Administrata Tatimore e Kosovës
Poreska Administracija Kosova
Tax Administration of Kosovo

Agreements for Elimination of Double Taxation (DTA)

The purpose of this brochure is to provide fair and accurate information to taxpayers regarding the implementation of Agreements for Elimination of Double Taxation on income and capital taxes, as well as to prevent tax evasion and avoidance.

WHAT ARE DOUBLE TAXATION AGREEMENTS?

Double Taxation Agreements are agreements between two states, which are created to protect taxpayers against double taxation and states from tax evasion, when the same income is taxed in two states. An Agreement on the Elimination of Double Taxation effectively goes beyond domestic law of Kosovo. The agreements are signed in order to further develop economic relations between the two countries and increase cooperation in tax matters.

DTA ROLE

The focus of Double Taxation Elimination Agreements is broader than the elimination of double taxation. The agreements reduce tax barriers to cross-border trade and investment and assist tax administrations as well as increase international economic co-operation. This is achieved through:

- Elimination of some forms of legal double tax;
- Reduction of withholding taxes on cross-border investments;
- Description of how certain profits will be calculated;
- Exemption from income tax, of some short-term activities in the host country;
- Providing procedures that help resolve disputes;
- Exchange of information between tax administrations.

The Republic of Kosovo has Agreements on the Elimination of Double Taxation with several countries, where this network of agreements is constantly expanding.

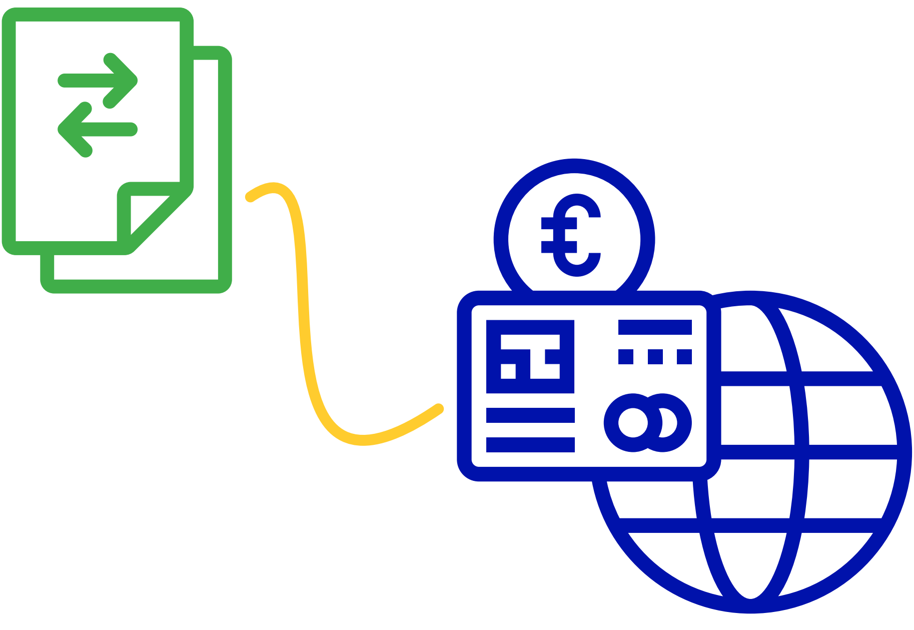
The agreement applies to Personal Income Tax and Corporate Income Tax, and any other specific tax, depending on the agreement.

The basis of the content of the Double Taxation Agreements that are in force is:

- Model Convention on Income and Capital Tax;
- United Nations Model, on Tax Conventions

RESIDENT

Resident means any person who under the laws of Kosovo is subject to the relevant taxes due to place of residence, domicile, place of management, or any other criteria of a similar nature and also includes that state. Resident means a natural person who has a permanent place of residence in Kosovo or is physically present in Kosovo for 183 days or more in any tax period, or an entity which is established in Kosovo or has its place of effective management in Kosovo. Kosovo. The right of access to the Agreement belongs to the persons who are residents of one or both contracting states, who have an agreement between them.



PERMANENT ESTABLISHMENT

A permanent establishment is a fixed place of business that generally generates income tax liabilities in a given jurisdiction. When the country of origin of a corporation has a DTA with a target country, the business operations of the corporation of the country of origin are protected from taxation of the target country as long as those activities do not create a PE in the target country. The Permanent Establishment in particular includes: a place of management, a branch, an office, a factory, a workshop, a mine, an oil or gas well, a quarry or other natural resource extraction site, a construction site, a project construction as well as the provision of consulting services. In order to create a PE, in addition to the criterion of a fixed place of organization, another element is the duration of the presence, which can be 183 days (6 months) or over 12 months.

BUSINESS PROFITS

The profits of an enterprise under the METD shall be taxable at the place where the activity or service is performed, unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein.

INTEREST

Interest is taxed at the place of residence of the beneficial owner of the interest. However, the interest may also be taxed in the Contracting State in which it arises, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed the percentage specified in the relevant DTA of the gross interest amount.

DIVIDENDS

Dividends are taxed at the place of residence of the dividend recipient. However, the dividend may also be taxed in the Contracting State in which it arises, but if the beneficial owner of the dividend is a resident of the other Contracting State, the tax so charged shall not exceed the percentage set out in the corresponding DTA of the gross dividend.

ROYALTIES

Royalties will be subject to tax in the State of residence of the taxpayer who owns them or in the Contracting State where they are generated as income. Royalties are payments of any kind received as compensation for the use, or right to use, any copyright of a literary, artistic or scientific work, including cinematographic films, any patent, design or trademark, plan, secret formula or process, or for information about industrial, commercial or scientific experience.

INCOME FROM EMPLOYMENT

Employment income includes all payments in cash or services, which are received during a certain reference period, by individuals for themselves or in relation to their family members, due to their involvement in current employment or previous paid work. Wages, salaries and other similar payments are taxed at the place of realization of income, in the source state.

PENSIONS

Pensions and other similar payments paid to a resident of a Contracting State in respect of his previous employment shall be taxable in the country of residence of the recipient of income.

CAPITAL GAINS

Capital gains derived by the alienation of immovable property, movable property which is an integral part of the business, shares in the business, may be taxed in the Contracting State in which they are created.

MUTUAL AGREEMENT PROCEDURE

Mutual Agreement Procedure serves to resolve the disputes arising from the implementation of the DTA. This procedure begins when it results in the taxation of income, which is contrary to the agreement in question and the taxpayer has the right to submit the case to the competent authorities of any Contracting State. This procedure in tax arrangements allows the "competent authorities" of the governments of the Contracting States to intervene with a view to resolving international tax disputes.

NON-DISCRIMINATION

Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.

THE RIGHT TO BENEFIT

This rule is intended to assist tax administrations that need to determine whether or not taxpayers will benefit from the agreement in specific cases, in order to eliminate double taxation, but without creating the possibility of non-taxation or tax reduction through tax evasion or avoidance.

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