

TAX CODE OF THE RUSSIAN FEDERATION PART TWO

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Chapter 23. INCOME TAX OF INDIVIDUALS

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Article 214. Peculiarities of payment of tax on personal income in relation to income from equity participation in an organization

3. Calculation of the amount and payment of tax in relation to income from equity participation in a Russian organization, received in the form of dividends, shall be carried out by a person recognized in accordance with this Chapter as a tax agent, separately for each taxpayer in relation to each payment of said income at tax rates provided for in Article 224 of this Code, subject to the provisions of paragraph 3.1 of this Article.

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3.1. Corporate income tax calculated and withheld in respect of dividends received by a Russian organization is subject to offset when determining the amount of tax payable in respect of the income of a taxpayer recognized as a tax resident of the Russian Federation from an equity participation in this Russian organization, in proportion to the share of such participation. In this case, the amount of corporate income tax subject to offset is determined by the following formula:

$$Z_{\text{НИ}} = B_3 \times 0,13,$$

where $Z_{\text{НИ}}$ is the amount of tax on profits of organizations, subject to offset;

B_3 is the basis for determining the amount of corporate income tax subject to offset. In this case, the indicator B_3 is taken equal to the smallest value of the following values:

the amount of income from equity participation in respect of which the tax amount is calculated;

the product of indicators K and D_2 ,

where K is the ratio of the amount of dividends to be distributed in favour of the taxpayer - a recipient of dividends to the total amount of dividends to be distributed by the Russian organization in favour of all recipients;

D_2 is the total amount of dividends received by a Russian organization, determined in accordance with the procedure established by paragraph 5 of Article 275 of this Code.

The procedure for offsetting corporate income tax established by this paragraph shall not apply to the amounts of tax calculated in relation to income in the form of dividends specified in subparagraph 1.1 of paragraph 1 of Article 208 of this Code.

The provisions of this paragraph shall also apply if the recipients of income in the form of dividends paid by a Russian organization to a foreign organization acting in the interests of third parties are individuals recognized as tax residents of the Russian Federation.

Article 224. Tax rates

1. The tax rate is set in the following amounts:

13 percent - if the amount of tax bases specified in paragraph 2.1 of Article 210 of this Code for the tax period is less than 5 million rubles or equal to 5 million rubles;

650 thousand rubles and 15 percent of the amount of tax bases specified in paragraph 2.1 of Article 210 of this Code, exceeding 5 million rubles - if the amount of tax bases specified in paragraph 2.1 of Article 210 of this Code for the tax period is more than 5 million rubles.

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3. The tax rate is set at 30 percent in respect of all income received by individuals who are not tax residents of the Russian Federation, with the exception of income received:

in the form of dividends from equity participation in the activities of Russian organizations, in respect of which the tax rate is set at 15 percent;

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Chapter 25. CORPORATE PROFIT TAX

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Article 275. Features of determining the tax base for income received from equity participation in other organizations

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4. The entity, recognized in accordance with this Code a tax agent in relation to income in the form of dividends on shares issued by Russian organization, determines the tax amount separately for each taxpayer for each payment of the specified income at tax rates provided for in this Code, in the manner prescribed by this Article.

5. The amount of tax to be withheld from income of a tax payer - a recipient of dividends, not referred to in paragraph 6 of this Article, shall be calculated by a tax agent in accordance with paragraph 4 of this Article as follows:

$$H = K \times C_H \times (\bar{D}_1 - \bar{D}_2),$$

where H is the amount of tax to be withheld;

K is the ratio of dividends to be distributed in favour of a taxpayer - a recipient of dividends to the total amount of dividends to be distributed by a Russian organization;

C_H is the tax rate established by subparagraphs 1 - 2 of paragraph 3 of Article 284 of this Code;

\bar{D}_1 is the total amount of dividends to be distributed by a Russian organization in favour of all recipients;

\bar{D}_2 is the total amount of dividends received by a Russian organization in the current reporting (tax) period and previous reporting (tax) period (excluding dividends specified in subparagraph 1 and 1.1 of paragraph 3 of Article 284 of this Code, dividends received from foreign organizations, the actual source of payment of which are Russian organizations to which the taxpayer has a de facto right and to which the tax rates established by subparagraphs 1 and 1.1 of paragraph 3 of Article 284 of this Code, as well as dividends specified in subparagraph 50.1 of paragraph 1 of Article 251 of this Code were applied) by the time of distribution of dividends in the benefit of taxpayers - recipients of dividends, provided that the specified amount of dividends was not previously taken into account when determining the amount of tax according to the formula provided for by this paragraph, and (or) when calculating the amount of offset of corporate income tax in accordance with paragraph 3.1 of Article 214 of this Code.

A Russian organization paying income in the form of dividends is obliged to provide the relevant tax agent with the values of indicators \bar{D}_1 and \bar{D}_2 in the manner prescribed by paragraphs 5.1 and (or) 5.2 of this Article.

If the value of H is negative, no tax liability arises and no refund from the budget is made.

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6. If an organization recognized as a tax agent in accordance with this Code pays income in the form of dividends to a foreign organization, the tax base of the taxpayer receiving dividends for each such payment is determined as the amount of dividends paid and the tax rate established by subparagraph 3 of paragraph 3 of Article 284 of this Code (unless other tax rates are provided for by an international treaty of the Russian Federation governing taxation issues).

If the recipients of dividend income paid to a foreign organization acting in the interests of third parties are organizations recognized as tax residents of the Russian Federation, the amount of tax withheld from the amount of such dividends is determined on the basis of paragraph 5 of this Article.

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Article 284. Tax rates

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3. The following tax rates are applied to the tax base determined by income received in the form of dividends:

1) 0 percent - on income received by Russian organizations in the form of dividends, provided that on the day of the decision to pay dividends (on the day of the decision to withdraw from the organization or liquidation of the organization, respectively), the organization receiving dividends for at least 365 calendar days continuously owns at least 50 percent contribution (shares) in the authorized (pooled) capital (fund) of the organization paying dividends or depositary receipts giving the right to receive dividends, in an amount corresponding to at least 50 percent of the total amount of dividends paid by the organization.

In this case, if the organization paying dividends is foreign, the tax rate established by this subparagraph is applied to organizations whose state of domicile is not included in the list of states and territories approved by the Ministry of Finance of the Russian Federation that provide a preferential tax regime of taxation and (or) do not provide disclosure and provision of information during financial transactions (offshore zones).

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2) 13 percent - on income received in the form of dividends from Russian and foreign organizations by Russian organizations not specified in subparagraph 1 of this paragraph, as well as on income in the form of dividends received on shares, the rights to which are certified by depositary receipts;

3) 15 percent - on income received by a foreign organization in the form of dividends on shares of Russian organizations, as well as dividends from participation in the capital of the organization in any other form.

In this case, the tax is calculated taking into account the specifics provided for by Article 275 of this Code.