

TECHNICAL

[Double Taxation Relief \(The Government of the Republic of Poland\) Order 2014 \[P.U. \(A\) 168/2014\]](#)

The above Double Taxation Relief (The Government of the Republic of Poland) Order 2014 (DTA) has been gazetted on 23 June 2014. The existing [Double Taxation Relief \(Poland\) Order 1978 \[P.U. \(A\) 124/1978\]](#) shall terminate and cease to be effective from the date upon which this new DTA has effect.

Entry Into Force

The new DTA shall enter into force on the date of the later of the notification by the Contracting States to each other via exchange of notes through the diplomatic channel, the completion of the procedures required by its law for the bringing into force of the new DTA. Except for Articles 25 and 26 (Mutual Agreement Procedure and Exchange of Information) which shall have effect from the date of entry into force of the new DTA, the new DTA shall thereupon have effect in Malaysia in respect of Malaysian tax chargeable for any year of assessment beginning on or after the first day of January in the calendar year following the year in which the new DTA enters into force.

Some Salient Points

The new DTA includes a reduction in interest and royalty withholding tax (WHT) rates to not exceeding 10% and not exceeding 8% respectively from not exceeding 15% under the existing DTA. The new DTA also contains a new Article 13 on “fees for technical services” which applies to payments in consideration for any services of a technical, managerial or consultancy nature, which are subject to WHT at a rate not exceeding 8%.

Some Provisions of the Protocol to the new DTA

Except for Labuan companies that have made an irrevocable election to be charged to tax in accordance with the Income Tax Act 1967, persons who are entitled to tax benefits according to Labuan Business Activity Act 1990 (as amended) are not entitled to benefits of the new DTA.

Income from dividends which are paid out of the profits of the Malaysian companies which are exempted from Malaysian tax by virtue of the special incentives for the promotion of economic development of Malaysia which were in force on the date of signature of the new DTA, shall be exempt from Polish tax provided that the shareholder is a Polish resident and holds at least 25% of the capital of that company on the date the dividends are paid and has done so for an uninterrupted 24 month period in which that date falls.

The provisions of the Protocol shall cease to have effect in respect of income derived after 31 December 2020.

Members may read the new DTA in full at the official website of the [Attorney-General's Chambers](#).

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