

Double tax treaty with Montenegro in Serbian parliamentary procedure

Double Tax Treaty (DTT) with Montenegro, which was signed in July 2011, has entered into Serbian parliamentary procedure.

The application of DTT is envisaged for corporate income tax and personal income tax in both Serbia and Montenegro. In this respect, the treaty limits taxation of certain types of income in the source country as follows:

| <i>Limitations prescribed by the DTT</i> | |
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| <i>Dividends</i> | The tax rate may not exceed 10% of the gross payment. |
| <i>Interest</i> | The tax rate may not exceed 10% of the gross payment. |
| <i>Royalties</i> | Depending on the nature of the intellectual property right or the right to use thereof, the rates are limited as follows: <ul style="list-style-type: none"> • 5% of the gross payment in case of royalties paid on literary, art or scientific work, including cinema movies and television or radio tapes and movies. • 10% of the gross payment in case of royalties paid on patent, trade mark, draft or model, plan, secret formula or process, right to use commercial, industrial and scientific equipment or data related to industrial, commercial and scientific experience. |
| <i>Capital Gains</i> | Capital gains will not be taxed in the source country unless incurred from sale of real estate or shares with more than 50% of their value directly or indirectly derived from real estate located in the source country. |
| <i>Consulting services, market research and audit services</i> | Income from consulting services, market research and audit services (currently subject to withholding tax in Montenegro) will not be taxed in source country (i.e. no Montenegrin withholding tax will be due). |
| <i>Business profits</i> | Business profits will not be taxable in the source country unless the business activity is performed through permanent establishment in the source country. In case of a permanent establishment, the profit can be taxed in the source country solely to the amount attributed to that permanent establishment. <p>The definition of permanent establishment prescribed by DTT is for the most part equal to the one provided in the domestic legislation. This is with the exception of construction works which are according to DTT envisaged to constitute permanent establishment if performed for period longer than 12 months (compared to 6 months envisaged by domestic legislation).</p> |

DTT also envisages mechanisms for elimination of double taxation in cases where the taxation in the source country is allowed. In such cases the residence country will allow tax deduction in the amount of tax paid in the source country. However, the amount of deduction granted in this respect cannot exceed the amount of tax that would be payable in the residence country in this respect.

For the treaty to come into force, the contracting countries must adopt it through their parliamentary procedures and exchange the notifications on finalisation of the adoption procedure. Considering the treaty has not entered into Montenegrin parliamentary procedure yet, the time frame in which it will come into force cannot be foreseen.

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