

GOVERNMENT OF THE REPUBLIC OF ARMENIA

DECISION

No 533-N of 18 April 2024

ON MAKING AMENDMENTS AND SUPPLEMENTS TO DECISION OF THE GOVERNMENT OF THE REPUBLIC OF ARMENIA No 1727-N OF 10 NOVEMBER 2022

Pursuant to part 1 of Article 33 and part 1 of Article 34 of the Law of the Republic of Armenia "On regulatory legal acts", the Government of the Republic of Armenia hereby ***decides***:

1. To make the following amendments and supplements to Decision of the Government of the Republic of Armenia 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" (hereinafter referred to as "the Decision"):
 - (1) point 1 of the Annex to the Decision shall be amended to read as follows:
 - "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.";

- (2) in point 3 of the Annex to the Decision, the words "A natural person resident of the Republic of Armenia or an organisation resident of the Republic of Armenia" shall be replaced with the words "Any person that is a resident of the Republic of Armenia as prescribed by the Agreement";
- (3) in point 6 of the Annex to the Decision:
 - a. sub-point 3 shall be amended to read as follows:

"(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;"
 - b. in paragraph "c" of sub-point 7, the words "court decision" shall be replaced with the words "judicial act having entered into legal force";
- (4) point 9 of the Annex to the Decision shall be amended to read as follows:

"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, consider the

received information and notify the applicant through electronic means on processing or rejecting the application.";

- (5) the Annex to the Decision shall be supplemented with Chapter 2.1 which shall read as follows:

"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.";
- (6) in sub-point 1 of point 13 of the Decision, the words "for the decision" shall be deleted;
- (7) point 15 of the Annex to the Decision shall be amended to read as follows:
- "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.";

(8) the Annex to the Decision shall be supplemented with point 15.1 which shall read as follows:

"15.1. Where necessary, in order to receive clarification or additional information, the tax authority may apply to the competent authority of the country that is the other party to the Agreement. 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) request for additional information or explanations necessary for clarifying certain issues;
- (4) submission of 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.";

(9) point 22 of the Annex to the Decision shall be amended to read as follows:

"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 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 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.";

(10) point 26 of the Annex to the Decision shall be amended to read as follows:

"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 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.";

(11) point 27 of the Annex to the Decision shall be amended to read as follows:

"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.";

(12) in point 28 of the Decision:

- a. after the words "constrained by", the words "a court decision" shall be replaced with the words "a judicial act";
 - b. after the words "provided for by", the words "the court decision" shall be replaced with the words "the judicial act";
- (13) point 29 of the Annex to the Decision shall be supplemented with the word "tax" after the words "approaches to the calculation of".
2. This Decision shall enter into force on the tenth day following the day of its official promulgation.

**Prime Minister
of the Republic of Armenia**

Yerevan

N. Pashinyan

18 April 2024

CERTIFIED BY ELECTRONIC SIGNATURE

Date of official promulgation: 18 April 2024.