



GOVERNMENT OF THE REPUBLIC OF ARMENIA

DECISION

No 1727-N of 10 November 2022

**ON ESTABLISHING THE PROCEDURE FOR AND TERMS OF SETTling
THE DISPUTES ON TAX ISSUES THROUGH THE MUTUAL AGREEMENT PROCEDURE**

Based on part 3 of Article 377 of the Tax Code of the Republic of Armenia, the Government of the Republic of Armenia decides:

1. To establish the procedure for and terms of settling the disputes on tax issues through the Mutual Agreement Procedure, pursuant to the Annex.
2. This Decision shall enter into force on 1 January 2024.

PRIME MINISTER
OF THE REPUBLIC OF ARMENIA

Yerevan

N. PASHINYAN

10 November 2022

CERTIFIED BY
ELECTRONIC
SIGNATURE

Annex

to Decision of the Government of
the Republic of Armenia
No 1727-N of 10 November 2022

**PROCEDURE FOR AND TERMS OF SETTLING THE DISPUTES ON TAX ISSUES
THROUGH THE MUTUAL AGREEMENT PROCEDURE**

1. General provisions

1. The Mutual Agreement Procedure (hereinafter referred to as “the Procedure”) shall regulate the procedure for and terms of settling the disputes on tax issues in cases of taxation not complying with the provisions of agreements on double taxation avoidance (hereinafter referred to as “the Agreement”) ratified by the Republic of Armenia.
2. Provisions prescribed by the Procedure shall apply to the extent they do not contradict the provisions of agreements.
3. A natural person resident of the Republic of Armenia or an organisation resident of the Republic of Armenia (hereinafter referred to as “the applicant”) may submit an application to initiate a procedure (hereinafter referred to as “the application”) to the competent authority of the Republic of Armenia (hereinafter referred to as “the tax authority”), in accordance with the procedure provided for by the agreement, as a result whereof, pursuant to part 2 of Article 377 of the Code, a procedure may be initiated between the Republic of Armenia and a foreign tax authority where there is an agreement between the two countries.
4. The applicant shall submit the application to the tax authority within the terms specified by the relevant agreement. Submitting an application upon the expiry of

the term specified by the agreement shall be a basis for rejecting the application by the tax authority.

5. No fee shall be charged for initiating a procedure by the tax authority.

2. Process for Applying for the Procedure

6. The applicant shall submit the following information and documents with the application:
 - (1) the requisites of the applicant and the parties to the transactions specified in the application, in case of natural persons — name, surname, patronymic name, record-registration address, notification address (where it is different from the record-registration address), e-mail address, as well as, if available, taxpayer's identification number; in case of legal persons — name, location, state registration certificate number, e-mail address, taxpayer's identification number;
 - (2) the name of the competent authority of the other country that is a party to the agreement and, if available, the name of the territorial tax authority, the actions performed whereof have led or may lead to taxation not complying with the provisions of the agreement;
 - (3) the article of the agreement, the provisions whereof, according to the applicant, have been applied improperly or have been violated or have not been applied, comments of the applicant regarding the application of those provisions;
 - (4) the time period related to the transactions specified in the application;
 - (5) detailed information on the transactions specified in the application, and brief summary on the analysis of relevant facts and supporting calculations;

- (6) transfer pricing documents as required, which relate to the transactions specified in the application;
- (7) the applicant shall also submit the following, if available:
 - (a) carbon copy of the application submitted or to be submitted to the competent authority of the country that is the other party to the agreement, as well as the relevant documents, including letters, objections, references and other documents received by the competent authority of that country;
 - (b) objection, complaint or statement on determining the amount of compensation or any other supporting document submitted by the applicant to any of the competent authorities of the two countries that are parties to the agreement;
 - (c) a previous court decision on a similar case or information on similar proceedings in any of the two countries that are parties to the agreement;
 - (d) carbon copy of a document settling a similar matter through the mutual agreement procedure between any other countries that may affect the procedure;
 - (e) any other information the applicant shall deem relevant.
- 7. The application shall be signed by the applicant or their representative.
- 8. The applicant shall submit the information and documents specified in point 6 of the Annex to the tax authority through the electronic document system in Armenian or English or Russian, provided that information and documents in English or Russian are translated into Armenian at the request of the tax authority and submitted to the tax authority within 10 working days upon receiving the written notification thereon.

9. The tax authority shall, within 30 working days upon receiving the application, notify the applicant through electronic means, about processing or rejecting the application or requesting additional information about the transactions specified in the application. The applicant shall submit the requested additional information within 5 working days from the date of the request for receiving additional information. The tax authority shall, within 10 working days upon receiving additional information, discuss the received information and notify the applicant through electronic means on processing or rejecting the application.

3. Discussions between Competent Authorities

10. After receiving the application, the tax authority shall examine the factual circumstances of the transactions and, if necessary, apply to the competent authority of another country with a request for the expediency of initiating a procedure to clarify the position of the competent authority of the country that is the other party to the agreement regarding the transactions specified in the application.
11. The tax authority shall, within 10 working days upon receiving the decision by the competent authority of the country that is the other party to the agreement, notify the applicant through electronic means on accepting or rejecting the request on initiating a procedure.
12. In case the request to initiate a procedure was accepted by the competent authority of the country that is the other party to the agreement, the tax authority shall start discussions with the competent authority of the other country within 30 working days after receiving that decision.
13. In case the request to initiate a procedure was accepted by the competent authority of the country that is the other party to the agreement, the tax authority shall, within 6 months after receiving that decision, submit to the competent

authority of the country that is the other party to the agreement its position, which may include the following information:

- (1) the information specified in sub-point 1 of point 6 of the Annex, the interrelated parties of the transactions specified in the application in the other country and the grounds for the decision to be considered as interrelated;
 - (2) contact data of the tax authority;
 - (3) a summary of the matter, the transactions specified in the application, the grounds for calculating tax liabilities;
 - (4) the time period related to the transactions specified in the application;
 - (5) the amount of income specified in the application and the tax calculation for each tax year;
 - (6) relevant summary information from the applicant's tax calculations (reports);
 - (7) description of tax calculation, relevant articles of internal legislation and the agreement;
 - (8) calculations made on the basis of additional information (may include financial and economic information, reports, explanatory guidelines, as well as documents and facts of the applicant);
 - (9) descriptions of the methodology and comparable transactions used for tax calculation;
 - (10) explanation of selection of transfer pricing method used for tax calculation.
14. The tax authority may implement a procedure through direct discussions with the competent authority of the country that is the other party to the agreement, taking into account the peculiarities of each case.

15. In case the tax authority has received a request for expediency of initiating a procedure from the competent authority of the country that is the other party to the agreement, it may accept or reject the request for initiating the procedure within 30 working days. In particular, the request for initiating the procedure may be rejected if there is a judicial precedent for settling the issue described in the request, the term provided for by the agreement has expired or the issue specified in the request is not related to the application of the provisions of the agreement. If necessary, the tax authority may apply to the competent authority of the country that is the other party to the agreement to receive clarification or additional information. The tax authority shall, within 10 working days upon receiving clarification or additional information regarding the request for expediency of initiating the procedure, consider the received information and accept or reject the request for initiating the procedure. The response to the request for expediency of initiating the procedure may include the following information:
- (1) a note that the view of the initial position or the settlement proposed is acceptable;
 - (2) indication of issues or sections on which the competent authorities of the countries that are parties to the agreement agree or disagree;
 - (3) requesting additional information or explanations necessary for clarifying certain issues;
 - (4) presenting other or additional information related to the transactions specified in the application, but not raised in the position;
 - (5) proposals or views for settling the matter.
16. The exchange of information between competent authorities within the framework of the procedure shall be fully protected by the provisions ensuring confidentiality of the agreement.

4. Outcomes of Discussions

17. Based on the agreement reached as a result of the discussions between the competent authorities, a brief statement shall be drawn up, which reflects the amount of privilege to be granted by the two countries that are parties to the agreement, as well as the method of granting such privilege. The brief statement shall be submitted for approval by the competent authority of the other country.
18. After the brief statement is approved by the competent authority of the other country, the tax authority shall, within 10 working days, notify the applicant on the agreements reached.
19. The applicant shall, within 10 working days following the day of receiving the brief statement, submit, through electronic means, to the tax authority the position regarding the brief statement on the agreements reached.
20. Upon receipt of the applicant's consent, the tax authority shall, within 10 working days, exchange a written confirmation on mutual agreement with the competent authority of the other country. After the exchange of written confirmations on mutual agreement between competent authorities, the procedure shall be deemed to be completed.
21. The applicant may partially accept the agreements specified in the brief statement. In this case, upon receipt of the applicant's partial consent, the tax authority shall, within 10 working days, exchange a written confirmation on mutual agreement with the competent authority of the other country. After the exchange of written confirmations on mutual agreement between competent authorities, the procedure shall be deemed to be completed.
22. In case the applicant is not satisfied with the agreement reached between the competent authorities, the applicant may reject it or present a substantiated alternative position by informing, within 10 working days, the tax authority about it through electronic means. The tax authority shall, within 10 working days upon

receiving the alternative position, notify the applicant through electronic means, on processing or rejecting the alternative position. In case of processing the alternative position, the competent authority shall consider the procedure resumed. In case the applicant is not satisfied with the agreement reached between the competent authorities, the competent authorities shall consider the case completed and shall, within 10 working days, notify the applicant through electronic means. In case of rejection of the agreement reached between the competent authorities of the countries that are parties to the agreement regarding the application, the applicant may appeal the case in accordance with the procedure prescribed by Section 20 of the Tax Code of the Republic of Armenia.

23. The tax authority shall carry out appropriate administration aimed at implementing the agreement reached between the competent authorities of the countries that are parties to the agreement.

5. Legal Effect of the Outcome of the Procedure

24. Any agreement reached under the procedure shall be independent of time restrictions of the tax legislation of the Republic of Armenia.
25. The agreement reached as a result of the procedure shall apply only to that particular case and only to the period for which the procedure has been carried out.
26. In case where the tax authority is not able to settle the dispute on tax issues, according to the application of the applicant, within the terms stipulated in the agreement through a procedure with the competent authority of the country that is the other party to the agreement, the applicant may submit each case related to unsettled dispute on tax issues to an arbitration court (mediation court), where it is provided for by the agreement. The remaining unsettled issues shall be subject to settlement in accordance with the procedure established by the agreement.

27. The taxpayer may prefer to correct the inaccuracies resulting from taxation not complying with the provisions of the agreement on a stand-alone basis, and not through the procedure, or in an alternative way - ask the tax authority to correct one of the inaccuracies and correct the others on a stand-alone basis.
28. Where the tax authority is constrained by a court decision that prevents the provision of a more favourable settlement of a dispute on tax issues within the framework of the procedure than provided for by the court decision, the tax authority shall present this position to the applicant, explaining the legal grounds of that decision.
29. In case competent authorities of the countries that are parties to the agreement have different approaches to the calculation of liabilities in the event of a procedure, the competent authorities shall conduct discussions before the end of the procedure to exclude the payment of liabilities caused by such differences.
30. The applicant may apply for delay or suspension of the calculation of additional tax liabilities with regard to the transactions provided for in the application. In this case, the tax authority shall, within 30 working days, make a decision on accepting or rejecting the application on delay or suspension of the calculation of additional tax liabilities from the date of submission of the application to the end of the procedure and shall notify the applicant on the decision through electronic means.

6. Model Schedule

31. The table below describes the model schedule for implementation of the procedure.

Table 1. General instructions on the schedule of the process of the procedure

#	Action	Term
1.	Initiation of the procedure by the applicant - submission of an application	Within the time period specified by the agreement
2.	Examination of the application by the tax authority: <ul style="list-style-type: none"> • processing or rejecting the application; • requesting other documents from the applicant for the purpose of obtaining additional information 	Within a time period of 30 working days from the date of submission of the application
3.	Examination of the application by the tax authority: <ul style="list-style-type: none"> • in case of receiving other documents from the applicant for the purpose of obtaining additional information 	Within a time period of 10 working days upon receipt of additional information from the applicant
4.	Determination of compliance of the request to initiate a procedure by the competent authority of the other country	Cannot be determined
5.	<ul style="list-style-type: none"> • In case of acceptance of the request - initiation of discussions on the procedure with the competent authority of the other country and notification to the applicant • Request is rejected - notification to the applicant 	Within a time period of 10 working days after the competent authority of the other country takes a decision
6.	Examination of the case submitted by the competent authority of the other country, preliminary assessment regarding the completeness of the position and notification of insufficient information	Within a time period of 6 months upon receipt of the position
7.	Conducting negotiations between competent authorities	6 months
8.	Mutual agreement between competent authorities, which is a document in the form of a memorandum of understanding between two competent authorities	Within a time period of 24 months upon accepting the application
9.	Confirmation of the mutual agreement by the applicant	Within 10 working days
10.	Approval of general terms and conditions of mutual agreement, exchange of final letters	Within 10 working days after the confirmation of the mutual agreement by the applicant
11.	Implementation of the Mutual Agreement Procedure	Within a time period of 3 months after exchange of final letters

CHIEF OF STAFF OF THE PRIME MINISTER
OF THE REPUBLIC OF ARMENIA

A. HARUTYUNYAN

10 November 2022

CERTIFIED BY
ELECTRONIC
SIGNATURE