
A Case Where the Application of a Reduced Treaty Rate to Dividends from a *Tokutei Mokuteki Kaisha* (TMK) Was Considered for Denial but Ultimately Not Denied

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On September 1, 2025, the morning edition of the Nikkei reported on a case in which Japan's tax authority considered denying the application of the reduced tax rate under the Japan–Singapore tax treaty to dividends paid by a Specified Purpose Company (*Tokutei Mokuteki Kaisha*; TMK). After nearly three years of investigation, however, the reduced rate was ultimately allowed.

Case Overview

According to the report, the case involved overseas investment money flowing through tax havens such as the Cayman Islands into a Singapore special purpose company (SPC). That SPC then invested in a Japanese TMK. The TMK purchased and operated real estate such as data centers and logistics facilities, generated profits, and paid dividends to the Singapore SPC.

Tax Treatment of the TMK

A TMK, established under Japan's Act on the Securitization of Assets, is a so-called conduit-type entity. Under certain conditions, dividends paid by the TMK are deductible for tax purposes (Special Taxation Measures Act Article 67-14). Accordingly, if all profits are distributed as dividends, the TMK has no taxable income and is not subject to corporate tax.

Tax Treatment of TMK Dividends

As a matter of domestic law, dividends from a TMK are subject to withholding at a rate of 20.42% for income tax and special reconstruction income tax (Income Tax Act, Articles 212(1) and 213(1)(i)). However, under the Japan–Singapore tax treaty, dividends paid to a Singapore resident are subject to a reduced withholding tax rate of 5% (Treaty Article 10(2)).

Significant Reduction of Tax Burden

As a result, foreign investors, by investing in a Japanese TMK through a Singapore entity, could achieve both (i) no corporate tax at the TMK level and (ii) a reduced withholding tax rate of 5% on dividends. This structure allows for a substantial reduction of tax burdens—representing, from the perspective of Japan's tax authority, a significant loss of tax revenue.

To prevent such outcomes, recently concluded or revised tax treaties have introduced provisions denying reduced treaty rates where dividends are deductible for the payer (e.g., Japan–U.S. Tax Treaty, Article 10(5)). However, the Japan–Singapore tax treaty does not contain such a provision.

PPT Provision under the BEPS Multilateral Instrument

Article 7 of the Multilateral Instrument (MLI), a multilateral treaty implementing BEPS measures, applies between Japan and Singapore. Article 7 provides that a tax treaty benefit shall not be granted if it is reasonable to conclude that obtaining the benefit was one of the principal purposes of the arrangement or transaction, unless it is established that granting the benefit under the circumstances would be in accordance with the object and purpose of the relevant provision of the tax treaty. This is known as the Principal Purpose Test (PPT).

In this case, the Japan's tax authority considered applying the PPT. However, according to the report, it determined that "since the Singapore SPC had substance, it could not be concluded that the treaty was abused."

Issues with the PPT

The PPT provision is abstract, and its criteria for application remain unclear. Cases exist in other countries that have adopted MLI Article 7 where the PPT applied. The tax authority of Australia has issued guidelines clarifying its operation. The Nikkei report indicates that Japan's tax authority is also considering preparing guidance for the application of this provision.

While the MLI was signed in 2017 and only recently came into effect, Japan's tax authority has actively attempted to apply similarly abstract provisions such as Corporation Tax Act, Article 132 (denial of acts and calculations by closely held companies) and Paragraph 6 of the Basic Instruction on Property Valuation. Therefore, the future administration of the PPT in Japan is a matter that warrants continued attention.

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