KPMG

GMS Flash Alert

2022-133 | July 12, 2022

United States – U.S. Treasury to Terminate Tax Treaty with Hungary

It has been widely reported that the U.S. Treasury Department (Treasury) is planning to terminate the U.S.-Hungary tax treaty and is preparing to initiate a formal process to terminate the treaty.[1] The treaty has been in effect since 1979 and at the time of signature, both countries had proportionate corporate tax rates, and Hungary levied withholding taxes on cross-border dividends, interest, and royalty payments.[2] However, Hungary has slashed its corporate tax rate from 50 percent to 9 percent and did away with withholding taxes on cross-border payments to nonresidents.

Treasury has been discussing the disproportionate corporate tax rates with Hungary, and after an analysis showed that the treaty conferred benefits only to Hungary, purportedly decided to terminate the treaty. Treasury has yet to make an official statement and the exact timing of the termination is unknown.

Treasury's decision to terminate the treaty seems to come after Hungary's opposition to a global corporate tax overhaul. The European Union (EU) has been trying to unanimously implement global minimum corporate tax rules, known as Pillar 2 of the OECD's Pillar Two Model Rules.[3] Pillar 2 seeks to ensure that large multinational companies pay an effective tax rate of 15 percent in the countries in which they operate. All EU member states except Poland had agreed to adopt Pillar 2 in May. However, as reported, the Hungarian parliament adopted a resolution on June 21 to reject the new Pillar 2 rules. All EU tax directives require unanimity among EU member states for implementation. While Poland has ultimately agreed to adopt Pillar 2, Hungary's opposition effectively blocks the directive from being implemented.

WHY THIS MATTERS

Treaty benefits enjoyed by individual taxpayers would no longer be available if the treaty is terminated. As a result, benefits of lower tax rates on certain income (e.g., interest, dividends), exclusion for certain employment income, as well as relief from double taxation would expire with the termination. This could give rise to double taxation without relief for individual taxpayers and higher international assignment costs for mobility programs.

© 2022 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

KPMG NOTE

Hungary's opposition to Pillar 2 may have exacerbated the Treasury's concerns about the inequities of the current treaty.[4] Treasury may have concluded that the treaty no longer provided reciprocal benefits and left the United States with significant loss of potential tax revenues.

Notably, an updated treaty that has been agreed to by both countries has been pending in the U.S. Senate since 2010.

FOOTNOTES:

1 For a related report, see "U.S. income tax treaty with Hungary reportedly being terminated," in *TaxNewsFlash-United States* (July 11, 2022), a publication of the KPMG International member firm in the United States. Also see "U.S. Treasury to end 1979 treaty with global minimum tax holdout Hungary," in *Reuters* (online) (July 9, 2022) at: https://www.reuters.com/world/europe/us-treasury-end-1979-treaty-with-global-minimum-tax-holdout-hungary-2022-07-08/ . *Please note that by clicking on this link, you are leaving the KPMG website for an external site, that KPMG is not affiliated nor is KPMG endorsing its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator*.

2 For text of the 1979 U.S.-Hungary income tax treaty and the technical explanation, see: https://www.irs.gov/businesses/international-businesses/hungary-tax-treaty-documents .

3 For a related report, see "Treasury to Nix Tax Treaty With Hungary for EU Minimum Tax Veto," in taxnotes (online) (July 11, 2022) at: https://www.taxnotes.com/tax-notes-today-federal/treaties/treasury-nix-tax-treaty-hungary-eu-minimum-tax-veto/2022/07/11/7dms4. *Please note that by clicking on this link, you are leaving the KPMG website for an external site, that KPMG is not affiliated nor is KPMG endorsing its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator*.

4. For a related report, see "U.S. income tax treaty with Hungary reportedly being terminated," in *TaxNewsFlash-United States* (July 11, 2022), a publication of the KPMG International member firm in the United States. Also see "U.S. Treasury to end 1979 treaty with global minimum tax holdout Hungary," in *Reuters* (online) (July 9, 2022) at: https://www.reuters.com/world/europe/us-treasury-end-1979-treaty-with-global-minimum-tax-holdout-hungary-2022-07-08/ . *Please note that by clicking on this link, you are leaving the KPMG website for an external site, that KPMG is not affiliated nor is KPMG endorsing its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator*.

* * * *

© 2022 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

The information contained in this newsletter was submitted by the KPMG International member firm in United States.

www.kpmg.com

kpmg.com/socialmedia

© 2022 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to http://www.kpmg.com.