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Global Tax Alert

News from Americas Tax Center

Mexico publishes Double Tax Treaty with Costa Rica in the Mexican Official Gazette

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On 3 May 2019, the Double Tax Treaty between Mexico and Costa Rica (the Treaty), which was signed on 12 April 2014, was published in the *Mexican Official Gazette*.

The Mexican Congress approved the Treaty on 30 April 2015, and the Legislative Assembly of Costa Rica approved it on 10 December 2018. The notifications referenced in Article 28 of the Treaty were received in San Jose, Costa Rica on 21 July 2015 and 22 March 2019. Accordingly, the Treaty between Mexico and Costa Rica will enter into force starting 1 January 2020, for taxes withheld in the source country where the income is generated.

With the approval and ratification of this Treaty, Mexico will now have 59 treaties in place and Costa Rica will now have 3 treaties concluded (Spain and Germany previously).

The Treaty includes the following provisions:

- ▶ **Dividends** - A 5% withholding tax rate applies when the effective beneficiary is a company that owns at least 20% of the capital of the company that is paying the dividends (a 12% withholding tax rate applies in all other cases)
- ▶ **Interest** - A 10% withholding tax rate applies when the effective beneficiary is a resident of the other Contracting State
- ▶ **Royalties** - A 10% withholding tax rate applies when the effective beneficiary is a resident of the other Contracting State

Without the Treaty, the withholding tax rates on interest and royalties would vary but could be as high as 40%.

In addition, the Treaty allows the sale of shares, interests or other rights in the capital of a company to be taxed in the source country if the seller, during the 12 months before the transaction, held, directly or indirectly, at least 25% of the company's stock. This provision does not apply when the shares' value is made up of more than 50% of immovable property located in the source country.

The Treaty also includes a provision to eliminate double taxation and an anti-abuse provision to eliminate treaty abuse, such as treaty shopping. Additionally, the Treaty includes an exchange of information clause.

Article 1 of the Protocol clarifies that the Treaty benefits will not apply if neither country taxes income or gain as a result of applying the Treaty.

Both Mexico and Costa Rica included this Treaty in their covered tax agreements for purposes of the Multilateral Convention.

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