

Convention of May 10, 1996 between the Republic of Estonia and Ukraine for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital.

AGREEMENT ON MUTUAL ADMINISTRATIVE ASSISTANCE BETWEEN THE ESTONIAN NATIONAL TAX BOARD AND THE STATE TAX ADMINISTRATION OF UKRAINE.

According to article 27 of the Convention for avoidance of double taxation between the Republic of Estonia and Ukraine the competent authorities shall exchange information as is necessary for carrying out the provisions of the Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to the Convention and lend assistance to each other in collection of taxes.

EXCHANGE OF INFORMATION

The competent authorities agree to establish procedures to exchange information

- a. on request as is necessary for carrying out the provisions of the Convention or of the domestic laws of the contracting states concerning taxes covered by the Convention,
- b. automatically as regards specific categories of income, or
- c. spontaneously as regards information which is obtained in the ordinary course of administration.

Information will be automatically exchanged regarding the following items

- Dividends paid by companies resident in one of the Contracting States to residents in the other State.
- Interest on accounts in banks and similar institutions, resident in one of the Contracting States, paid to residents in the other State.
- Royalties as defined in article 12 of the Convention, paid by residents in one of the Contracting States to residents in other State.
- Salaries, wages, fees, pensions and annuities paid by residents in one of the Contracting States to residents in other State.

To achieve more efficiency in exchange of information and deal more effectively with cases of tax avoidance or tax evasion, the competent authorities have decided to establish a working agreement to conduct simultaneous tax examinations of selected taxpayers, or groups of tax payers, carrying on activities in both Ukraine and Estonia. The procedures for case selection and examination procedures that the competent authorities have agreed upon are further described in Appendix A.

At the request of the competent authority of one of the Contracting States, the competent authority in the other Contracting State may allow representatives of the first-mentioned competent authority to be present at the appropriate part of a tax examination in the requested state. All decisions with respect to conduct of the tax examination shall be made by the requested state. The competent authority in the requested state shall notify the other competent authority regarding the particulars of each examination.

CONSULTATIONS

The competent authorities shall consult each other whenever necessary for facilitating the carrying out the obligations under this agreement.

MODIFICATIONS

This agreement may be modified at any time by agreement between the competent authorities.
Done in Kiev the 15-th day of May, 2001 in English language.



On behalf of the
Estonian National Tax
Board



On behalf of the
State Tax Administration
of Ukraine

SIMULTANEOUS TAX EXAMINATIONS

CASE SELECTION AND EXAMINATION

The selection procedures will be the following:

1. Taxpayers will be independently identified for simultaneous examinations by the tax administration of each country.
2. Each country will inform the other about its choice of potential cases using the selection criteria described below.
3. Each country will determine whether it wishes to participate in a particular simultaneous examination. Neither country, however, is obliged to co-operate in an examination proposed by the other country.
4. If a competent authority accepts a counterpart's proposal to conduct a simultaneous examination, that competent authority will confirm, in writing, the selection of the case and will indicate a designated representative who will have functional responsibility for directing the examination. After receiving the confirmation, the proposing competent authority also will indicate, in writing, a designated representative. In those cases where there is an agreement to conduct a simultaneous examination, the competent authority of each country will formally request the other competent authority to exchange specific information pursuant to the Income Tax Convention.
5. The designated representative of the competent authorities will decide areas and periods to be examined in the particular case selected, the timetable for the examination, and approaches to be taken. They will initiate exchange of specific information in accordance with formal written request.
6. The information, which may be requested under this arrangement, must be obtainable under the Income Tax Convention and the respective taxation laws of the two countries.
7. The competent authority of each country may, by a declaration addressed to its counterpart in the other country, indicate that, according to its internal legislation, it will inform its resident before transmitting information concerned in conformity with the exchange of information article of the Income Tax Convention.

Criteria for case selection

Any case selected for simultaneous examination will involve a taxpayer(s) with activities in both countries. The factors considered in determining whether a case is selected will primarily be, but will not be limited to:

- Indication of tax avoidance and evasion
- Indication of substantial non-compliance of the tax laws in both countries
- Existence of transactions involving a "tax haven"
- Situation where the competent authorities consider it is in the interest of the tax administrations concerned in order to promote international tax compliance.

Personnel

Examinations will be conducted separately within the framework of national law and practice solely by tax administration officials of each country in a way, which maximizes the advantages obtainable from treaty exchanges of information.

Planning the examination

Before the start of the examination, the tax administration personnel in charge of the case will consider with their counterparts from the other country, the audit plans of each country, possible issues to be developed, and target dates. However, there will be no exchange of formal examination plans between the countries.

Conducting an examination

This procedure require co-operation of personnel located in each country who will simultaneously but independently examine the taxpayer(s) within its jurisdiction. The primary responsibility for co-ordinating the examination and exchanges of information on a selected taxpayer will rest with the country agreed upon by the competent authorities. All exchanges of information must be made within the terms of the Income Tax Convention.

Discontinuing a simultaneous examination

If either country concludes that a simultaneous examination is no longer beneficial, it may withdraw by notifying the other country of its withdrawal.

Concluding an examination

An examination will be concluded after coordination and consulting between the two countries, in accordance with the existing procedures of each country. Issues pertaining to double taxation raised by the examination are reserved to the mutual agreement procedure.