

MFN Clauses on Interest and Royalties Activated on Tax Treaty Between France and Lithuania

5 October 2023

Report from our correspondent Pierre Burg

On 4 October 2023, the French tax authorities announced the activation of the [most favoured nation \(MFN\)](#) clauses on interest and royalties, provided for by paragraphs 8 and 9, respectively, of the protocol to the [France - Lithuania Income and Capital Tax Treaty \(1997\)](#), following the entry into force of the [Japan - Lithuania Income Tax Treaty \(2017\)](#) on 31 August 2018.

The activation of these MFN clauses is subject to the subsequent conclusion by Lithuania of any treaty or protocol with another OECD member which provide for more favourable withholding tax rates on interest and royalty payments (including a narrower definition of the concept of royalties).

The activation of the MFN clauses has the following consequences:

- interest paid by a resident of a contracting state with respect to loans of any kind granted by a bank and beneficially owned by a resident of the other contracting state shall be taxable only in that other contracting state;
- royalties arising in a contracting state and beneficially owned by a resident of the other contracting state shall be taxable only in that other contracting state; and
- the definition of royalties set forth in article 12(3) of the [France - Lithuania Income and Capital Tax Treaty \(1997\)](#) is aligned with the definition set forth in article 12(2) of the [Japan - Lithuania Income Tax Treaty \(2017\)](#). Therefore, the definition of royalties no longer includes payments of any kind received as a consideration for the use of, or the right to use, any copyright of cinematograph films and films or tapes for television or radio broadcasting, as well as for the use of, or the right to use, industrial, commercial, or scientific equipment.

These amendments apply as from 31 August 2018, i.e. the day when the [Japan - Lithuania Income Tax Treaty \(2017\)](#) entered into force.

The French tax authorities announced the activation of the MFN clauses through an update of their guidelines on the [France - Lithuania Income and Capital Tax Treaty \(1997\)](#) published on 4 October 2023. The updated guidelines are available [here](#).

The updated guidelines also mention that France and Lithuania signed a mutual agreement on 23 and 28 January 2023, which provides that royalties paid to a resident of the other Contracting State who is not the beneficial owner thereof may also be taxed in the source state (under the legislation of this state). In such case, the provisions of article 23 of the [France - Lithuania Income and Capital Tax Treaty \(1997\)](#) on the elimination of double taxation remain applicable.

France; Lithuania - MFN Clauses on Interest and Royalties Activated on Tax Treaty Between France and Lithuania (05 Oct. 2023),
News IBFD.

Exported / Printed on 5 Mar. 2024 by hkermadi@deloitte.lu.