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Double Taxation Agreement with Turkey

Introduction

7.1 The *Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol,* is intended to:

- promote closer economic cooperation between Australia and Turkey by reducing barriers caused by double taxation of income; and
- improve the integrity of the tax system through a framework to prevent international fiscal evasion.[1]

7.2 In 2009, two-way trade between Australia and Turkey was around $800 million. Australia's major exports to Turkey include coal, medicaments (including veterinary), aluminium and butter. Australia has also recently sold a number of fast ferries to the Istanbul municipality and shipments of live cattle resumed in 2007, following conclusion of a health protocol. Dried fruits and nuts, goods and passenger vehicles and household equipment are Australia's major imports from Turkey.[2]

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1 *National Interest Analysis* (NIA) [2010] ATNIA 31, Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol, done at Ankara on 28 April 2010,[2010] ATNIF 28, para. 4.

2 *Regulation Impact Statement* (RIS), paras 1.1 and 1.2.

Reasons to take treaty action

7.3 The Convention is intended to promote trade and investment between the two countries and provide greater certainty for Australian businesses and other Australian taxpayers intending to expand into Turkey by establishing an internationally accepted framework for the taxation of cross-border transactions.[3] It will also reduce taxation barriers to the cross–border movement of people, capital and technology.[4]

7.4 Treasury representatives told the Committee that the Convention will provide long-term benefits for Australian businesses by:

- facilitating increased direct investment;
- reducing the costs of intellectual property; and
- making Australia a more attractive source of finance by reducing withholding tax rates on dividends, interest and royalties.[5]

7.5 The Committee was also informed that although Turkey did not agree to all of Australia's preferred tax treaty rate limits for withholding taxes:

> Australia has secured similar treaty outcomes to those reflected in Turkey's tax treaties with other countries. The proposed treaty, therefore, ensures that Australians will face no competitive tax disadvantage compared to residents of other countries when they enter into cross-border transactions that involve Turkey. The treaty is also broadly consistent with other Australian treaties where there exists an economic relationship comparable to that between Australia and Turkey.[6]

7.6 The Committee notes that Australia requested most favoured nation clauses in the Convention, but that Turkey did not agree to this request.[7] Treasury informed the Committee that it understands that Turkey has not agreed to most favoured nation obligations with any other OECD countries.[8]

3 NIA, para. 5 and 6.

4 Ms Belinda Robilliard, Department of the Treasury, *Transcript of Evidence,* 29 June 2010, p. 3.

5 Ms Robilliard, Department of the Treasury, *Transcript of Evidence,* 29 June 2010, pp. 2–3.

6 Ms Robilliard, Department of the Treasury, *Transcript of Evidence,* 29 June 2010, p. 3.

7 Other double taxation agreements concluded by Australia have included most favoured nation obligations. See, for example, Australia's agreement with Chile (JSCOT Report 114).

8 Ms Robilliard, Department of the Treasury, *Transcript of Evidence,* 29 June 2010, p. 13.

7.7 The Convention does not impose any greater obligations on residents of Australia than Australian domestic tax laws and in some cases will reduce the obligations of Australians operating or investing in Turkey. The Convention is expected to reduce compliance costs for taxpayers with cross-border dealings.[9]

7.8 The combination of reduced compliance costs and the greater certainty provided by having a treaty in place, is expected to increase investment. Treasury indicated that there is general evidence to suggest that this has been the case with other treaties.[10]

7.9 The Convention also establishes a framework for tax information exchange to prevent international tax evasion, consistent with the OECD's internationally agreed tax standard.[11]

Obligations

7.10 The Convention will reduce withholding taxes on dividend, interest and royalty payments between the two countries. Under the Convention:

- the Australian dividend withholding tax rate limit will be reduced from 30 per cent to 5 per cent on inter-corporate dividends on holdings of at least 10 per cent of the voting power of the Australian company paying the dividend;[12]
- Turkish dividend withholding tax will be reduced from 15 per cent to 5 per cent for inter-corporate dividends for direct holdings of at least 25 per cent of capital, where the dividends have been paid out of profits that have been subjected to the full rate of corporation tax in Turkey. A general rate of 15 per cent will apply in all other cases (Article 10);[13]
- interest withholding tax on Turkish sourced interest paid to Australian lenders will be reduced from 15 per cent to 10 per cent (Article 11);
- Australian royalty withholding tax will be reduced from 30 per cent to 10 per cent and Turkish withholding tax from 20 per cent to 10 per cent (Article 12);[14] and

9 NIA, para. 14.
10 Ms Lynette Redman, Department of the Treasury, *Transcript of Evidence,* 29 June 2010, p. 14.
11 NIA, para. 13.
12 NIA, para. 8.
13 NIA, para. 8.
14 NIA, para. 10.

- profits from within a multinational company will be allocated on an agreed basis (Articles 7 and 9);[15]

7.11 Pension and retirement annuities and lump sums paid after age 60 in lieu of the right to receive a pension are to be taxed only in the country of residence. For all other lump sum payments, taxing rights are to be shared between the country of residence and country of source (Article 18).[16] This clause is expected to simplify current arrangements for individuals.[17]

7.12 Other obligations under the Convention include:

- a general obligation on both countries to allow tax paid under the other country's laws and in accordance with the Convention to be allowed as a credit against tax payable under their own laws (Article 23);[18]
- a general non-discrimination principle, which requires each state to treat nationals of the other no less favourably than it treats its own nationals (Article 24);[19]
- dispute resolution procedures, including a mechanism for taxpayers to complain about the operation of the agreement (Article 25);[20] and
- provisions for the exchange of tax information (Article 26).[21]

Implementation and costs

7.13 The *International Tax Agreements Act 1953* will be amended to bring the Convention into effect. The agreement will not affect the existing taxation roles of the Commonwealth and States and Territories.[22]

7.14 Treasury has estimated the costs of the agreement, while unquantifiable, to be small (less than $5 million per annum).[23] There will be minor implementation costs to the Australian Taxation Office and some ongoing

15 NIA, para. 11.
16 NIA, para. 15.
17 Ms Redman, Department of the Treasury, *Transcript of Evidence,* 29 June 2010, p. 15.
18 NIA, para. 16.
19 NIA, para. 17.
20 NIA, para. 18.
21 NIA, para. 19.
22 NIA, para. 20.
23 NIA, para. 21.

costs to the ATO and Treasury from administering the agreement, which will be met through agency resources.[24]

Conclusion

7.15 The Committee supports efforts to promote trade and investment between Australia and Turkey, and provide greater certainty for Australian businesses and other Australian taxpayers through a double taxation agreement. The Committee therefore supports binding treaty action being taken.

Recommendation 9

The Committee supports the *Convention between the Government of Australia and the Government of the Republic of Turkey for the Avoidance of Double Taxation with Respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol* and recommends that binding treaty action be taken.

24 NIA, para. 23.