

Kenya - Singapore DTA



Introduction

On 11th February 2025, the Kenyan Cabinet approved the Kenya-Singapore Double Taxation Agreement on the Elimination of Double Taxation with respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance (“DTA”), which had been signed on 23rd September 2024.

This was a major milestone towards the right direction the DTA needed updating from the 12th June 2018 DTA that has since been in force.

The text of this new DTA has now officially been Gazetted (2nd May 2025 - Gazette Notice No. 5583) by the Cabinet Secretary for the National Treasury and Economic Planning, thereby bringing it into effect.

Therefore, it is important to be in the know about the detail of the recently Gazetted Kenya-Singapore DTA.

Key Highlights

The following are key highlights of the DTA, touching on withholding tax implications and definition of a permanent establishment:

Item	Key terms in the DTA
Dividends	<ul style="list-style-type: none">• 8% withholding tax rate
Interest	<ul style="list-style-type: none">• 10% withholding tax rate
Royalties	<ul style="list-style-type: none">• 10% withholding tax rate
Technical Fees	<ul style="list-style-type: none">• 10% withholding tax rate• Technical fees refer to payments for managerial, contractual, technical, agency, professional or consultancy services
Residency	<ul style="list-style-type: none">• The residency test for individuals shall be based on the following criteria:<ul style="list-style-type: none">- Where they have a permanent home, if in both, then where their centre of vital interests is stronger.- If the center of vital interests is unclear, residency is based on where they have a habitual abode.- If habitual abode exists in both or neither, residency is determined by nationality.- If unresolved, the authorities of both states will decide through the competent authorities.• For a corporate body, if it qualifies as a resident in both states, residency will be determined by the place of effective management.

Key Highlights

Item	Key terms in the DTA
Permanent Establishment	<p>Period tests as follows, beyond which residents of a contracting state could trigger a taxable presence in the other contracting state:</p> <ul style="list-style-type: none">• Period test of 6 months for construction-related activities.• Period test of 183 days in any 12-month period for the furnishing of services.• Period test of 91 days in any 12-month period for activities that consist of or connected with the exploration for or exploitation of natural resources.• Period test of 91 days in any 12-month period for an installation or structure used in the exploration for natural resources.
Income From Immovable Property	<p>The income earned is taxable in the state where the property is located</p> <p>Applies to income derived from the direct use, letting or any other utilization of immovable property</p>
Shipping and Air Transport	<p>Profits from operating ships or aircraft in international traffic are taxable only in the enterprise's home state</p>
Capital Gains Tax	<ul style="list-style-type: none">• Gains from immovable property (as defined in Article 6) shall be taxed in the state where the property is located.• Gains from alienation of shares or similar interests may be taxed in the other state if these shares derive more than 50% of their value from immovable property in that state. <i>The threshold is higher compared to the 20% provided in the ITA.</i>

The DTA aims to bolster trade between Kenya and Singapore by providing preferential tax rates, thereby encouraging Foreign Direct Investment (FDI) from Singapore. The agreement also complements the provisions of the Bilateral Investment Treaty (BIT) between the two nations.

This publication has been carefully prepared, but it has been written in general terms and should be seen as containing broad statements only. This publication should not be used or relied upon to cover specific situations and you should not act, or refrain from acting, upon the information contained in this publication without obtaining specific professional advice. Please contact BDO East Africa to discuss these matters in the context of your particular circumstances.

BDO East Africa, its partners, employees and agents do not accept or assume any responsibility or duty of care in respect of any use of or reliance on this publication, and will deny any liability for any loss arising from any action taken or not taken or decision made by anyone in reliance on this publication or any part of it. Any use of this publication or reliance on it for any purpose or in any context is therefore at your own risk, without any right of recourse against BDO East Africa or any of its partners, employees or agents.

BDO East Africa, is a member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. The firm serves clients through the Nairobi office.

‘BDO’, ‘we’, ‘us’, and ‘our’ refer to one or more of BDO International Limited, its network of independent member firms (‘the BDO network’), and their related entities. BDO is the brand name for the BDO network and for each of the BDO Member Firms.

BDO is the brand name for the BDO network and for each of the BDO Member Firms.

Copyright © 2025 BDO East Africa. All rights reserved. Published in Kenya.

www.bdo-ea.com

