



## **Dividend taxation**

An amendment to Act no. 595/2003 on income tax, as amended (hereinafter referred to as the “**Income Tax Act**”) introduced changes in respect of taxation of the dividends paid from the profit achieved by a business company for the period of the year 2017 and the following tax periods. Therefore, the NAFTA a.s. company, as the entity obliged to pay tax upon payment of the dividends associated with the profit achieved by the business company and showed for the tax periods following 1 January 2017, is obliged under Sec. 43 of the Income Tax Act to withhold tax (and transfer the withheld tax to the tax administrator subsequently), as follows:

### **A) where the shareholder is a natural person**

- a) 7% - in compliance with Sec. 43 (1) (a) and Sec. 2 of the Income Tax Act (tax payers with an unlimited tax liability in the SR and taxpayers with a limited tax obligation in the SR and tax residence in a country with which the Slovak Republic has entered into an international treaty on avoidance of double taxation or other similar international treaty for tax purposes under Sec. 2 (x) of the Income Tax Act<sup>1</sup> (hereinafter referred to as the “**Partner State**”), e.g. natural persons with permanent residence in the SR or the CR.
- b) 35% - in compliance with Sec. 43 (1) (c) of the Income Tax Act (tax payers with unlimited tax obligations and tax residence in a non-partner state).

In order to determine correctly the withholding tax on dividends, shareholders - natural persons **with tax residence in a state other than the state in which they reside permanently** shall notify and prove this fact to the NAFTA a.s. company. Shareholders shall evidence their tax residence by the original tax residence certificate or its certified copy issued by a competent tax authority. If the tax residence certificate is issued abroad (except for the Czech Republic - hereinafter referred to as the “CR”), it shall bear Apostille or a higher-level certificate (so called consular super-legalization). The tax residence certificate must be delivered to the NAFTA a.s. company:

- a) as concerns cashless transfers of dividends - along with the Bank Account Notification at the latest,
- b) as concerns payment in cash - on the day of payment at the latest.

### **B) if the shareholder is a legal entity:**

Dividend taxation depends on who is the final recipient receiving the dividend<sup>2</sup> (hereinafter referred to as the “Final Recipient”):

- a) If the Final Recipient of the dividend is a legal entity - a tax resident of the Slovak Republic or the State with which the Slovak Republic has entered into an international treaty on avoidance of double taxation or other international agreement for tax purposes within the meaning of Sec. 2 (x) of the Income Tax Act<sup>3</sup> (hereinafter “**Partner State**”) - the dividend is not subject to taxation.
- b) If the Final Recipient of the dividend is a legal entity - a tax resident of a non-partner state<sup>4</sup> - the dividend is subject to withholding tax amounting to 35%.
- c) If the Final Recipient of the dividend is a natural person, taxation of dividends is to be executed under clause A (natural person taxation scheme).

<sup>1</sup> The list of Partner States for the purposes of Sec. 2 (x) of the Income Tax Act it is available at: <http://www.finance.gov.sk/Default.aspx?CatID=9501>

<sup>2</sup> Sec. 2 (f) of the Income Tax Act: the Final Recipient of the income is the person receiving the income for their own benefit and entitled to use this income without any restrictions and without any contractual or other legal obligation to transfer the income to another person, or a permanent establishment of that person or where the activity associated with that income is carried out by that permanent establishment or the assets related to that income are functionally associated with that permanent establishment; the person acting as an agent for other person is not deemed to be the Final Recipient.

<sup>3</sup> The list of Partner States for the purposes of Sec. 2 (x) of the Income Tax Act it is available at: <http://www.finance.gov.sk/Default.aspx?CatID=9501>

<sup>4</sup> For the purposes of this document, a non-partner state means a state other than the Slovak Republic and Partner States as defined above.



- d) If NAFTA a.s. is not able to prove who is the Final Recipient of the dividend - the dividend is subject to the withholding tax amounting to 35%.

For the purposes of determining the proper withholding tax on dividends, shareholders shall demonstrate:

- a) tax residence - the original tax residence certificate or its certified copy issued by a relevant tax authority. If the tax residence certificate is issued abroad (except for the Czech Republic), it shall bear Apostille or a higher-level certificate (so called consular super-legalization).
- b) The Final Recipient of dividends - a statutory declaration. The statutory declaration is to be signed by the persons authorized to act on behalf of the legal person concerned that is the Final Recipient of dividends, and stated in an extract from the Commercial Register and their signatures shall be officially authenticated. Where the statutory declaration is signed outside the SR or the CR, individual signatures shall be authenticated in compliance with the requirements applicable to official signature authentication valid in the country concerned and shall be accompanied by Apostille or a higher-level certificate (so called super-legalization). The statutory declaration is to be accompanied by the original extract, or its certified copy, from the Commercial Register of the SR / other relevant register, which is not older than three months. Foreign legal entities shall submit the statutory declaration and the original extract, or its certified copy, from the relevant register confirming existence of the legal entity and the manner of acting on behalf of that entity; such an extract must not be older than three months and shall bear Apostille or a higher-level certificate (so called consular super-legalization).

The tax residence certificate and an extract from the Commercial Register / other relevant register shall be delivered to the NAFTA a.s. company:

- a) as concerns cashless transfers of dividends - within 30 days from the Record Date or together with the Bank Account Notification at the latest,
- b) as concerns payment in cash - on the day of payment at the latest.