

OVERVIEW: DOUBLE TAXATION TREATIES - CHANGES

Dear colleagues,

Certain provisions of taxation agreements with unfriendly countries were suspended [by the Decree of the President of the Russian Federation](#) No. 585 dated 08.08.2023. The Decree lists 38 DTTs and names the clauses of the treaties that are subject to suspension.

The Decree entered into force from the moment of its publication, thus, from August 8, 2023, certain provisions of the articles on the avoidance of double taxation will not apply.

Among the main consequences for foreign subsidiaries:

- royalties from the Russian Federation to these countries will be subject to taxation at a rate of 20% instead of the previously applied preferential zero rate,
- tax on dividends will be 15% instead of the previously used rate of 5%-10%.

Moreover, non-resident legal entities and individuals may expect for an increase in the amount of taxes on income in the Russian Federation (for example, interest on deposits, bond coupons).

What else may be affected by the adoption of the Decree:

- Taxes under agreements for the provision of international transportation services
- Taxes under forwarding agreements
- Taxation from the sale of property/shares in the Russian Federation, etc.
- Taxation of the transfer of expenses of the head office to a permanent establishment, etc.

The adoption of the decree entails less impact for individuals in terms of employment - the provisions for income from employment are suspended, but the possibility of offsetting tax on income from employment of residents of the Russian Federation against Russian personal income tax remains, since rates on income abroad are often higher than Russian ones. There will also be no impact on the taxes of remote employees, personal income tax rates for them having been set at 13–15%, regardless of resident status.

At the same time, some of the provisions of the current treaties remain in force - Elimination of double taxation (possibility of offsetting taxes), cross-country exchange of information, mutual agreement procedures.

As a legal basis for the suspension, the Government of the Russian Federation refers to Article 60 of the Vienna Convention on the Law of Treaties.

The full repercussions for business have yet to be assessed - the Decree provides instructions for the Government to submit a draft of the relevant Federal Law to the Duma. Also, of course, more detailed explanations will be provided by relevant departments.

On August 11, the Ministry of Finance published the first [clarifications](#) in connection with the adoption of the [Decree](#): when paying income in the form of interest to export credit agencies and banks located in unfriendly countries, tax agents have the right to continue not to calculate and not to withhold income tax at the source (provided that such foreign organizations (agencies) have the actual right to the income received).

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The relevant amendments to the Tax Code of the Russian Federation are expected to be adopted during the autumn session of the State Duma in 2023.

The reaction of countries with DTTs to the suspension

To date, most countries whose international treaties with the Russian Federation have been unilaterally suspended refrain from official actions and comments. However, the business community expects a response that is likely to involve mirror measures.

Earlier we wrote that Denmark initiated the suspension of the agreement on its part, subsequently the corresponding note dated June 19, 2023 No. 27/23 was received by the Government of the Russian Federation, thus the application of the Convention shall be suspended from January 1, 2024.

The government of Japan regrets Russia's decision to suspend tax treaties with a number of countries and on 09.08.2023 sent a protest through diplomatic channels with the demand to cancel the developments.

We are following the situation.

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