from taxation in the other contracting state.

Elimination of double taxation (Article 24): elimination of double taxation is provided in the DTT by way of a credit against tax payable in Oman and Qatar to the extent of tax payable in respective jurisdiction.

Mutual Agreement Procedure (Article 25): taxpayers are allowed to seek assistance from their local competent authority in resolving disputes relating to the interpretation of the DTT, within a period of three years (from the date of the “notification” of the dispute to the relevant tax authority).

Entitlement to benefits (Article 29): in response to the BEPS Action 6, which deals with treaty shopping arrangements, the DTT includes the so-called Principal Purpose Test (“PPT”) to provide that no benefit would be granted to the taxpayer under the DTT if it is reasonable to conclude that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit unless the taxpayer establishes that granting that benefit was in accordance with the object and purpose of the DTT.

As such, it is important that Oman and Qatar entities seeking to claim relief under the DTT have appropriate operational substance and can support a principal commercial purpose. This is in addition to meeting the minimum substance and procedural requirements set by Qatar (as of date, Oman has no clear guidance or specific regulations related to economic substance).

Entry into force (Article 30) :each of the two contracting states shall notify the other contracting state in writing, that the internal procedures required by each contracting state for the entry into force of the DTT have been complied with. The DTT shall be effective as of the date of the last of these two notifications. At that time, the DTT will be enforceable according to the following: (i) with regard to WHT: on amounts paid or credited to the account as of the first day of January of the calendar year following the entry into force of the DTT. (ii) with regard to other taxes: for any tax year starting from the first day of January of the calendar year following the entry into force of the DTT.

The takeaway

The DTT between Oman and Qatar is the second DTT between two GCC member states, and is expected to facilitate further cross-border trade and investment between the two countries.

It provides for some important changes to the taxation of payments (e.g. interest, royalties, service fees) between the two countries and includes a definition of the types and levels of activities that would create a taxable presence in the other country. This may reduce taxation and compliance obligations and provide taxpayers with greater certainty.

Businesses should review their operating structures in light of the DTT, assess the impact of it on their activities, and determine how can they make best use of the tax benefits provided by the DTT.

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Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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Thank you

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