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Presidential decree on suspension of certain provisions of international tax treaties of the Russian Federation published

On 15.03.2023 the Ministry of Finance of Russia and the Ministry of Foreign Affairs of Russia made a proposal to the President of the Russian Federation to issue a decree on suspension of double taxation agreements with all countries that have imposed unilateral economic restrictive measures against Russia. The said agreements were proposed to be suspended until Russia's violated rights were restored.

On 08.08.2023 the Decree of the President of the Russian Federation dated 08.08.2023 No. 585 "On Suspension by the Russian Federation of Certain Provisions of International Tax Treaties of the Russian Federation" was officially published.

The Decree provides for temporary suspension of certain provisions of agreements on avoidance of double taxation with unfriendly foreign states until the latter eliminate violations of the legitimate economic interests of the Russian Federation, the rights of its citizens and legal entities or until the termination of these international treaties.

Certain provisions of agreements on avoidance of double taxation are suspended with the following foreign states: the Republic of Poland, the United States of America, the Republic of Korea, the Republic of Bulgaria, the Kingdom of Sweden, the Grand Duchy of Luxembourg, Romania, the United Kingdom of Great Britain and Northern Ireland, the Republic of Hungary, the Republic of Ireland, the Slovak Republic, the Republic of Albania, the Kingdom of Belgium, the Republic of Slovenia, the Republic of Croatia, Canada, the Union Republic of Yugoslavia

The Government of the Russian Federation has been instructed to submit to the State Duma of the Federal Assembly of the Russian Federation a draft federal law on the suspension of the provisions of international treaties of the Russian Federation mentioned in the Decree. The Government should also ensure that measures are taken to reduce the impact of such suspension on the economy of the Russian Federation. A double tax treaty between countries allows reducing the tax burden on individual taxpayers by ensuring that the same income is not taxed twice: in the Russian Federation and in the country party to the treaty.

At the same time, the abolition (suspension) of such agreements in full or in part will inevitably entail not only an increase in the tax burden due to double taxation of the same income, but will also have an impact on a large number of reporting. Thus, a number of regulations provide for the possibility not to submit reports to the Federal Tax Service in the presence of a double tax treaty signed between the states (for example, such a possibility is available in relation to the submission of the Cash Flow Statement to the Federal Tax Service). Accordingly, in the event of suspension, a person will be required to submit information in accordance with the general procedure.

The changes will inevitably affect both legal entities and individuals. For example, a property owner in Germany could previously offset tax on rental income paid in Germany against personal income tax in Russia. When the double taxation treaty is canceled, he will have to pay both income tax in Germany and personal income tax in Russia. Cancellation of the agreements will inevitably affect Russian companies whose income is received from unfriendly countries, as well as foreign companies that have maintained their presence in Russia despite the inclusion of the jurisdiction in the list of unfriendly jurisdictions. As a general rule, residents of the Russian Federation may offset the tax they paid abroad against income tax. However, tax credit for dividend income paid (withheld) in a foreign country may be granted only if an international double taxation treaty containing the relevant provisions is in force between the Russian Federation and the foreign country from which the dividends were received. In the absence of such an agreement, Russian companies will be obliged to pay tax

on dividends in the country where they are received, but they will not be able to offset it against tax on dividends in Russia, nor will they be able to write it off as an expense when calculating profits tax. In fact, this means double taxation of dividends received from companies from unfriendly countries.

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