

# Russia amends its DTT with Malta, some other double tax treaties are under review

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As officially [announced](#)\* by the Russian Ministry of Finance, Russia and Malta signed a [Protocol](#)\* on 1 October 2020 to amend the double tax treaty (DTT) between the two countries.

This measure is part of the radical tax actions [proposed](#) by the Russian President and consisting in the introduction of a 15% withholding taxation (WHT) rate for income payments to territories with preferable tax regimes.

## Approved amendments

According to the Protocol, the key amendments relating to the taxation of interest and dividends are identical to those [adopted](#) in the DTT with Cyprus.

### *Dividend taxation*

More specifically, the basic WHT rate for dividends under the DTT is increased to 15% instead of the previously applicable rates of 5 or 10% (depending on whether investment criteria are met).

Despite this, the 5% WHT rate will still apply when the recipient of dividends qualifies as a publicly listed company meeting the following criteria:

- at least 15% of the shares of the receiving company are freely traded on a registered stock exchange; and
- the receiving company holds (for not less than 365 days) at least 15% of the shares in the company paying out the dividends.

The reduced WHT rate of 5% will also apply to dividend payments made to insurance institutions, pension funds or specific Russian or Maltese state bodies and to local central banks, provided that beneficial ownership criteria are met.

### *Interest taxation*

According to the Protocol, interest income currently exempt from WHT will also be subject to a 15% WHT rate.

Similar to dividends, the WHT rate of 5% on interest payments will still apply to interest income received by shareholders that meet the investment criteria listed above for dividends or by the abovementioned public entities such as insurance institutions, pension funds, state bodies and central banks.

In addition, the reduced WHT rate will be applicable to interest payments made by Russian and Maltese taxpayers on Eurobonds, corporate bonds and government bonds, as well as those taking place between banks.

The Protocol is scheduled to be [ratified](#)\* before the end of this year, so that the new provisions can be applied on 1 January 2021.

## Comments

Even though these changes to the Russia-Malta DTT are initially aimed at combatting tax evasion through artificial structures in jurisdictions with preferential taxation, they will affect all businesses structuring their presence through Malta and not just bad-faith taxpayers.

Considering that changes to the Russia-Malta DTT will likely be ratified by 1 January 2021, affected taxpayers may need to implement prompt measures before their businesses face new realities.

Existing tax-optimisation options for the affected taxpayers are not numerous and may require radical actions such as company relocation, transformation into a publicly listed legal entity, etc. In any case, these options should only be considered to the extent that there is real economic substance behind the contemplated business restructuring.

As confirmed by the Ministry of Finance, amendments to the DTT with Luxembourg are next in line, and negotiations with the Netherlands are also being conducted.

For more information on this eAlert, please contact CMS Russia experts [Dominique Tissot](#), [Maria Kabanova](#), [Anna](#)

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