

Taxation of Non-Residents

Ruslan Akhalaia
Revenue Service of Georgia

Effects of Tax Treaties

- * Treaty offers benefits which tax payers strive to achieve:
 - *Exemption from taxation
 - *Decrease of the tax rate
- * Some tax payers abuse the treaty provisions
- * Major issues in the application of the Treaties
 - *Determination of eligibility of non-resident to the treaty benefits
 - *Identification of the income source;
- * Balancing interests of tax payers and nations states
- * Introduction of the domestic administrative procedural rules for the application of the treaties

Ensuring Non-residents' compliance

- * Key for ensuring compliance:
 - * Identification of the liable person
 - * Reporting
 - * Collection

Ensuring Non-residents' compliance

- * Reporting
 - * Submission of the tax returns – only in case of capital gains
 - * Generally gross income is taxed at source
 - * Right to submit tax return and request deduction of expenses
- * Collection
 - * Withholding in most instances
 - * Exception: Capital Gains

Procedures for Claiming Treaty Benefits

- * Annual submission of the special forms by resident tax-payer;
 - * When required to act as an agent (e.g. interest, royalty, dividends)
- * Non-resident is also entitled to request excess taxes
- * Note: Residency Certificate is Crucial
 - * Certificate is expected to state tax (fiscal) residency status

Procedures for Claiming Treaty Benefits

- * Beneficial ownership status is not subject to certification:
 - * Gathering information;
 - * Conducting independent Analyzes

Protection of the Tax Payers

- * Advance Rulings;
- * Advance Pricing Agreements;
- * Mutual Agreement Procedures
 - * Certain instances arbitration clause

Information Gathering

- * All treaties have relevant articles;
 - * May not be obtainable as the treaty obligation is conditional in most instances
- * Bank secrecy laws

Ensuring Non-residents' compliance

- * Competition in attracting investment:
 - * Attractive tax rates (diminishing importance)
 - * Attractive tax base
 - * Attractive administrative procedures (e.g. delivery of tax benefits, refunds etc.)
- * Major Tension: Efficiency vs. Protection of the tax base



Thank you very much!