

## Report on recent US international tax developments - 6 September 2019

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The United States (US) Treasury Department on 30 August 2019 [announced](#) the entry-into-force dates of protocols to the US tax treaties with Japan and Spain. The protocol with Japan entered into force on 30 August 2019, and the protocol with Spain will enter into force on 27 November 2019. No information is available regarding the entry into force of the protocols to the US-Switzerland and US-Luxembourg tax treaties. All four protocols, which had been stalled in the US Senate for nearly a decade, were approved by the full Senate on 16-17 July 2019.

The Japanese protocol generally modernizes provisions of the US-Japan Treaty; key measures include:

- ▶ Revised dividend withholding tax exemption
- ▶ General exemption on cross-border interest payments
- ▶ New definition of indirect interest in real property
- ▶ Mandatory binding arbitration procedures
- ▶ Revised exchange of information provisions
- ▶ Expanded and strengthened provisions regarding assistance in the collection of taxes

The Japanese protocol will have effect for withholding taxes (e.g., related to dividends and interest) for amounts paid or credited on or after the first day of the third month following the date on which the protocol enters into force, i.e., 1 November 2019. For all other taxes, the Japanese protocol will apply to tax years beginning on or after 1 January 2020.

The Spanish protocol contains the most significant changes as compared to the other three protocols and generally modernizes several provisions of the US-Spain Treaty. Some of the key provisions of the Spanish protocol include:

- ▶ Revised dividend withholding tax exemption
- ▶ New fiscally transparent entity rules

- ▶ General exemption from source-country tax on cross-border interest, royalties and capital gains
- ▶ A new comprehensive limitation on benefits (LOB) provision
- ▶ Mandatory binding arbitration procedures
- ▶ Revised exchange of information provisions

For withholding taxes, the Spanish protocol generally will apply to amounts paid or credited on or after 27 November 2019, the date on which the protocol enters into force. For taxes determined by reference to a tax period, the protocol will apply for tax years beginning on or after 27 November 2019 (e.g., 1 January 2020, for calendar-year taxpayers). In all other cases, the protocol will apply on or after 27 November 2019.

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