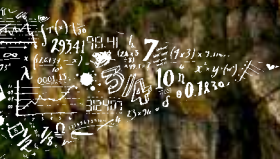


# Peculiarities of non-residents' taxation in Armenia



Building a better  
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In cooperation with  
the RA State Revenue  
Committee



In this brochure, we would like to discuss the profit tax calculation and payment peculiarities for non-residents in Armenia. Our discussion will address the following issues:

- 1 Concept of profit tax, profit tax payers, and definition of non-residents
- 2 Structures for doing business in Armenia by non-residents (registration, permanent establishment (PE) issues and taxation)
- 3 Object of taxation – income derived from Armenian sources
- 4 Income not considered to be derived from an Armenian source
- 5 Methods of non-residents' taxation in Armenia
- 6 Tax compliance and reporting
- 7 Definition of PE under double tax treaties (DTTs) and treaty countries



# 1 Concept of profit tax, profit tax payers, and definition of non-residents

Profit tax is a direct tax imposed on tax-payers in the amount and by the procedure established by Armenian tax legislation.

Profit tax is paid in Armenia by resident entities (residents) and non-resident entities (non-residents).

Residents are organizations and investment funds established in Armenia, except for pension funds and separate subdivisions (branches or representation offices) of non-residents.

Non-residents are organizations created in foreign countries as well as international organizations and organizations created by them outside Armenia.

Residents are taxed on their worldwide income, which consists of income received from sources in and outside Armenia. Non-residents are taxed on Armenian-source income only.

This publication is designed to outline profit tax calculation and payment peculiarities for non-residents in Armenia.



# 2 Structures for doing business in Armenia by non-residents (registration, PE issues and taxation)

## Structures for doing business in Armenia

Generally, Armenian tax legislation allows three structures through which non-residents can carry out their activities in Armenia:

- (i) Separate subdivision
- (ii) Recognized place of business of a non-resident
- (iii) Directly – without subdivision or recognized place of business of a non-resident

### (i) Separate subdivision

#### Definition

Subdivision represents part of a non-resident legal entity and can take the form of a registered affiliated branch or representation office. As such, subdivision is the equivalent of a PE.

A branch is defined as a subdivision of a legal entity located outside the place of the legal entity. It conducts all functions of a legal entity or part of them, including the function of representation.

A representation office is defined as a subdivision of a legal entity located outside the place of the legal entity, the functions of which are limited to representation of the interests of the legal entity and protection thereof.

Subdivision does not represent a separate legal entity and acts on the basis of a charter approved by the legal entity.

#### Registration

The registration process should be carried out by a non-resident in order to operate a subdivision (a branch or a representation office) in Armenia. For that purpose, the following founding documents should be completed and submitted to the State Register Agency of Armenia:

- a) Application on establishment of a subdivision
- b) Extract from the commercial register of the foreign legal entity (the founder) or an equivalent document confirming the legal status, and its founding documents (or relevant extracts) translated into Armenian and apostilled
- c) Charter of the founder translated into Armenian and apostilled
- d) Founder's decision on:
  - ▶ Establishment of a subdivision
  - ▶ Validation of the subdivision's charter
  - ▶ Appointment of the head of the subdivision
- e) Charter of the subdivision signed by an authorized person of the founder
- f) State duty payment receipt

The registration of the subdivision with the State Register is completed within two working days. However, it can be rejected if the submitted documents are either incomplete or inaccurate. Registration of a newly established subdivision with the tax authorities is carried out automatically, together with state registration of the subdivision with the State Register. The taxpayer's identification number (TIN) must be listed in the subdivision's State Registration Certificate. The registration process may be done either by direct submission of the application to the State Register Agency of Armenia or electronically via the official web page of the State Register Agency.

## **Taxation**

A subdivision pays regular corporate income tax on its profit, with a few restrictions on deductible expenses. Taxable profit is defined as the positive difference between the gross income of the subdivision and all deductions allowed by the law. The current rate of regular corporate income tax is 20%.

Gross income comprises all revenues of the subdivision received in the reporting year from Armenian sources (see Section 3 for details).

Income received in a foreign currency is converted into Armenian Dram (AMD) at the daily exchange rate determined by the Central Bank of Armenia on the date of receipt of the income.



Deductions include the amount of all necessary expenses (which must be supported by documentary evidence unless expressly described otherwise in the context) incurred by a non-resident in Armenia for its subdivision's purposes, the amount of losses incurred in connection with activities implemented in Armenia and the amount of other deductions.

## **Expenses**

Expenses are considered necessary if incurred by a non-resident exclusively and directly for the purpose of the production of goods, provision of services, progress in the market (such as marketing expenses), realization of goods (services), consulting and legal services, preparation of production (construction), conservation, property maintenance, training of staff and other expenses related to the receipt of income.

The requirements for the supporting documents confirming the acquisition of inventories, works and services, and fixed and other assets are defined by the Government of Armenia.

It should be noted, however, that there are certain expenses that are non-deductible or partially non-deductible for tax purposes.

Non-deductible expenses particularly include the following:

- a) Fines and penalties imposed by state and municipal authorities
- b) Assets provided free of charge and remitted debts
- c) Allocations provided to the unions and other structures of non-state administration
- d) Expenses on the maintenance of servicing units (provision of buildings and the

settling of fees for utilities of public catering enterprises, etc.)

- e) Expenses for services that are not for production purposes (planning activities for towns and other populated areas and promotion of agricultural activities, etc.)
- f) Expenses incurred in generating non-taxable income

Partially non-deductible expenses include the following:

- a) Payments levied by the state for the pollution of the environment that exceed 0.5% of gross income for the tax year
- b) Expenses for advertisements outside Armenia that exceed the higher of 3% of the gross income for the tax year or 20% of the value of goods and services exported by the taxpayer during the tax year
- c) Expenses for the training of staff outside Armenia that exceed 4% (but not more than AMD3 million per employee) of the gross income for the tax year
- d) Expenses for retraining of staff outside Armenia that exceed 1% (but not more than AMD1 million per employee) of the gross income for the tax year
- e) Expenses for marketing outside Armenia that exceed the highest of 2% of the gross income for the reporting year, 15% of the value of services and goods exported by the taxpayer during the tax year or 5% of the value of goods imported by the taxpayer during the tax year
- f) Expenses for business trips outside Armenia that exceed 5% of the gross income for the tax year

- g) Representative expenses exceeding 0.5 % (but not more than AMD5 million) of the gross income for the tax year
  - h) Expenses for management services received from non-residents, foreign citizens and stateless persons that exceed 2% of the gross income for the tax year
  - i) Other expenses exceeding the rates established by the Government of Armenia (expenses for local trips, sponsorship and management services, special nutrition, uniforms and other equipment for employees, as well as other types of compensation defined by the law, and expenses for the maintenance of public health institutions, nursing homes for the aged and disabled, nurseries, rehabilitation camps, cultural, educational and sports institutions, and objects of the housing fund)
  - j) Interest paid on loans and borrowings to the extent that it exceeds twice the bank interest rate defined by the Central Bank of Armenia (currently, the deduction is limited to a rate of 24%)
  - k) For taxpayers other than banks and credit organizations, the amount of interest payable on borrowings from entities other than banks and credit organizations in excess of twice the net assets
  - l) For taxpayers other than banks, credit organizations, insurance companies and investment funds, interest paid on loans and borrowings in cases where those borrowings or loans are provided by these taxpayers to third parties free of interest
  - m) Rent payments if the rented property is provided to third parties for free of charge use
  - n) Fixed asset repair and maintenance expenses (current expenses) that exceed 10% of the initial (purchase) cost of the corresponding fixed asset – any excess is subject to capitalization and is included in the base cost for depreciation purposes
- It should be noted that it is possible to distribute the amount of expenses and actual losses between the non-resident and subdivision. The distributable expenses include, in particular, management and general administrative expenses incurred both in Armenia and outside.

### Example 1

During the year, a non-resident was performing trading activities through a branch located in Armenia. The following results were achieved from activities carried out in Armenia:

- a) Income derived from Armenian sources – AMD10 million
- b) Expenses incurred for the branch – AMD2.2 million, including:
  - AMD2 million – expenses directly incurred by the branch in Armenia (salary of local employees, depreciation, office rent, transportation costs, etc.)
  - AMD0.2 million – management and general administrative expenses incurred by the head office and allocated to the branch (training and retraining of personnel, business trip expenses, etc.)

The taxable profit in this case would be AMD7.8 million (AMD10 million – AMD2.2 million).



## Losses

Losses include the amount of natural or other actual losses and incidental losses of property.

Natural or other actual losses are losses supported by documentary evidence occurring from shortage or damages to property. Such losses are subtracted from non-resident's gross income in an amount not exceeding the norms defined by the Government of Armenia within the year of occurrence or identification.

In case of the absence of norms or if the norms are exceeded (extra losses), the non-resident's gross income is reduced by the whole amount of losses if:

- ▶ The person who caused the damage voluntarily compensates for the loss
- ▶ A decree is adopted by the body of preliminary inquiry on the suspension or cessation of the criminal action as a consequence of not revealing the person who caused the losses
- ▶ The person is convicted

Incidental losses are the actual losses supported by documentary evidence occurring in consequence of any natural disaster or other extreme event, as well as due to changes in legislation (e.g., prohibition of some types of activities by law). The amount of incidental losses of property are subtracted from the non-resident's taxable income within the year of occurrence or identification.

## Other deductions

As mentioned above, a subdivision's gross income can also be reduced in the amount of other deductions, except in the following cases:

- ▶ Expenses and losses relating to assets received free of charge
- ▶ Tax losses incurred by a non-resident during the previous years
- ▶ The amount of received dividends



Other deductions include:

- ▶ The amount of funds reimbursed to the other party of the transaction as a consequence of invalid transactions
- ▶ The amount of bad debt allowances allocated to the reserve fund and the amount of repaid payables written off and recognized as income earlier, according to the procedures established by the Government
- ▶ The amount of assets (goods and cash) transferred and the value of services rendered to non-commercial organizations, museums, public schools, orphanages and hospitals, but not exceeding 0.25% of gross income
- ▶ The amount of 150% of salaries and wages, and other payments deemed equal thereto, in respect of every disabled person employed by the taxpayer

To calculate taxable income, the subdivision must account for income and expenses on an accrual basis. Income and expenses are accounted for from the moment of the acquisition of the right to receive such income or to recognize the expenses, regardless of the actual period of the deriving of such income or the making of such payments.

In order to avoid taxation at the source of paying income (tax withholding), the non-resident's subdivision must submit to the tax agent a reference certifying registration with the tax authorities and the TIN, or, while making the transactions, should keep all the required documents related to the transaction that are stipulated by tax legislation.

## (ii) Recognized place of business of a non-resident

### Definition

The recognized place of business of a non-resident, which is also considered an equivalent of a PE, is the place of actual implementation of business activity of a non-resident that doesn't have a separate subdivision (branch or representation) in Armenia. Specifically, the place of business can include offices, agencies, plants, factories, workshops, pits, mines, oil or gas wells and quarries, or places of research, extraction and exploitation of natural resources, places of construction works implemented under a contract, places of installation, assembly, arrangement and research, places of supervision works and consulting.

When a non-resident's activity is carried out through a business agent, the place where the business agent is located is considered to be the place of business of a non-resident.

A resident legal entity, an enterprise without the status of a legal entity or an individual can act as a business agent if their activities are controlled by the non-resident through an assignment contract, trust administration contract, power of attorney or in any other way, and they perform the following activities for a non-resident:

- ▶ Organization and arrangement of purchases and conclusion of agreements
- ▶ Establishment of contractual agency relationships with third parties, regular accumulation and storage of goods belonging to the non-resident, and delivery of such goods to other persons on behalf of the non-resident

- ▶ Representation of the non-resident when concluding trade agreements or conducting purchase orders

If a non-resident performs business activity in the territory of Armenia through an independent intermediary agent, provided such agent is acting in the ordinary course of its business, it shall not be deemed to be the non-resident's business agent in Armenia.

### Example 2

According to the agreement between a resident and non-resident, the non-resident supplies its own manufactured products (with a warranty period) to the resident (the legal title of the products is transferred to the resident outside the territory of Armenia). In order to increase the sales and market share of those products in Armenia, the non-resident arranges for the resident to provide repair and maintenance services for sold products based on the non-resident's technology. For those purposes, the non-resident periodically provides to the resident spare parts and controls the movement of those spare parts. The legal title of the spare parts is transferred from the non-resident to the resident outside of Armenia.

In this case, the income received by the non-resident for supplying products is considered as income derived from external economic activity and, therefore, is not subject to tax in Armenia.

As for the provision of repair and maintenance services, the resident will be the business agent of the non-resident and should keep separate accounts for those activities. In this case, the results of repair and maintenance services should be considered Armenian-sourced income for the non-resident in Armenia, the tax withholding and payment obligation regarding which will be borne by the resident (tax agent).

### Registration

In order to obtain the status of a recognized place of business, a non-resident should submit an application letter to the tax authorities together with documents certifying its business activities in Armenia. Based on the application letter and the documents attached to it, the tax authorities may grant to the non-resident the status of a registered place of business in Armenia, provided all respective requirements are met.

### Taxation

A non-resident with a recognized place of business is also considered to be a regular corporate income taxpayer in Armenia. The taxation of the recognized place of business is similar to that applied to a separate subdivision.

### (iii) Directly – without subdivision or recognized place of business of a non-resident

#### Definition

If a non-resident does not carry out periodic business activities in the territory of Armenia and does not apply for registration of a subdivision or a place of business, it can carry out its activities without any legal status in Armenia. As a general rule, in such cases, income received by the non-resident is taxed by a tax agent at the source of payment through the withholding mechanism. The following rates are applied by tax agents, in this case, depending on the type of income received by the non-resident from Armenian sources:

Type of Income	Rate effective in 2013
Insurance compensation, reinsurance payments and income received from freight	5%
Dividends, interest, royalties, income from the lease of property, capital gains and other passive incomes	10%
Income from other services provided by non-residents, as well as income from services provided outside Armenia to Armenian residents, and separate subdivisions of non-residents in Armenia	20%

### Example 3

A non-resident entity without any legal presence (a registered subdivision or place of business) in Armenia provides a professional certification service to individuals in the territory of Armenia through a local resident subcontractor. The service contracts are concluded by the non-resident directly with individuals and, consequently, the payments are made by the latter directly to the non-resident. Individuals are not considered tax agents and accordingly cannot withhold and pay the non-resident's profit tax to the Armenian state budget. In this case, the non-resident itself should bear the profit tax reporting and payment obligation in accordance with the procedure established for the subdivision of a non-resident.

The amount of tax withheld by a tax agent at the source in accordance with the rates mentioned above is considered the final tax obligation of a non-resident in Armenia. If it is impossible to withhold the tax at the source (i.e., in case of the absence of the tax agent), the profit tax payment obligation applies to the non-resident itself based on the above mentioned rates.

In the event the tax agent fails to withhold the profit tax at source, the tax is levied on the tax agent.

# 3 Object of taxation – income derived from Armenian sources

The income mentioned below shall be treated as income derived from Armenian sources:

- a) Income derived from the business activity implemented by a non-resident in the territory of Armenia
- b) Passive income of a non-resident received from a resident or other non-resident
- c) Other income derived by a non-resident in Armenia
- d) Income from certain types of services provided by a non-resident to Armenian residents and separate subdivisions of non-residents outside the territory of Armenia

## **a) Income from business activity implemented by a non-resident in the territory of Armenia**

Business activity is defined as independent activity conducted by a person pursuing, at their own risk and as a basic purpose, the generation of profit from the use of property, sale of goods, performance of work or rendering of services.



#### Example 4

During 2012, a non-resident was performing trading activities through a store located in Yerevan (the seller). As a result, the seller received:

- a) AMD8 million from the retail sale of goods
- b) AMD10 million from the wholesale of goods. Of that:
  - ▶ A payment of the amount of AMD4 million was made by a resident buyer for goods directly in the store
  - ▶ A non-cash payment in US\$ of an amount equivalent to AMD2 million was made by

a resident buyer to the seller's head office, located outside the territory of Armenia

- ▶ A payment of the amount of AMD3 million was made by a non-resident buyer for goods directly in the store
- ▶ A cash payment in US\$ of an amount equivalent to AMD1 million was made by a non-resident buyer to the seller's representative outside the territory of Armenia

In this example, the income of the seller derived from Armenian sources will comprise AMD18 million (AMD8 million + AMD10 million).

In particular, income derived from business activity in the territory of Armenia includes:

#### i. Income from the sale of products and goods in Armenia

The general principle for considering a non-resident's income generated from the sale of products and goods (including securities and currency) as income derived from Armenian sources is the transfer of ownership rights over those goods in the territory of Armenia. For that purpose, it does not matter whether:

- ▶ Products and goods are sold to a resident or another non-resident or individual
- ▶ Payments for products and goods are made by a resident or another non-resident or individual

- ▶ Payments for products and goods are made in or outside the territory of Armenia

The non-resident's income from the sale of products and goods should not be taxed in Armenia if it is derived from external economic activity. External economic activity is the activity related to the import of goods in the event that the buyer becomes the owner of the goods prior to their crossing the state border of Armenia.

External economic activity includes supplying goods outside of Armenia based on supply contracts and services (such as transportation and cargo insurance) related to this supply rendered by the same non-resident supplier.

### Example 5

A non-resident supplier (the supplier) performed direct supply of goods from Moscow (Russian Federation) to Yerevan (Armenia) on the base of a supply contract concluded with a resident. According to the supply contract, the legal title to the goods was transferred to the resident buyer in Russia. According to the customs declaration, the goods were imported into Armenia by an Armenian resident.

As a result of the supply, a payment was made by the resident buyer to the supplier in the amount of US\$10,000 based on the invoice issued by the supplier, stipulating:

- ▶ US\$8,000 for goods
- ▶ US\$1,300 for the transportation of goods
- ▶ US\$500 for insurance of goods
- ▶ US\$200 for customs formalities prior to importation of goods into the territory of Armenia

In this case, the total income (US\$10,000) received by the supplier is considered to be income derived from external economic activity and, therefore, is not subject to tax in Armenia.

Under the conditions of this example, if the transportation and insurance of goods had been carried out by another non-resident, and if the supplier was paid only for the value of goods and customs formalities prior to the importation of goods into the territory of Armenia, the supplier's income derived from external economic activity would comprise US\$8,200 (US\$8,000 + US\$200).

The remainder of the payment, US\$1,800, which was paid to another non-resident for insurance and transportation services, should be considered to be derived from Armenian sources and, therefore, subject to the non-residents' profit tax.

## ii. Income derived from rendering of services in Armenia

If services are provided by a non-resident in the territory of Armenia, income generated from such activities shall be considered derived from Armenian sources, and, for this purpose, it does not matter whether:

- ▶ Services are rendered to a resident or another non-resident or individual
- ▶ Payments for rendered services are made by a resident or another non-resident or individual
- ▶ Payments for rendered services are made in or outside the territory of Armenia

Income received by a non-resident from rendering the services mentioned below will be considered derived from Armenian sources:

- a) Services related to immovable property that is located or being constructed (or is intended to be constructed), in the territory of Armenia. e.g., preparation and implementation of construction, including design, supervision and other related services.

### Example 6

A resident company is going to start the construction of a dwelling house in Armenia. The architectural project and design of the house were developed by a non-resident architectural company in France (the principal place of the non-resident's business) according to the service agreement. The fee for the provision of services comprised €15,000.

In this case, the non-resident's income from provision of services (€15,000) should be considered derived from Armenian sources, as the immovable property is going to be constructed in the territory of Armenia.

- b) Transportation services related to an actual transfer of cargo, post, passengers and baggage through the territory of Armenia.

### Example 7

During 2012, a non-resident was providing transportation services through the office located in Yerevan (Armenia). For the provision of services, the non-resident received:

- ▶ AMD5 million for the transportation of cargo in the territory of Armenia
- ▶ An amount in US\$ equivalent to AMD1 million for the transportation of cargo, starting in Georgia and ending in Armenia (the amount for the transportation of cargo through the territory of Armenia was separately indicated in the invoice issued by a non-resident and comprised AMD0.2 million)
- ▶ AMD2 million for the transportation of cargo, starting in Armenia and ending in Russia (the amount of the transportation of cargo through the territory of Armenia was separately indicated in the invoice presented by a non-resident and amounted to AMD0.3 million)

In this example, the income of a non-resident derived from Armenian sources comprises AMD5.5 million (AMD5 million + AMD0.2 million + AMD0.3 million).

### Example 8

During 2012, a non-resident was providing transportation and cargo handling services through the office located in Yerevan. For the provision of services, the non-resident received:

- ▶ An amount in US\$ equivalent to AMD3 million for transportation of cargo from Georgia to Armenia (the amount for transportation of cargo through the territory of Armenia was separately indicated in the invoice presented by the non-resident and comprised AMD0.8 million)
- ▶ An amount in US\$ equivalent to AMD0.2 million for cargo handling services in Georgia
- ▶ AMD0.3 million for cargo handling and maintenance services in Armenia

In this example, the non-resident's income, derived from Armenian sources, will comprise AMD1.1 million (AMD0.8 million + AMD0.3 million).

- c) Additional services related to the transportation of cargo (e.g., cargo handling, maintenance and other related services) when the cargo is actually located in the territory of Armenia.



d) Postal services starting and ending in the territory of Armenia or exported from Armenia.

### Example 9

During the year, a non-resident was providing postal services (particularly the transfer of parcels, packages and letters) through the office located in Yerevan (Armenia). For the provision of the mentioned services, the non-resident received:

- ▶ AMD5 million for postal deliveries starting and ending in the territory of Armenia
- ▶ An amount in US\$ equivalent to AMD1 million for postal deliveries from France to Armenia
- ▶ AMD2 million for postal deliveries from Armenia to Greece

In this case, the non-resident's income, derived from Armenian sources, will comprise AMD7 million (AMD5 million + AMD2 million).

e) Telecommunication services that are provided by telecommunication operators through technical supplies located in the territory of Armenia.

### Example 10

During the year, a non-resident was providing internet access service through its branch located in Yerevan. The service was provided to its resident subscribers both in the territory of Armenia and Georgia. In Armenia, the service was provided through the technical supplies located in Armenia. For the provision of services, the non-resident received AMD3 million, including AMD2 million for services provided in Armenia and AMD1 million for services provided in Georgia.

In this example, the income of the non-resident derived from Armenian sources will comprise AMD2 million as earned through the technical supplies located in Armenia.



f) Information transfer services when the information is transferred from or to an address located in Armenia.

### Example 11

During the year, a non-resident was providing information center services through its branch located in Yerevan (Armenia). For the provision of the mentioned services, the non-resident received:

- ▶ An amount in US\$ equivalent to AMD3 million for services provided to non-residents outside Armenia
- ▶ AMD2 million for services provided to residents located in Yerevan

In this case, the non-resident's income derived from Armenian sources will comprise AMD5 million (AMD3 million + AMD2 million).

### Example 12

During the year, a non-resident was providing transportation services through the office located in Yerevan (Armenia). For the provision of services, the non-resident received:

- ▶ AMD5 million for the transportation of cargo in the territory of Armenia
- ▶ An amount in US\$ equivalent to AMD1 million for transporting cargo from Georgia to Armenia (the amount for transporting cargo through the territory of Armenia was not separately indicated in the invoice issued by the non-resident)
- ▶ AMD2 million for the transportation of cargo from Armenia into Russia (the amount of transportation of cargo through the territory of Armenia was not separately indicated in the invoice presented by non-resident)

In cases when, depending on the nature of services rendered by a non-resident, it becomes impossible to clearly classify whether the non-resident's income is derived from Armenian or other sources, such income is ascribed to Armenian sources, if it results from the activity of a subdivision or a place of business of a non-resident and there are insufficient evidence proving the provision of services outside Armenia.

Based on the fact that, from the presented invoices, it is unclear which part of the transportation services is related to the provision of services in the territory of Armenia, the whole income - AMD8 million (AMD5 million + AMD1 million + AMD2 million) will be considered derived from Armenian sources.

### iii. Income derived from intermediary activities in Armenia

A non-resident's income received from intermediary activities such as assignment, commission and agency services, should be considered derived from Armenian sources if such services are provided by a non-resident in the territory of Armenia. However, when it is impossible to classify clearly whether the non-resident's income is derived from Armenian or other sources, such income is ascribed to Armenian sources if it results from the activity of a subdivision or a place of business of a non-resident, and there are insufficient evidence proving the provision of intermediary services outside Armenia. It should be noted that, in this case, it is necessary that the income from intermediary activity was received from a resident or another non-resident's subdivision or place of business in Armenia, or from a citizen of Armenia.

#### Example 13

During the year, a non-resident (the mediator) was providing trade mediation services through the branch located in Yerevan (Armenia). According to the service contracts, the services were provided to residents and other non-residents both in and outside of Armenia. From the provided documents, it is not clear which part of the services was provided in and which part outside Armenia. In return for services, the mediator received:

- ▶ AMD3 million from a non-resident's subdivision in Armenia
- ▶ An amount in US\$ equivalent to AMD1 million from non-residents that do not have subdivisions in Armenia
- ▶ AMD2 million from residents

In this case, the mediator's income derived from Armenian sources will comprise AMD5 million (AMD3 million + AMD2 million).



#### **iv. Income derived from management, financial and insurance services provided by a non-resident to its subdivision or place of business**

Income derived from management, financial and insurance services rendered by a non-resident to its subdivision or place of business in the territory of Armenia shall be subject to taxation, providing that the cost of such services is treated as an expense by the subdivision or place of business.

##### **Example 14**

The head office of a non-resident was providing management and insurance services to its branch in Armenia. An invoice amounting to AMD3 million was issued by the head office for management services along with an invoice amounting AMD2 million for insurance services. The management services (AMD3 million) were recognized as an expense by the branch, while no expense was recognized in relation to the insurance service (AMD2 million).

In this case, only AMD3 million will be considered as head office income derived from Armenian sources.

#### **b) Passive income of a non-resident received from a resident or another non-resident**

Income received by a non-resident through the investment or provision of its property or other assets, exclusively from the activity of third parties in the territory of Armenia, is considered to be passive income. Passive income specifically includes the following incomes:

##### **i. Dividends**

Dividends are income derived from participation (stocks and shares) in the share capital of a legal entity or unincorporated enterprise.

Dividends received by a non-resident are considered to be derived from Armenian sources if received from participation in the share capital of a resident legal entity, resident unincorporated enterprise or resident investment fund.

##### **Example 15**

A non-resident holds 100% of shares of an Armenian resident entity. After the end of the financial year, the resident company declared and paid dividends in the amount of US\$1 million to the non-resident shareholder.

In this case, the whole amount of dividends paid to the non-resident shareholder shall be considered income derived from Armenian sources.

## ii. Interest

Interest is defined as income received from all kinds of debt claims, such as borrowings, loans, commodity credits, commercial loans, deposits, bonds and bills. A non-resident's interest is considered to be derived from Armenian sources if such interest is received specifically from:

- ▶ The provision of borrowings, loans, commodity credits and commercial loans to a resident or another non-resident's subdivision or place of business in Armenia, or a citizen of Armenia in relation to which the obligation to pay interest has arisen
- ▶ A deposit in a resident bank or credit organization in relation to which the obligation to pay interest has arisen
- ▶ Bonds issued by the issuer (or authorized body of the latter) according to the procedures established by the legislation of Armenia
- ▶ The balance of any account (deposit, operating, current, correspondent accounts, etc.) of a non-resident opened in the resident bank.

### Example 16

A non-resident provided a commercial loan to a resident company. During the year, the resident paid interest to the non-resident according to the loan agreement amounting to US\$15,000.

In this case, the amount of paid interest should be considered income derived from Armenian sources for the non-resident.

## iii. Royalties

Royalties are compensations received for the use or the right to use any copyrights on pieces of literature, art or science, or of any patents, trademarks, projects or models, plans, classified formulae or processes, or software for computers and databases, as well as for the use or the right to use industrial, commercial or scientific equipment, and for the provision of information on industrial, technical, organizational, commercial and scientific experience.

Royalties also include a non-resident's income derived from franchise agreements, according to which the franchiser, for a certain compensation, gives the franchisee the right to use in its entrepreneurial activities a complex of exclusive rights (including the use of the firm name, commercial information, trademark, service mark, etc.), business reputation and commercial experience belonging to the franchiser.

Royalties are considered to be derived from Armenian sources if the payer of such royalties is a resident, a subdivision or a place of business of a non-resident in Armenia, or a citizen of Armenia in relation to which the obligation to pay royalties has arisen.

### Example 17

An Armenian resident entity was producing bread specifically for diabetics in accordance with special technology developed by a non-resident. For the right to use that technology, royalties were paid by the resident to the non-resident during the year in the amount of US\$7,000.

The total amount of royalties paid to the non-resident should be considered income derived from Armenian sources.

#### iv. Income from the lease of property located in Armenia

Income from the lease of property is the income received by the lessor for the provision of property to the lessee for temporary possession or use, including income from financial leasing.

A non-resident's income from the lease of immovable property is considered to be derived from Armenian sources if the leased property is located in the territory of Armenia. Immovable property includes plots of land, mines, forests, buildings and other objects fixed on land.

A non-resident's income from the lease of movable property is considered to be derived from Armenian sources if, during the period of the lease, the property is subject to state registration in Armenia (except aircraft) or, during the actual renting or at the moment of conclusion of the lease agreement, the property is located in the territory of Armenia.

##### Example 18

On the basis of an operational lease agreement with a non-resident, a resident imported equipment for use in its mining activities in Armenia. During the whole period of the lease agreement, the legal title to the equipment remained with the non-resident and the equipment was located in Armenia. Annual lease payments comprised US\$60,000.

The total amount of lease payments shall be considered income derived from Armenian sources for the non-resident.

#### v. Increase in the value of property or other assets (capital gain), resulting from the disposal or transfer of the property or other assets located in Armenia

A capital gain is considered to be derived from Armenian sources if it is received from the disposal or transfer of the property or other assets located in the territory of Armenia. A capital gain is calculated as the difference between the sale or market price of the property or other assets disposed of or transferred and the cost of that property or the other assets, based on the respective acquisition documents (customs declarations, invoices, purchase orders, acts of acceptance, checks, etc.).

In case of the absence of supporting documents on the purchase price of property or other assets disposed of or transferred by a non-resident, the tax rate should be applied to the total value (sales price) of the property or other assets.

##### Example 19

In 2012, a non-resident acquired 1,000 shares of a resident paying AMD5 million (1,000 shares at AMD5,000 per share). The nominal value of each share is AMD6,000. One year later, the non-resident sold all the shares, receiving AMD12 million (1,000 shares at AMD12,000 per share). All supporting documents defined by the legislation were available for both transactions.

In this case, the positive difference between the sales price and purchase price of shares (AMD12 million - AMD5 million = AMD7 million) shall be considered income derived from Armenian sources for the non-resident.

### Example 20

A non-resident invested in the share capital of a resident in the form of property. The property was purchased in Armenia for the amount of AMD10 million. The market price of the property at the moment of investment was AMD14 million. All supporting documents defined by the legislation were available at purchase and investment.

In this case, the non-resident's income derived from Armenian sources shall be considered the positive difference between the estimated value and the purchase price of the invested property (AMD14 million – AMD10 million = AMD4 million).

### Example 21

A non-resident received AMD5 million from the disposal of property owned in Armenia. The supporting documents of purchase of the property are missing.

In this case, the total proceeds of AMD5 million received for the disposal of property should be considered income derived from Armenian sources for a non-resident.

## c) Other income derived by a non-resident in Armenia

Income derived by a non-resident in the territory of Armenia is considered to be other income if it does not result from the non-resident's business activity in the territory of Armenia and, in particular, is received from:

- a) Management services
- b) Provision of necessary assistance for the effective use of property or rights

- c) Provision of necessary assistance to a resident in the installation and exploitation of equipment, assembly lines of mechanisms and devices
- d) Insurance services – if it is impossible to classify clearly whether the non-resident's income from insurance is derived from services in or outside Armenia, income is ascribed to Armenian sources if one of the following conditions applies:
  - ▶ Insurance payments are received from a resident or a non-resident's subdivision or place of business in Armenia, or a citizen of Armenia
  - ▶ Reinsurance payments are received from a resident
  - ▶ Insurance benefits are received from resident insurers

### Example 22

A non-resident (the supplier) performed the direct supply of goods from Moscow to Yerevan on the basis of a supply contract concluded with a resident. According to the customs declaration, the goods were imported into Armenia by an Armenian resident. Based on the invoice issued by the supplier, the payment made by the resident to the supplier amounted to US\$9,500, including US\$8,000 for goods, US\$1,300 for transportation service and US\$200 for customs formalities prior to the import of goods into the territory of Armenia. Additionally, the amount of US\$500 for insurance services related to goods transported in Armenia was paid by the resident to another non-resident on the basis of an invoice.

In this case, the income received by the non-resident for insurance service in the amount of US\$500 should be considered income derived from Armenian sources.

- e) Consultations, assistance or other services related to the management of any scientific, industrial or commercial project, plan, process or a joint enterprise
- f) Consultations and other services rendered by foreign companies to their Armenian-registered subsidiaries in connection with the business activity of the latter in Armenia, as well as consultations and other services rendered by the head office of a non-resident in favor of its subdivision in Armenia
- g) Transportation of goods - a non-resident's income from the transportation of goods (freight) is considered income derived from Armenian sources if the goods are transported from, or to, an address in Armenia

### Example 23

A resident bought goods in Italy. Transportation of the goods into Armenia was carried out by a non-resident without a registered subdivision or place of business in Armenia. The total payment for the transportation service amounting to US\$1,300 was made by the resident.

In this case, the total amount of US\$1,300 paid to the non-resident for the rendered transportation service should be considered income derived from Armenian sources and, therefore, is subject to tax.

- h) Importation of goods by an intermediary enterprise from foreign countries with certain terms of sale in Armenia defined by non-residents. In this case, a non-resident's income derived from Armenian

sources is considered to be the difference between the sales price of the imported goods and the purchase price (price indicated in the non-resident's invoice), or part of this difference.

A non-resident's income derived from Armenian sources is calculated on the basis of the whole sales price of imported goods if:

- The documents proving the importation of goods into Armenia are missing
- Intermediary activity is carried out by the subdivision or place of business of the non-resident in Armenia.

### Example 24

Based on the trade mediation contract, a resident imports goods belonging to a non-resident from Italy and sells them in Armenia at a price no less than the price indicated in the invoice issued by the non-resident. The invoice amount of the goods comprises US\$25,000.

The resident's income from the mediation service, according to the contract, comprises 75% of the difference between the actual selling price and the price established by the non-resident. The resident actually sold the goods at higher prices than were established by the non-resident (invoice price), resulting in gross revenue of US\$26,000.

In this case, the resident's income will comprise US\$750 (75% of US\$1,000) and the non-resident's income derived from Armenian sources will comprise US\$250 (US\$1,000 - US\$750). US\$25,000 will be income of the non-resident derived from foreign economic activities.

i) Other income derived from Armenian sources also includes:

- ▶ Assets received free of charge, income from discount or remission of liabilities, with the exception of the amounts of tax and other statutory privileges provided by the law
- ▶ Income received as compensation of damages (losses incurred)
- ▶ Income received in the form of penalties, fines and other proprietary sanctions
- ▶ Income received from transactions recognized as invalid

**d) Income from services provided by a non-resident to Armenian residents and separate subdivisions of non-residents outside the territory of Armenia**

Income from consulting, legal, accounting, management, marketing, expertise, advertising, translation, engineering and other similar services provided by a non-resident to Armenian residents and separate subdivisions of non-residents outside the territory of Armenia is considered to be received from Armenian sources.





# 4

## Income not considered to be derived from an Armenian source

Below are types of income that are not considered to be derived from Armenian sources:

- ▶ Assets combined for the purposes of joint activity
- ▶ Positive results of the revaluation of foreign currency and other assets and liabilities expressed in foreign currency
- ▶ Positive results of the revaluation of fixed assets allowed by the tax legislation of Armenia
- ▶ Amounts of tax and other statutory privileges and subsidies from the state budget
- ▶ Assets (including membership fees) and services received free of charge by non-residents that are considered non-commercial organizations
- ▶ Income received from securities confirming the taxpayer's participation in the investment funds (including income from disposal or transfer, exchange of securities and from other similar transactions)

# 5

## Methods of taxation for non-residents in Armenia

If a non-resident does not carry out its activities through a subdivision or place of business in Armenia, income derived from Armenian sources is taxed by a tax agent at the source of payment through the withholding mechanism. The amount of tax withheld by the tax agent in this way is considered to be the final tax obligation of the non-resident in Armenia.

If a non-resident carries out its activities in Armenia through a subdivision or place of business, two methods - direct and indirect - are applied in determining the non-resident's taxable profit derived from Armenian sources.

If a non-resident performs activities only in Armenia or in and outside Armenia and keeps separate accounts, thereby allowing the determination of taxable income derived from activities carried out through the Armenian subdivision or place of business, the taxable profit may be determined via the direct method, taking into account the total amount of income derived from Armenian sources and all allowable deductions.

If a non-resident performs activities in and outside Armenia without keeping separate accounts, thereby preventing the determination of taxable income derived from the activities carried out through the Armenian subdivision or place of business, the taxable profit is determined on the calculation basis via the indirect method, in accordance with the approach agreed with tax authorities in advance. The agreed approach serves as a basis for the determination of taxable profit

unless there is a substantial reason for changing it, and it should not be changed just because another approach may provide more favorable results for the non-resident.

There are three possible approaches for the determination of a non-resident's taxable profit derived from the activity carried out through a subdivision or place of business in Armenia:

- 1) Share of the non-resident's revenue in Armenia derived from the sales of goods and provision of services as a proportion of the gross revenue from worldwide activities.**

### Example 25

During the year, a non-resident was performing its activities in several countries, including Armenia, through its subdivision, without keeping separate accounts. The indirect method agreed between the tax authorities and the non-resident is based on the share of Armenian revenue approach. The profit subject to tax in Armenia is calculated in the following way:

Income derived from Armenian sources (including the non-resident's income from external economic activities) – AMD20 million  
Gross worldwide revenue of the non-resident – AMD50 million

Proportion of revenue derived from Armenian sources  $(20 / 50) \times 100\% = 40\%$

Total taxable profit of non-resident worldwide – AMD16.0 million

Taxable profit in Armenia  $(16 \times 40\%) =$   
AMD6.4 million

2) Share of the non-resident's expenses in respect of activities in Armenia as a proportion of the worldwide expenses of the non-resident

**Example 26**

During the year, a non-resident was performing its activities in several countries, including Armenia, through its subdivision, without keeping separate accounting. The indirect method agreed between tax authorities and the non-resident is based on the share of Armenian expenses approach. The profit subject to tax in Armenia is calculated in the following way:

Expenses of the subdivision from the activities in Armenia – AMD24 million

Total worldwide expenses of the non-resident – AMD160 million

Proportion of expenses related to the non-resident's activity in Armenia  
 $(24 / 160) \times 100\% = 15\%$

Total taxable profit of non-resident worldwide – AMD16 million

Taxable profit in Armenia  $(16 \times 15\%) =$   
AMD2 million

3) Share of the number of non-resident's employees working in Armenia as a proportion of the total personnel of the non-resident worldwide

**Example 26**

During the year, a non-resident was performing its activities in several countries, including Armenia, through its subdivision, without keeping separate accounts. The indirect method agreed between tax authorities and the non-resident was based on the share of employees approach.

The profit subject to tax in Armenia should be calculated in the following way:

Personnel of Armenian subdivision – 22 employees

Total worldwide personnel of non-resident – 200 employees

Proportion of employees working in Armenia  
 $(22 / 200) \times 100\% = 11\%$

Total taxable profit of non-resident worldwide – AMD16 million

Taxable profit in Armenia  $(16 \times 11\%) =$   
AMD1.76 million

# 6

## Tax compliance and reporting

### **Subdivision or place of business**

A non-resident conducting business activity in Armenia through a subdivision or place of business is required to independently complete and submit a return on annual incomes to the Tax Inspectorate prior to 15 April of the year following the tax year (the latter coincides with the calendar year). However, in the case of cessation of the activity prior to the end of the tax year, the non-resident should submit the return within a month after cessation of the activity. The return includes all incomes derived from Armenian sources.

The non-resident does not submit the return on annual income to tax authorities in cases when:

- ▶ It does not have a separate subdivision or place of business in Armenia
- ▶ The income received from Armenian sources is exclusively from external economic activity
- ▶ The obligation to calculate, withhold and pay taxes is with the tax agent.

If the amount of profit tax for the preceding year for a non-resident carrying out business activity in Armenia through a subdivision exceeded AMD2 million, the non-resident must make half-yearly profit tax advance payments in equal parts in the amount of one-quarter of the preceding year's profit tax. These payments are due by 1 July and 31 December of tax year.

The amount of the profit tax payable to the state budget in the reporting year is defined

as the difference between the amount of the annual profit tax and the amount of half-yearly advance payments (in certain cases, also the amounts of the profit tax withheld in Armenia), and is due by 25 April of the year following the tax year.

### **Tax agent**

The tax agent is required to submit to the tax authorities an annual summary return on incomes paid to non-residents and profit tax withheld and paid to the state budget, pursuant to the established form, no later than on 20 February of the year following the tax year.

The only time the tax agent is not required to submit the above-mentioned return is in cases when incomes paid to non-residents from Armenian sources exclusively result from external economic activity or are paid to non-residents without tax withholding, based on the certificate on tax residence submitted by non-residents within the scope of double tax treaties. In the event the tax agent fails to withhold the profit tax at the source, the tax is levied on the tax agent.

The tax withheld should be transferred to the state budget no later than the 20th day of the month following the payment of income to the non-resident.

If it is impossible to withhold tax at source due to the absence of a tax agent, the profit tax payment obligation falls on the non-resident itself in accordance with the procedures defined for the non-resident's subdivision or place of business.

# 7

## Definition of PE under the model DTT and treaty countries

Under the model double tax treaty (DTT), which is generally used by Armenia while concluding DTTs, the term “permanent establishment (PE)” is defined as a fixed place of business through which the business of an enterprise is wholly or partly carried out. It specifically includes:

- a) A place of management
- b) A branch
- c) An office
- d) A factory
- e) A workshop
- f) A mine, oil or gas well, quarry or any other place of extraction of natural resources

Nevertheless, PE should be deemed not to include:

- a) The use of facilities solely for the purpose of the storage, display or delivery of goods or merchandise belonging to the enterprise
- b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery

- c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise
- d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise
- e) The maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character
- f) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

Please note that PE definitions in DTTs may differ depending on country.

As of 31 August 2013, Armenia has entered into tax treaties with 41 countries. The following table lists the withholding tax rates under these treaties. In general, if the withholding tax rate provided in a treaty exceeds the rate provided by the Law of Armenia on corporate income tax, the domestic rate applies.

	<b>Dividends, %</b>	<b>Interest (1), %</b>	<b>Royalties, %</b>
Austria	5/15 (a)	0/10 (v)	5
Belarus	10/15 (b)	10	10
Belgium	5/15 (a)	0/10 (v)	8
Bulgaria	5/10 (c)	10	10
Canada	5/15 (d)	10	10
Czech Republic	10	5/10 (e)	5/10 (f)
China	5/10 (g)	10	10
Croatia	0/10 (h)	10	5
Cyprus	0/5 (x)	5	5
Estonia	5/15 (i)	100	10
Finland	5/15 (i)	5	5/10 (j)
France	5/15 (k)	0/10 (v)	5/10 (l)
Georgia	5/10 (g)	10	5
Germany (2)	15	5	0
Greece	10	10	5
Hungary	5/10 (g)	10	5
India	10	10	10
Iran	10/15 (m)	10	5
Ireland	0/5/15 (ae)	5/10 (ad)	5
Italy	5/10 (n)	0/10 (w)	7
Kazakhstan	10	10	10
Kuwait	5	5	10
Latvia	5/15 (i)	10	10
Lebanon	5/10 (g)	8	5
Lithuania	5/15 (i)	10	10
Luxembourg	5/15 (a)	10	5
Moldova	5/15 (o)	10	10
Netherlands	5/10 (p)	0/5 (v)	5
Poland	10	5	10
Qatar	5/10 (q)	5	5
Romania	5/10 (r)	10	10
Russian Federation	5/10 (s)	10	0
Slovenia	5/10 (g)	10	5
Spain	0/10 (aa)	5	5/10(ab)
Switzerland	5/15 (t)	0/10 (v)	5
Syria	10	10	12
Thailand	10	10	10
Turkmenistan	5/15 (u)	10	10
Ukraine	5/15 (u)	10	0
United Arab Emirates	3	0	5
United Kingdom	0/5/10/15 (ac)	5	5
Non-treaty countries	10	10	10

- (l) In several treaties, a 0% rate applies to interest paid to governmental entities, political or administrative-territorial subdivisions, local authorities, central banks or financial institutions owned or controlled by the Government. This provision is not reflected in the rates shown in the table.
- (a) The 5% rate applies if the actual owner of the dividends is a company (other than a partnership) that directly holds at least 10% of the capital of the company paying the dividends. The 15% rate applies in all other cases.
- (b) The 10% rate applies if the actual owner of the dividends is a company (other than a partnership) that directly holds at least 30% of the capital of the company paying the dividends. The 15% rate applies in all other cases.
- (c) The 5% rate applies if the actual owner of the dividends is a company that has invested in the payer more than US\$40,000 (or the equivalent amount in Armenian currency). The 10% rate applies in all other cases.
- (d) The 5% rate applies if the beneficial owner of the dividends is a company that holds directly at least 25% of the capital of the company paying the dividends and if the capital invested by the beneficial owner exceeds US\$100,000 (or the equivalent amount in AMD) on the date of declaration of the dividends. The 15% rate applies in all other cases.
- (e) The 5% rate applies to interest on loans or credits granted by banks.
- (f) The 5% rate applies to royalties for the use of, or the right to use, literary, artistic or scientific works, including television or radio content (films and compact discs). The 10% rate applies in all other cases.
- (g) The 5% rate applies if the actual owner of the dividends is a company (other than a partnership) that directly holds at least 25% of the capital (assets) of the company paying the dividends. The 10% rate applies in all other cases.
- (h) The 0% rate applies if the actual owner of the dividends is a company that directly or indirectly holds at least 25% of the capital of the company paying the dividends for a minimum period of two years before the payment of the dividends, and if the dividends are not subject to tax in Croatia. The 10% rate applies in all other cases.
- (i) The 5% rate applies if the actual owner of the dividends is a company (other than a partnership) that directly holds at least 25% of the assets of the company paying the dividends. The 15% rate applies in all other cases.
- (j) The 5% rate applies to the royalties for the use of, or the right to use, computer software, patents, trademarks, designs or models, plans or secret formulas or processes, or information concerning industrial, commercial or scientific experience (know-how). The 10% rate applies in all other cases.
- (k) The 5% rate applies if the actual owner of the dividends is a company that directly or indirectly holds at least 10% of the assets of the company paying the dividends. The 15% rate applies in all other cases.
- (l) The 5% rate applies to the royalties for the use of, or the right to use, copyrights. The 10% rate applies in all other cases.
- (m) The 10% rate applies if the actual owner of the dividends is a company (other than a partnership) that owns at least 25% of the assets of the company paying the dividends. The 15% rate applies in all other cases.
- (n) The 5% rate applies if the actual owner of the dividends is a company that directly holds at least 10% of the capital of the company paying the dividends for a minimum period of 12 months before the date of declaration of the dividends, and if the capital invested by the beneficial owner exceeds US\$100,000 or the equivalent amount in Armenian currency. The 10% rate applies in all other cases.
- (o) The 5% rate applies if the actual owner of the dividends is a company (other than a partnership) that holds at least 25% of the capital of the company paying the dividends. The 15% rate applies in all other cases.
- (p) The 5% rate applies if the actual owner of the dividends is a company (other than a partnership) that directly holds at least 10% of the capital of the company paying the dividends. The 15% rate applies to dividends in all other cases.
- (q) The 5% rate applies if the capital invested by the actual owner of the dividends exceeds US\$100,000. The 10% rate applies in all other cases.
- (r) The 5% rate applies if the actual owner of the dividends is a company that directly holds at least 25% of the assets of the company paying the dividends. The 10% rate applies in all other cases.
- (s) The 5% rate applies if the actual owner of the dividends is a company that directly holds at least 25% of the share capital of the company paying the dividends. The 10% rate applies in all other cases.
- (t) The 5% rate applies if the actual owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends and if the capital invested by the beneficial owner exceeds CHF200,000 (or the equivalent amount in AMD) on the date of receipt of the dividends. The 15% rate applies in all other cases.
- (u) The 5% rate applies if the actual owner of the dividends is a company that owns at least 25% of the capital of the company paying the dividends. The 15% rate applies in all other cases.
- (v) The 0% rate applies to interest connected to sales on credit of industrial, commercial or scientific equipment or business assets, and to interest on loans granted by banking enterprises.
- (w) The 0% rate applies to the interest on loans granted by banking enterprises.
- (x) The 0% rate applies if the capital invested by the actual owner of the dividends exceeds €150,000. The 5% rate applies in all other cases.
- (aa) The 0% rate applies if the beneficial owner of the dividends is a resident of the other Contracting State and it holds, directly or indirectly, at least 25% of the capital of the company paying the dividends for at least two years before the date of such payment, and such dividends are not liable to profit tax in the other Contracting State.
- (ab) The 5% rate applies to royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films or films or tapes used for radio or television broadcasting. The 10% rate applies in all other cases.
- (ac) The 0% rate applies if the beneficial owner of the dividends is a pension scheme. The 5% rate applies if the beneficial owner is a company that is a resident of the other Contracting State and holds, directly or indirectly, at least 25% of the share capital of the company paying the dividends and has invested at least £1 million (or the equivalent amount in any other currency) in the share capital of the company paying the dividends at the date of payment of the dividends. The 15% rate applies if dividends are paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article 6 of DTT by an investment vehicle that distributes most of this income annually and whose income from such immovable property is exempted from tax. The 10% rate applies in all other cases.
- (ad) The 5% rate applies if interest is paid in respect of a loan of any kind granted by a banking enterprise. The 10% rate applies in all other cases.
- (ae) The 0% rate applies if the beneficial owner is a company (other than a partnership):
- (i) That holds directly at least 25% of the capital of the company paying the dividends and
  - (ii) That has owned the holding for a period of at least two years prior to any claim being made under this subparagraph and
  - (iii) That, in the Contracting State of which it is a resident, is, in respect of the dividends, entirely relieved from tax by an exemption or would, but for this subparagraph, be entirely relieved by a credit (including a credit under subparagraph (b) of paragraph two of Article 24 of DTT) for tax paid in respect of the dividends by the company paying the dividends.

The 5% rate applies if the beneficial owner is a company (other than a partnership) that holds directly at least 10% of the capital of the company paying the dividends. The 15% rate applies in all other cases.

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