

GOVERNMENT OF THE REPUBLIC OF ARMENIA

DECISION

No 1727-N of 10 November 2022

**ON ESTABLISHING THE PROCEDURE FOR AND TERMS OF RESOLVING
THE DISPUTES ON TAX MATTERS 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 hereby ***decides***:

1. To establish the procedure for and terms of resolving the disputes on tax matters 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 RESOLVING THE DISPUTES ON TAX
MATTERS 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 resolving the disputes on tax matters between the competent authority of the Republic of Armenia and the competent foreign authority 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, as well as with respect to controlled transactions carried out between a resident organisation and non-resident persons.

(point 1 edited by No 533-N of 18 April 2024)

2. Provisions prescribed by the Procedure shall apply to the extent they do not contradict the provisions of Agreements.
3. Any person that is a resident of the Republic of Armenia as prescribed by the Agreement (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”), as 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.

(point 3 amended by No 533-N of 18 April 2024)

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 wrongly or have not been applied, the position 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 judicial act having entered into legal force 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 resolving a similar case through the Mutual Agreement Procedure between any other countries that may affect the Procedure;
 - (e) any other information the applicant shall deem relevant.

(point 6 edited, amended by No 533-N of 18 April 2024)

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 on transactions within 20 working days from the date of the request for receiving additional information on transactions. In case the tax authority does not receive additional information on transactions from the applicant within 10 working days upon the request for additional information on transactions, another reminder notification shall be sent to the applicant on the request for additional information on transactions. In case of failure to submit the additional information on transactions to the tax authority within the term prescribed, the application shall be rejected. The tax authority shall, within 10 working days upon receiving additional information on transactions, discuss the received information and notify the applicant through electronic means on processing or rejecting the application.

(point 9 edited by No 533-N of 18 April 2024)

2.1. Unilateral examination of the application by the tax authority

- 9.1. The tax authority shall, within 30 working days upon receipt of the application, examine the application with a view to processing or rejecting the application. In particular, where:

- (1) the application complies with the scope of regulations on the Mutual Agreement Procedure of the Agreement;
- (2) the application has been submitted to the competent authority which is prescribed by the Agreement;
- (3) the application has been submitted within the term prescribed by the Agreement;
- (4) the application has been submitted by the relevant taxpayer within the meaning of the Agreement;
- (5) the application has been submitted for the financial years provided for by the Agreement, the tax authority must process the application.

9.2. In case of existence of grounds for rejecting the application, the tax authority will contact the foreign tax authority through electronic or hard copy means by notifying about the received application and will submit the grounds for rejecting the application by the tax authority. The foreign tax authority may, within 5 working days, submit its position on the rejection of the application. In case of rejection of the application, the tax authority must submit the grounds for the rejection of the application to the taxpayer.

9.3. After processing the application, the tax authority must conduct analyses to check the substantiation of the objections submitted by the taxpayer in the application.

9.4. In case the tax authority considers the objections submitted in the application as substantiated, the tax authority will, within the scope of its competences, strive to resolve the issue unilaterally, without consulting with the foreign tax authority. Where the tax authority is unable to unilaterally find such a solution, within 6 months from the day of receiving the application, which is acceptable for the applicant, the tax authority will contact the foreign tax authority through electronic or hard copy means in order to start a bilateral process.

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 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.

(point 13 amended by No 533-N of 18 April 2024)

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, the tax authority shall accept or reject the expediency for initiating the Procedure within 30 working days. In particular, the request for initiating the Procedure may be rejected if 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. Where a judicial act having entered into force exists for resolving the issue described in the request, the tax authority may accept the request for initiating the Procedure, but the tax

authority may not come to such an agreement during initiated considerations which may deviate from the judicial act.

(point 15 edited by No 533-N of 18 April 2024)

15.1. 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 3 months 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 resolution 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; and
- (5) proposals or views for resolving the issue.

(point 15.1 supplemented by No 533-N of 18 April 2024)

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. The competent authorities shall consider the case completed and, 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 apply to the court or

the appeals commission of the tax authority, as prescribed by Section 20 of the Tax Code of the Republic of Armenia.

(point 22 edited by No 533-N of 18 April 2024)

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 resolve the dispute on tax matters, according to the application of the applicant, within the terms provided for by 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 unresolved dispute on tax matters to an arbitration court, where it is provided for by the Agreement. Exceptions shall be the cases when there is already a judicial act on the dispute in the given tax matters having entered into force by a court of any one of the countries that are parties to the Agreement. The arbitration award shall be binding for the countries that are parties to the Agreement and will be executed irrespective of the terms prescribed by the domestic legislation of the countries that are parties to the Agreement, unless both competent authorities agree on another resolution within 6 months after the award is communicated thereto or unless the applicant directly engaged in the case accepts the mutual agreement being adopted upon the ground of the arbitration award. The remaining unsettled matters shall be subject to settlement as prescribed by the Agreement.

(point 26 edited by No 533-N of 18 April 2024)

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 or in an alternative way — ask the tax authority to correct one of the inaccuracies and correct the others on a stand-alone basis.

(point 27 edited by No 533-N of 18 April 2024)

28. Where the tax authority is constrained by a judicial act that prevents the provision of a more favourable resolution of a dispute on tax matters within the framework of the Procedure than provided for by the judicial act, the tax authority shall present this position to the applicant, explaining the legal grounds of that decision.

(point 28 amended by No 533-N of 18 April 2024)

29. In case competent authorities of the countries that are parties to the Agreement have different approaches to the calculation of tax 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.

(point 29 supplemented by No 533-N of 18 April 2024)

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 term defined by the Agreement
2.	Examination of the application by the tax authority: § processing or rejecting the application; § requesting other documents from the applicant for the purpose of obtaining additional information	Within a period of 30 working days from the date of submission of the application
3.	Examination of the application by the tax authority: § in case of receiving other documents from the applicant for the purpose of obtaining additional information	Within a 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.	§ 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 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 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 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

(Annex edited, amended, supplemented by No 533-N of 18 April 2024)

**Chief of Staff to the Prime Minister
of the Republic of Armenia**

A. Harutyunyan

10 November 2022

CERTIFIED BY ELECTRONIC SIGNATURE

Date of official promulgation: 10 November 2022.