Nigeria signs double tax treaty with Singapore

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Introduction

On 26 March 2018, President Muhammad Buhari, following approval of the Federal Executive Council, signed the Nigeria-Singapore Double Taxation Agreement (DTA) instrument.

It is expected that the DTA will be forwarded to the National Assembly for ratification.

Overview

The DTA is largely modelled after the Organisation for Economic Cooperation and Development's (OECD) revised model tax convention (MTC). However, the DTA would be amended in line with OECD's Multilateral Instrument (MLI) where both parties agree to such amendment.

The MLI is a multilateral treaty designed to update existing DTAs. It is aimed at reducing Base Erosion and Profit Shifting (BEPS) and other harmful tax practices. The MLI contains broad recommendations which signatories may adopt in whole or in part or refrain from adopting either because their existing treaties contain similar provisions or the recommendation is not in line with their tax policies.

Nigeria became a signatory to the MLI in August 2017 and its existing DTAs could be updated and enter into force 3 months following ratification by the National Assembly. See Nigeria's MLI position. However, though a signatory, Singapore has not included the DTA with Nigeria as one of the DTAs to be updated by the MLI and new recommendations to prevent harmful tax practices. Pending the inclusion, this DTA would retain its current provisions.

Some provisions in the DTA

- ***Entry into force:*** The DTA comes into force after 90 days upon exchange of notifications by both countries. In Nigeria, its provisions will apply from January 1 of the year following entry into force while in Singapore, its withholding tax provisions will apply from January 1 of the year following entry into force and for its other tax provisions, will apply from January 1 of the second year following entry into force.

- ***Scope***: the DTA will apply to, in the case of Nigeria, Personal Income Tax, the Companies Income Tax, Petroleum Profits Tax, Capital Gains Tax, Tertiary Education Tax, and Information Technology Levy. In the case of Singapore, the Singapore income tax.

- ***Permanent establishment (PE):*** the threshold, in the case of exploration for natural resources is 60 days in any 12 month period, 6 months for construction, installation, supervisory; and for services 183 days in any 12-month period.

- ***Passive income:*** *Dividends, interest and royalties* are subject to tax at the rate of 7.5% where the recipient is the beneficial owner.

  The protocol to the DTA also provides that where Nigerian domestic tax law imposes a lower rate for passive income, such lower rate shall override the rates in the treaty and apply to passive income paid to Singaporean residents.

The takeaway

When ratified by the National Assembly, the Nigeria-Singapore DTA will expand Nigeria's treaty network to 14.

Unlike some of Nigeria's treaty partners, there is substantial trade between both countries as Nigeria is consistently ranked as one of Singapore's top five trading partners and investment destinations in Africa with the country investing in oil, consumer goods and agribusiness. The DTA is therefore expected to be of benefit to both countries.