



Russia to initiate termination of the double tax treaty with Cyprus

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In early April, Russia sent a letter offering to amend the text of the agreement on avoidance of double taxation (DTT) by increasing tax rates in terms of taxable dividends and interest payments to Cyprus. However, after almost four months of negotiations, the parties failed to reach a consensus.

According to the information published by the Russian Ministry of Finance, with due regard to close economic and historical ties between the two states, the Russian party formulated options for a compromise and offered to swiftly hold (the ongoing week) face-to-face negotiations in Cyprus but received a refusal. Consequently, Russia's Ministry of Finance announced that it would initiate denunciation of the DTT.

At the same time, we cannot rule out the possibility that Russia's intention to exit the treaty may prompt Cyprus to continue negotiations over acceptance of the changes proposed by Russia.

In particular, termination of the DTT may cause: double taxation, including due to absence of a foreign tax credit mechanism in terms of taxes paid abroad by natural persons; increase of the tax burden due to application of high national tax rates to all types of income, not just to dividends and interest payments; failure to apply several grounds for tax exemption in terms of profits of a CFC and others.

Similar proposals to amend double taxation avoidance treaties were sent to Malta and Luxemburg. The media did not cover the details of negotiations with Malta and Luxemburg.

However, a notice concerning the start of drafting a federal law on denunciation of the treaty between Russia and Malta on avoidance of double taxation was published on the official website for draft laws and regulations in late June. No draft law has been published yet.

Subject to provisions of Article 37 of Federal Law No. 101-FZ of 15.07.1995 "Concerning international treaties of the Russian Federation", participation in international treaties of the Russian Federation shall be terminated (denounced) in line with provisions of the treaties and international law.

Double taxation avoidance treaties and conventions provide for unilateral withdrawal based on a written notice of denunciation. Certain agreements stipulate limitation of a term, during which the notice of termination of the agreements may be sent.

The DTT with Cyprus contains no such restrictions. The notice may be sent anytime. If a notice is sent in 2020, the agreement will already be terminated in 2021. In line with the treaties with Malta and Luxemburg, to terminate them since 2021 Russia should have sent the termination notice latest on 30 June this year.

Because of absence of any information about whether Russia has sent notices of termination of DTTs to Malta and Luxemburg, we can assume that the agreements with said countries will still be valid in 2021. At the same time, we cannot rule out the possibility that the states will reach an agreement on the amendments proposed by Russia.

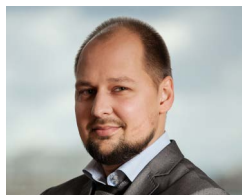
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