Hungary

Tax Authority Publishes Guidance on Changes in Personal Income Tax Due to Termination of Hungary-United States Tax Treaty

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On 22 January 2024, a Guidance was published on the website of the National Tax and Customs Authority of Hungary about changes in the Personal Income Tax Act with effect from 2024 due to the termination of the Hungary - United States Income Tax Treaty (1979).

The Guidance clarifies that the provisions of the tax treaty were applicable until 31 December 2023, but since 1 January 2024, income from the other state is taxed by each state under its own domestic legislation and such income shall be treated under the Hungarian Personal Income Tax Act as income from a non-treaty country.

The Guidance describes the following modifications.

Income of entertainers accruing to another person

According to the amendment, income earned through performing, artistic and sporting activities should be deemed to be earned in the state where the activity is carried on, even if the income from this activity is accruing to a person other than the individual, such as a company. This amendment to the Personal Income Tax Act aligns with the provisions of the terminated treaty and results in the same taxation in non-treaty situations.

Tax liability on interest paid by a US resident and other changes of categorization of certain incomes

Upon termination of the agreement, the United States is considered a state with which Hungary does not have a double tax treaty in force. According to the Personal Income Tax Act, interest from a non-treaty state is taxable not as interest, but as other income, which means a higher tax burden (in addition to the 15% personal income tax, 13% social contribution tax must also be paid on it). To ease the negative consequences of the termination, the amendment dictates that interest paid by a resident of an OECD member state will not be considered as other income, but the provisions on interest income will apply. Thus, the tax burden on interest from US sources does not increase, as the United States is an OECD member state.

Similarly, another modification ensures that the rules on other income should not apply to income deriving from securities issued by a person established in an OECD member state.

The definition of a controlled capital market transaction has also been changed. According to the amendment, controlled capital market transactions shall also include transactions entered into with investment service providers active on financial markets of any OECD member state. This modification ensures that US transactions remain under the preferential regime of controlled capital market transactions, where losses (even from the two previous years) may be offset against profits.

Change in the unilateral credit method

The Guidance clarifies that the unilateral credit method has also been modified in the Personal Income Tax Act. According to the modification, the credit method for tax paid abroad is only applicable for foreign income (when the source of the income after which the tax was paid is also abroad). As a consequence, in the absence of a treaty, the tax paid abroad on Hungarian-sourced income cannot be taken into account as a deduction.

The Guidance is available here (in Hungarian).

Note: The United States terminated the Hungary - United States Income Tax Treaty (1979) on 8 July 2022. According to the treaty, termination took effect 6 months after the notice, on 8 January 2023, and the treaty ceased to have effect on or after the first day of January 2024, depending on the types of taxes involved (taxes withheld at source or other taxes levied). For previous reporting on the termination of the Hungary-US treaty, *see* United States Decides to Terminate Tax Treaty with Hungary (11 July 2022) and Hungary Gazettes Termination of Tax Treaty with United States (14 December 2023).

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