



## THE AMERICAN CHAMBER OF COMMERCE IN SERBIA

### POSITION PAPER: NECESSITY OF A DOUBLE TAXATION AVOIDANCE TREATY BETWEEN THE UNITED STATES AND THE REPUBLIC OF SERBIA

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*With the support of:*



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## I. EXECUTIVE SUMMARY

**With the view to encourage United States and the Republic of Serbia to further improve international trade and investment, promote cooperation in enforcing and administering tax laws, promote information exchange, and to reduce or eliminate double taxation, the American Chamber of Commerce in Serbia (hereinafter: AmCham Serbia) proposes that the United States and the Republic of Serbia enter negotiations for conclusion of a Double Tax Avoidance Treaty on income and capital (hereinafter: "DTT").**

**This position paper lays out the following reasons supporting the conclusion of a US-Serbia DTT:**

**STIMULUS FOR BILATERAL CROSS BORDER INVESTMENTS AND TRADE.** The United States are among key investors in the Serbian economy, third by the value of projects and may be even more significant investment partner to Serbia than the official data shows. Over 600 companies operating in Serbia are of U.S. origin, employing over 20,000 people and investing over 4.5 billion EUR. As investors always favor stability of the regulatory regimes, especially in the area with the high impact on profitability such as taxation, DTT guarantees a stable taxation regime irrespective of the changes in national tax legislation of the signatory countries. Given that main benefits of the DTT are *pro futuro*, it might serve as an impetus for a more significant business exchange in many areas important for future economic development, such as ICT sector, green agenda, etc. Concluding a DTT would support existing and stimulate further and new investments and trade in services for both economies through reduced administrative and fiscal burdens.

**LEVEL PLAYING FIELD FOR U.S. COMPANIES COMPETING IN THE SERBIAN MARKET VIS A VIS COMPANIES FROM OTHER COUNTRIES WITH WHICH SERBIA HAS A DTT IN PLACE.** Under the current taxation regime, U.S. companies competing in the Serbian market directly from U.S., are at a disadvantage compared to companies from countries with which Serbia has a DTT in place. Serbia has a wide network of currently 63 DTTs worldwide (26 of which are EU Member States), including Asian leading economies such as China, Hong Kong, Japan, the Republic of Korea, and Singapore which are main global competitors to U.S. firms in specific industries. Non-discrimination clauses under a DTT would ensure for companies in U.S. and Serbia a tax treatment which puts them in the same position as other comparable residents in U.S. and Serbia, respectively, and would ensure level playing field with global competitors on the Serbian market.

**REDUCTION OF TAX BURDEN BENEFITING BUSINESS COMPETITIVENESS AND GROWTH.** By concluding a DTT, U.S. and Serbian businesses will benefit from a lower tax burden on cross border income and capital flows. DTTs are modelled to provide reduced withholding tax rates or tax exemptions on a range of income, especially on dividends, interest, and royalties, thus contributing to the competitiveness of U.S. firms in the Serbian market and vice versa. By looking into typical cases of U.S. – Serbian cross border transactions, it is evident that U.S. companies may substantially improve their competitiveness in key aspects of doing business on the Serbian market and generate more economic growth. Such illustrative cases are analyzed further in this paper and cover the following business scenarios:

- Cross-border provision of services - U.S. company without corporate presence in Serbia;
- U.S. companies with corporate presence – subsidiary – in Serbia; and
- U.S. investors in Serbian companies and start-ups.

**SPECIFIC SECTOR BENEFITS FROM A US-SRB DTT.** Serbian IT sector is growing, which leads to increasing cross-border investments and transaction flows in both directions. Lack of a DTT between the countries results in excessive withholding tax costs and double taxation. Considering the market growth and IT sector development in Serbia, it would be imperative to provide the U.S. and Serbian economies a fiscal cross-border framework through a DTT which would tap the potential for further growth and development of the IT and other prominent sectors.

**COMPETITIVE BENEFITS FOR U.S. COMPANIES WOULD EXTEND TO WESTERN BALKANS MARKETS.** Serbia is a regional HQ and a seat of choice for most of the U.S. multinational companies commercially present in the Western Balkans. DTT with Serbia would thus contribute to increasing competitiveness of U.S. businesses established in Serbia and operating in the whole Western Balkans region.

**EXCHANGE OF INFORMATION FOR BETTER ENFORCEMENT OF TAX RULES.** Conclusion of a DTT between United States and the Republic of Serbia will establish the framework, duties and obligations regarding the exchange of information relevant to the administration and enforcement of domestic U.S. and Serbian tax laws. Serbia is already a part of international tax initiatives, being a member of the OECD Global Forum on Transparency and Exchange of Information and the Inclusive Framework on BEPS (Base Erosion and Profit Shifting), signatory of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, and Serbia has in place a FATCA Intergovernmental Agreement with the US. Conclusion of DTT will allow both countries to secure information that can assist in combatting tax evasion and avoidance.

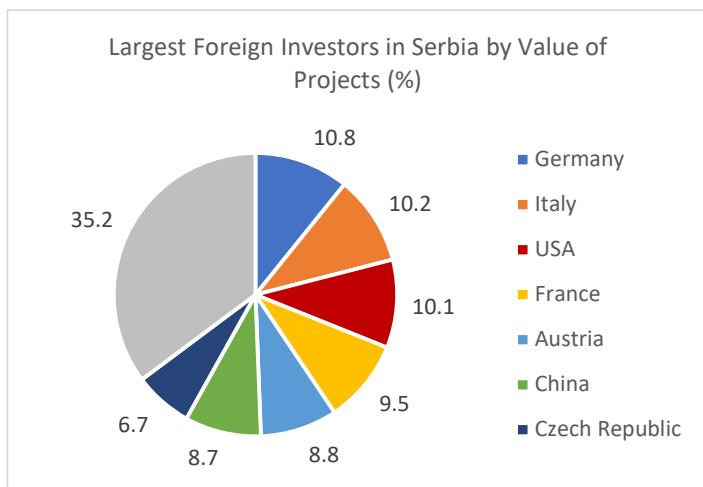
**TRANSPARENCY OF TAX SYSTEM AND PREVENTION OF TAX EVASION.** Worldwide, taxation systems are rapidly changing due to intensive implementation of BEPS related initiatives. Increased transparency requirements, with sharper focus on increasing effective tax rates, brings into focus clear rules and significance of legitimate structures through which business may operate. Putting in place additional DTTs would bring would help business boost through simplification and minimization of tax related risks.

**EFFICIENCY OF DTT MECHANISMS VS. UNILATERAL MEASURES.** Efficiency of tax credit mechanism is often questionable in practice due to various reasons (e.g. sometimes companies may not use tax credit due to losses in full or may use it only partially, benefits are not immediate due to credit claiming via tax return, allocations to sales persons are not direct etc.). Unilateral measures are last resort mechanisms of a country to provide a tax relief for its resident companies and provide a limited scope for providing such benefits. With a DTT in place, U.S. and Serbia would have more options available to incentivize further investments and economic growth of their residents since the DTT would provide immediate tax benefits. For example, a DTT would provide for a lower tax rate on royalties which would apply at the source country, whereas unilateral measures would have to offset a current withholding rate of 20%. Finally, DTT guarantees a stable taxation regime irrespective of the changes in national tax legislation of the signatory countries, therefore providing much needed predictability to the businesses on all sides.

## II. SUPPORTING ARGUMENTS

### A. STIMULATING BILATERAL INVESTMENTS AND TRADE IN SERVICES

*The United States are among the key investors in the Serbian economy and a future DTT would unlock greater potential for more investments and trade. As investors always favor stability of the regulatory regimes, especially in the area with the high impact on profitability such as taxation, DTT guarantees a stable taxation regime irrespective of the changes in national tax legislation of the signatory countries. Given that main benefits of the DTT are pro futuro, it might serve as an impetus for a more significant business exchange in many areas important for future economic development, such as ICT sector, green agenda etc.*



The purpose of DTTs is to stimulate investments and trade between countries due to tax benefits which reduce taxation and administrative burdens on cross-border flow of income and capital and therefore ease investments and business transactions between the two countries. Based on statistics of the Serbian Development Agency (RAS), the United States ranks as the 3<sup>rd</sup> largest investor by the value of projects, with 10.1% of share in total value of projects. Its investment projects are right behind Italy (10.2%) and Germany (10.8%). U.S. is also the 5<sup>th</sup> largest investor by the number of projects. However, the statistics possibly underrepresent US' scale of investments, due to the methodology under

which FDIs are measured in Serbia and absence of bilateral DTT. Investment data is gathered according to where the investing company is registered. In practice, and as a result of absence of DTT, American companies often invest through their subsidiaries in other countries with favorable tax treatment, with the Netherlands and Switzerland leading the way. Hence, there is a discrepancy between the registered investments and real investments made.

According to the U.S. Embassy in Belgrade, Serbia has become a key investment destination for U.S. companies in Europe. U.S. investments have surpassed investments of 4.5 billion USD and potential for new investments is greater with the view of rising interest in IT services and implementation of Open Balkan initiative which should unlock the potential of unified regional market. Current investments encompass large multination companies such as Philip Morris, Coca-Cola, Ball Corporation, Pepsi Co, Cooper Tires, NCR, Sitel, Van Drunen Farms, Johnsons Controls, ADM etc. while big tech names such as Microsoft, IBM, Oracle, Cisco, EMS, E-bay and Paypal also operate in Serbia. Since 2005, Microsoft has its own R&D center in Serbia and in recent years Serbian market is attracting analytic, software development/embedded software firms, AI firms and cloud computing in sectors such as e-health, energy management, blockchain, FinTech, gaming companies such as Take Two, Epic Games, Seven Bridges, Nutanix, FIS, Black Rock etc.

In the last 6 years Government of Serbia has demonstrated strong reform strides in e-Government and fostering e-business. This has resulted in significant rise in the demand of IT services. Provision of such services as well as related royalties are, in the absence of DTT, less competitive in comparison to those provided from the countries with which Serbia has DTT, as they are burdened with additional tax. This makes cross border provision of services for companies in U.S. less competitive for winning Government and business contracts, thus lowering the services trade between the two countries.

## B. LEVEL PLAYING FIELD FOR U.S. COMPANIES COMPETING IN THE SERBIAN MARKET VIS-A-VIS COMPANIES FROM OTHER COUNTRIES WITH WHICH SERBIA HAS A DTT IN PLACE.

*US companies are currently under a higher tax burden when investing, providing cross border services, and doing business in Serbia compared to investors from countries with which Serbia has a DTT in place. This puts them in an unequal position on the Serbian market and hinders further investments and business expansion. Non-discrimination clauses under a DTT would ensure for companies in U.S. and Serbia a tax treatment which puts them in the same position as other comparable residents in U.S. and Serbia, respectively, and would ensure level playing field with global competitors on the Serbian market.*

**Serbia has a wide network of currently 63 DTTs worldwide** (detailed overview of Serbian DTTs is provided in Appendix 1). This network includes Asian leading economies such as China, Hong Kong, Japan, the Republic of Korea, and Singapore (see Appendix 1). Under the current taxation regime, **U.S. companies competing in the Serbian market**, if they are not coming via country with which Serbia has a DTT, are at a disadvantage compared to companies from countries with which Serbia has a DTT in place. This is especially important for sectors in which there is fierce global competition between players from different parts of the world and is particularly important in the areas of e.g. IP protected services, investments in IT sector and different types of services (for a detailed explanation see next section).

## C. REDUCTION OF TAX BURDEN BENEFITING BUSINESS COMPETITIVENESS

*By entering into a DTT, U.S. and Serbian businesses will benefit from a lower tax burden on cross border income and capital flows, according to tax reliefs the DTT would envisage.*

**Under Serbian Corporate Income Tax Law, withholding tax (WHT) is calculated and paid at the rate of 20% on the following payments:** dividends and liquidation surplus, royalties, interest income, income from real-estate lease and other assets made to a non-resident, income from market research services, accounting and audit services, and other legal and business consulting services. In addition, conclusion of a DTT would eliminate double taxation and clarify taxation of U.S. and Serbian tax resident individuals moving between the two countries. **If a DTT between Serbia and the recipient country (in this case the U.S.) would be in place, it would provide for a reduced rate or exemption, and such income would be taxed under a more beneficial DTT regime.** In the table below DTT rates are shown in a range, considering rates prescribed under existing DTTs Serbia has in place.

Table 3: Overview of WHT tax rates under Serbian CIT and DTT regimes

Tax regime on cross border transaction	WHT		
	Dividends	Interest	Royalties
Non-DTT regime	20%	20%	20%
DTT regimes	0 – 15%	0 – 10%	0 – 10%

## ILLUSTRATIVE CASES OF TYPICAL U.S. – SERBIAN TRANSACTIONS WITHOUT AND WITH DTT

Below are three illustrative examples on potential fiscal benefits for U.S. companies from DTT regime on cross border transactions made from Serbia to the US. These examples are simplified, do not include various parafiscal and administrative charges, fees, and other expenses which impact the amount of potential income U.S. resident companies may gain from a DTT regime between U.S. and Serbia.

### 1. Cross-border provision of services - U.S. company without corporate presence in Serbia

***US consulting services and IP licensing companies are disadvantaged on the Serbian market in comparison to companies based in other countries which have a DTT in place in Serbia. Due to WHT which applies to US-Serbian cross border transactions, U.S. services and IP licenses are more expensive for Serbian resident companies since such transactions are taxed at 20% rate at source. In contrast, consulting services and IP licenses originating from countries with a DTT in place are not subject to the 20% WHT rate.***

A U.S. registered company is a provider of consulting services and licensing of software which the U.S. company owns. The company does not have a branch, representative office, nor other commercial presence in Serbia which would constitute a permanent establishment in Serbia. The U.S. company provides services and licenses the use of the software to the Serbian company. For simplicity purposes, the assumption is that the DTT provides for a 0% rate of WHT on nonresident services and royalties.

US consulting company's financial positions	No DTT	With a DTT in place
	US\$ '000	US\$ '000
Income	1,000	1,000
Expenses	200	200
Gross consulting fee received from Serbian company	500	500
Serbian WHT on interest payments (20%)	-100	0
Gross royalties received from Serbian company	500	500
Serbian WHT on royalty payments (20%)	-100	0
<b>Total Serbian WHT paid</b>	<b>200</b>	<b>0</b>
<b>Total tax paid in Serbia</b>	<b>200</b>	<b>0</b>
<b>Pre-tax profit in the U.S. after deduction of Serbian WHT</b>	<b>600</b>	<b>800</b>

### 2. U.S. companies with corporate presence – subsidiary – in Serbia

A Serbian registered company (hereinafter: **Serbian Co.**) is 100% owned by a U.S. registered company (hereinafter: **U.S. Co.**). Serbian Co. has its place of management in Serbia. Serbian Co. pays income tax in Serbia at the rate of 15%. Parafiscal charges and any other applicable taxes were not considered in the calculation. Serbian Co. makes three payments a year to the U.S. Co. in the U.S.: dividends, interest, and royalties. In the absence of a DTT, dividends, interest and royalties are subject to withholding tax at the rate of 20%, which is paid by the Serbian Co., and only the net amount after tax can be paid to the U.S. Co.

For simplicity purposes, the assumption is that the DTT envisages a 0% rate of WHT on cross border payment of interest, royalties, and dividends.

US-owned Serbian LLC's financial positions	No DTT	With a DTT in place
	US\$ '000	US\$ '000
Income	1000	1000
Expenses	500	500
Gross interest paid to the U.S. Co. parent company	100	100
Serbian WHT on interest payments (20%)	20	0
Gross royalties paid to the U.S. Co. parent company	100	100
Serbian WHT on royalty payments (20%)	20	0
<b>Pre-tax profit</b>	<b>260</b>	<b>300</b>
Serbian corporate income tax (15%)	39	45
<b>Net profit</b>	<b>221</b>	<b>255</b>
<b>Gross dividends paid to the U.S. Co. parent company</b>	<b>221</b>	<b>255</b>
Serbian WHT on dividend payments (20%)	36.8	0
Net dividends paid to the U.S. Co. parent company	184.2	255
<b>Total Serbian corporate income tax paid</b>	<b>39</b>	<b>45</b>
<b>Total Serbian WHT paid</b>	<b>76.8</b>	<b>0</b>
<b>Total tax paid in Serbia</b>	<b>115.8</b>	<b>45</b>

### 3. U.S. investors in Serbian companies and start-ups

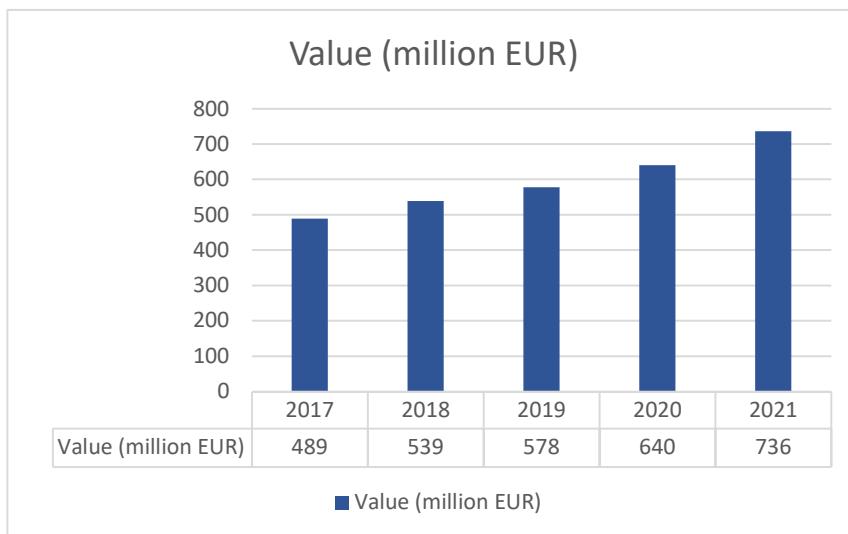
**U.S. investment funds or similar investors are disadvantaged on the Serbian market in comparison to investors based in other countries which have a DTT in place with Serbia. Due to WHT which applies to US-Serbian cross border transactions, U.S. investments are less profitable since dividends and capital gains are taxed at 20% rate at source. In contrast, investments originating from countries with a DTT in place are subject to lower tax rate to dividend payments, while and as far as taxation of capital gains is concerned a DTT may provide a non-taxation in Serbia at all, depending on the respective DTTs.**

A U.S. Co. registered company has its place of management in the United States. U.S. Co. is an investment company and owns shares in companies registered in Serbia. U.S. Co. holds these shares for a period of five years after which it sells shares to third parties and makes a capital gain from these transactions. For simplicity, U.S. Co. only income comes from dividends held in Serbian companies and capital gains from sale of shares in Serbian companies. For simplicity purposes, the assumption is that the DTT exempts WHT on cross border payment of capital gains, with the full amount being paid to the U.S. Co.

US investor's financial position from the investment into Serbian Co.	No DTT	With a DTT in place
	US\$ '000	US\$ '000
Pre-tax profit Serbian Co.	500	500
Serbian corporate income tax	75	75
<b>Net profit Serbian Co.</b>	<b>425</b>	<b>425</b>
Gross dividends paid to the U.S. Co.	425	425
Serbian WHT on dividend payments (20%)	70.8	0
Net dividends paid to the U.S. Co.	354.2	425
Gross capital gain from sale of shares in Serbian Co.	1000	1000
Serbian WHT on capital gains (20%)	200	0
<b>Total Serbian corporate income tax paid in Serbia</b>	<b>75</b>	<b>75</b>
<b>Total Serbian WHT paid in Serbia</b>	<b>270.8</b>	<b>0</b>
<b>Total tax paid in Serbia</b>	<b>345.8</b>	<b>75</b>
<b>Pre-tax profit of the U.S. Co. investor</b>	<b>1154.2</b>	<b>1425</b>

#### D. SPECIFIC SECTOR BENEFITS FROM A U.S. - SRB DTT

*Serbian IT sector is growing, which leads to increasing cross-border investments and transaction flows in both directions. Lack of a DTT between the countries results in excessive withholding tax costs and double taxation, restricting competitiveness of IT solutions in both markets by making them more costly for the buyers. Considering the market growth and IT sector development in Serbia, it would be imperative to provide the U.S. and Serbian economies a fiscal cross-border framework through a DTT which would tap the potential for further growth and development of the IT and other prominent sectors.*



Serbian IT Market and Growth 2017 – 2021. Source: Vojvodina ICT Cluster

procurement and raise in domestic IT services prices which often used to be below 50% of what their counterparts in Europe charged for similar services.

In the period 2017 – 2021, Serbian IT market records a double-digit average growth and in 2021 was at maximum level of €736 million. Considering the unfavorable circumstances of global pandemic and volatile international situation from the start of 2022, domestic market exhibits extraordinary stability.

In the period 2016-2021, IT services segment of Serbian market almost doubled. The average annual growth rate was 13.3% and this growth can be attributed to strengthening of the economy, increased public

Due to strong growth of the Serbian IT sector over the last decade and similar global trends, and the availability of well-educated and competitive talent pool, there is an increasing number of U.S. based technology companies that are setting up their presence in Serbia (R&D centers, service hubs and similar) or acquiring established, successful, and aspiring global businesses that are based in Serbia. Likewise, there is a growing number of Serbian businesses setting up their presence in the U.S. to get better access to the U.S. market and sources of financing necessary to support their rapid growth. The cross-border flow of services and software license fees in this sector between the U.S. and Serbia is also steadily growing. Issues that arise from a tax perspective are often related to unilateral application of withholding tax regimes of both countries and lack of mechanism to alleviate the resulting double taxation and excessive tax burden.

According to the National Bank of Serbia, exports of computer services grew at a rate of 30% and amounted to €1.73 billion, while imports grew at a lower rate (8%) and reached €440 million. The positive balance in the export of computer services in 2021 amounted to €1.29 billion, which is an increase of 40% compared to 2020.



Serbian IT Export 2007 – 2021. Source: Vojvodina ICT Cluster

Serbia's share in global exports of IT services is currently estimated at about 0.4% of world exports and there is plenty of room for further growth. There is a strong trend of continuous growth of global demand for IT services, followed by rising prices of those services, indicating significant potential for more investments and long-term business planning due to sustainable growth of the Serbian IT market.

Serbian Government digitalization is advancing with significant long-term projects announced in the area of e-health, e-justice, 5G, international trade as well as fostering electronic transformation and linkages in the Western Balkans through Open Balkan and other initiatives. It is also planning development of R&D hub related to biotechnology, development of AI capabilities fostering digital revolution in medicine, agriculture, energy, etc. generating demand for advanced technological solutions and their servicing.

**Elimination of double taxation and clear allocation of taxing rights between the countries via the DTT mechanisms would remove the excessive tax burden and tax issues affecting this sector and facilitate further growth. Having a DTT would make less expensive U.S. consulting services and software for Serbian corporate users. By the same token, U.S. companies and their IP protected solutions would be more competitive in bidding for Serbian Government contracts in supplying advanced technological solutions and providing service agreements.**

## E. COMPETITIVE BENEFITS FOR U.S. COMPANIES EXTEND TO WESTERN BALKANS MARKET

***Serbia is a regional HQ and a seat of choice for most of the U.S. multinational companies commercially present in the Western Balkans. DTT with Serbia would thus contribute to increasing competitiveness of U.S. businesses established in Serbia and operating in the whole Western Balkans region.***

Serbia is a business and technology hub in the Western Balkans region, with prominent U.S. companies having their regional headquarters in Belgrade, such as PMI, Microsoft, Coca-Cola, NCR, IBM, Oracle, Cisco, Pepsi Co, Ball Corporation, and other prominent U.S. multinational enterprises. Serbia is part of the Open Balkan Initiative, (also CEFTA free trade agreement, Berlin Process) and has DTT network with the whole region, with

the goal of integrating economies in the Western Balkan into an economic bloc for free movement of people, goods, capital, and services on the market of approximately 20 million people and \$110 billion. With DTT in Serbia in place, most of the competitive benefits for U.S. companies would be extended to the whole region of Western Balkans markets.

## F. EXCHANGE OF INFORMATION FOR TAX PURPOSES

***Through exchange of information and assistance in collection of taxes, tax administrations can assist each other in ensuring the proper application of tax treaties and enforcement of domestic laws. Serbia is a part of international tax initiatives, being a member of the OECD Global Forum on Transparency and Exchange of Information and the Inclusive Framework on BEPS (Base Erosion and Profit Shifting), signatory of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, and Serbia has in place a FATCA Intergovernmental Agreement with the US.***

Improved co-operation between tax administrations has been a key focus of international tax work in recent years. As noted in the OECD Manual on Exchange of Information, “the efficient functioning of tax co-operation helps to ensure that taxpayers who have access to cross-border transactions do not also have access to greater tax evasion and avoidance possibilities than taxpayers operating only in their domestic market. Co-operation in tax matters also reflects the basic principle that participation in the global economy carries both benefits and responsibilities. The continued viability of an open world economy depends on international co-operation, including co-operation in tax matters.”

DTTs authorize and require the competent authorities of contracting countries to exchange tax information that is “foreseeably relevant” to the application of either the treaty or domestic tax laws. Such information may relate to a specific taxpayer, or may be more general, e.g. information about particular industries or abusive tax avoidance schemes.

Tax treaties help tax administrations to ensure that taxpayers do not escape taxation by moving capital abroad, or by not declaring income earned abroad, or by participating in abusive tax avoidance schemes. Exchange of information and, where provided, assistance in the collection of tax debts, help to protect the revenue and to ensure the integrity of the tax system in both countries.

## G. TRANSPARENCY OF TAX SYSTEM AND PREVENTION OF TAX EVASION

***BEPS related initiatives that are focused on increased transparency and increasing effective tax rates, bring into focus clear rules and expanding DTT networks.***

Worldwide, taxation systems are rapidly changing due to intensive implementation of BEPS related initiatives. All these initiatives are focused on establishing more fair taxation systems that support sustainability and where corporations need to pay their fair share of tax.

In that regard, many anti-abuse initiatives are taking places, and taxpayers are required to transparently disclose to tax authorities their business set-ups, value chains, allocations of assets, people, and profits.

These all is followed by minimum taxation rules, introduced by BEPS 2.0 that are expected to impact currently existing corporate structures and increase effective income tax rates.

Increased transparency requirements, with sharper focus on increasing effective tax rates, brings into focus clear rules and significance of legitimate structures through which business may operate. Putting in place additional DTTs would help business boost through simplification and minimization of tax related risks.

## H. EFFICIENCY OF DTT MECHANISMS VS. UNILATERAL MEASURES

*Efficiency of unilateral tax credit mechanism is often questionable in practice. Unilateral measures are last resort mechanisms of a country to provide a tax relief for its resident companies and provide a limited scope for providing such benefits. With a DTT in place, U.S. and Serbia would have more options available to incentivize further investments and economic growth of their residents since the DTT would provide immediate tax benefits. For example, a DTT would provide for a lower tax rate on royalties which would apply at the source country, whereas unilateral measures would have to offset a current withholding rate of 20%. DTT guarantees a stable taxation regime irrespective of the changes in national tax legislation of the signatory countries.*

Though we understand that U.S. applies unilaterally a mechanism that allows crediting for foreign tax, please note that the efficiency of this mechanism is often questionable in practice due to various reasons (e.g. sometimes companies may not use tax credit due to losses in full or may use it partially, benefits are not immediate due to credit claiming via tax return, allocations to sales persons are not direct etc.).

Unlike the DTT regime, unilateral measures of one country are dependent of the national tax legislation in the other country, i.e. a change in tax regime in the source country (Serbia) by raising tax rates may leave the unilateral measure of the country of residence (U.S.) inefficient. The DTT regime is not dependent of national legislation and thus does not change in the event of changes in the taxation regime of its signatories, e.g. if a source country would raise its withholding taxes on royalties this change would not apply to the DTT envisaged rates for the country of residence.

## APPENDIX 1 – SERBIAN DTT NETWORK

Below is the overview of the DTTs Serbia has in place do date.

### I SERBIAN DTT NETWORK

No.	COUNTRY	SCOPE OF THE AGREEMENT	DATE OF CONCLUSION	ENTRY INTO FORCE	EFFECTIVE DATE
1.	Armenia	Income and capital	10. 03. 2014.	03. 11. 2016.	01. 01. 2017.
2.	Azerbaijan	Income and capital	13. 05. 2010.	01. 12. 2010.	01. 01. 2011.
3.	Albania	Income and capital	22. 12. 2004.	17. 11. 2005.	01. 01. 2006.
4.	Austria	Income and capital	07. 05. 2010.	17. 12. 2010.	01. 01. 2011.
5.	Belarus	Income and capital	30. 01. 1998.	24. 11. 1998.	01. 01. 1999.
6.	Belgium	Income and capital	21. 11. 1980.	26. 05. 1983.	01. 01. 1984.
7.	Bosnia and Herzegovina	Income and capital	26. 05. 2004.	02. 06. 2005.	01. 01. 2006.
8.	Bulgaria	Income and capital	14. 12. 1998.	10. 01. 2000.	01. 01. 2001.
9.	Canada	Income and capital	27. 04. 2012.	31. 10. 2013.	01. 01. 2014.
10.	China <i>(New treaty)</i>	Income and capital	21. 03. 1997.	01. 01. 1998.	01. 01. 1998.
11.	Croatia	Income and capital	14. 12. 2001.	22. 04. 2004.	01. 01. 2005.
12.	Cyprus	Income and capital	29. 06. 1985.	30. 01. 1986.	01. 01. 1987.
13.	Czech Republic <i>(New treaty)</i>	Income and capital	11. 11. 2004.	27. 06. 2005.	01. 01. 2006.
13.	Czech Republic <i>(Amending Protocol)</i>	Income and capital	08. 09. 2009.	28. 02. 2011.	01. 01. 2012.
14.	Denmark <i>(New treaty)</i>	Income and capital	15. 05. 2009.	24. 12. 2009.	01. 01. 2010.
15.	Egypt <i>(New treaty)</i>	Income	31. 07. 2005.	05. 04. 2006.	01. 01. 2007.
16.	Estonia	Income	25. 09. 2009.	14. 06. 2010.	01. 01. 2011.
17.	Finland	Income and capital	08. 05. 1986.	18. 12. 1987.	01. 01. 1988.
18.	France	Income	28. 03. 1974.	01. 08. 1975.	01. 01. 1975.
19.	Georgia	Income and capital	04. 04. 2012.	09. 01. 2013.	01. 01. 2014.
20.	Germany	Income and capital	26. 03. 1987.	03. 12. 1988.	01. 01. 1989.
21.	Greece	Income and capital	25. 06. 1997.	08. 06. 2010.	01. 01. 2011.
21.	Greece <i>(Amending Protocol)</i>	Income and capital	11. 11. 2008.	08. 06. 2010.	01. 01. 2011.
22.	Hong Kong	Income and capital	14. 08. 2020. и 27. 08. 2020.	30. 12. 2020.	01. 01. 2021.
23.	Hungary <i>(New treaty)</i>	Income and capital	20. 06. 2001.	13. 12. 2002.	01. 01. 2003.
24.	India	Income and capital	08. 02. 2006.	23. 09. 2008.	01. 01. 2009.

25.	Indonesia	Income	28. 02. 2011.	13. 12. 2018.	01. 01. 2019.
26.	Iran	Income and capital	07. 12. 2004.	16. 12. 2011.	01. 01. 2012.
27.	Ireland	Income	23. 09. 2009.	16. 06. 2010.	01. 01. 2011.
28.	Israel	Income	22. 11. 2018.	25. 10. 2019.	01. 01. 2020.
29.	Italy	Income and capital	24. 02. 1982.	03. 07. 1985.	01. 01. 1986.
30.	Japan	Income	21. 07. 2020.	05. 12. 2021.	01. 01. 2022.
31.	Kazakhstan	Income and capital	28. 08. 2015.	24. 11. 2016.	01. 01. 2017.
32.	Korea (DPR)	Income and capital	25. 12. 2000.	05. 06. 2001.	01. 01. 2002.
33.	Korea (Rep.)	Income	22. 01. 2016.	17. 11. 2016.	01. 01. 2017.
34.	Kuwait	Income and capital	02. 04. 2002.	08. 05. 2003.	01. 01. 2004.
35.	Latvia	Income and capital	22. 11. 2005.	19. 05. 2006.	01. 01. 2007.
36.	Libya	Income	12. 11. 2009.	08. 06. 2010.	01. 01. 2011.
37.	Lithuania	Income and capital	28. 08. 2007.	12. 06. 2009.	01. 01. 2010.
38.	Luxembourg	Income and capital	15. 12. 2015.	27. 12. 2016.	01. 01. 2017.
39.	Macedonia	Income and capital	04. 09. 1996.	22. 07. 1997.	01. 01. 1998.
40.	Malta	Income	09. 09. 2009.	16. 06. 2010.	01. 01. 2011.
41.	Moldova	Income and property	09. 06. 2005.	23. 05. 2006.	01. 01. 2007.
42.	Montenegro	Income	20. 07. 2011.	21. 12. 2011.	01. 01. 2012.
43.	Morocco	Income	06. 06. 2013.	19. 04. 2022.	01. 01. 2023.
44.	Netherlands	Income and capital	22. 02. 1982.	06. 02. 1983.	01. 01. 1984.
45.	Norway (New treaty)	Income	17. 06. 2015.	18. 12. 2015.	01. 01. 2016.
46.	Pakistan	Income	21. 05. 2010.	21. 10. 2010.	01. 01. 2011.
47.	Poland (New treaty)	Income and capital	12. 06. 1997.	17. 06. 1998.	01. 01. 1999.
48.	Qatar	Income	02. 10. 2009.	09. 12. 2010.	01. 01. 2011.
49.	Romania (New treaty)	Income and capital	16. 05. 1996.	01. 01. 1998.	01. 01. 1998.
50.	Russian Federation	Income and capital	12. 10. 1995.	09. 07. 1997.	01. 01. 1998.
51.	San Marino	Income	16. 04. 2018.	08. 10. 2018.	01. 01. 2019.
52.	Singapore	Income	26. 02. 2021 and 05. 04. 2021.	16. 08. 2021.	01. 01. 2022.
53.	Slovak Republic	Income and capital	26. 02. 2001.	15. 10. 2001.	01. 01. 2002.
54.	Slovenia	Income and capital	11. 06. 2003.	31. 12. 2003.	01. 01. 2004.
55.	SriLanka	Income and capital	07. 05. 1985.	22. 03. 1986.	01. 01. 1987.
56.	Spain	Income and capital	09. 03. 2009.	28. 03. 2010.	01. 01. 2011.
57.	Sweden	Income and capital	18. 06. 1980.	16. 12. 1981.	01. 01. 1982.
58.	Switzerland	Income and capital	13. 04. 2005.	05. 05. 2006.	01. 01. 2007.
59.	Tunisia	Income and capital	11. 04. 2012.	03. 06. 2013.	01. 01. 2014.
60.	Turkey	Income and capital	12. 10. 2005.	10. 08. 2007.	01. 01. 2008.
61.	Ukraine	Income and capital	22. 03. 2001.	29. 11. 2001.	01. 01. 2002.
62.	United Arab Emirates	Income	13. 01. 2013.	02. 07. 2013.	01. 08. 2013.
63.	United Kingdom	Income	06. 11. 1981.	16. 09. 1982.	01. 01. 1983.
64.	Vietnam	Income	01. 03. 2013.	18. 10. 2013.	01. 01. 2014.

## II SIGNED TREATIES (*not ratified*)

Ghana<sup>1</sup>

Guinea<sup>2</sup>

Palestine<sup>3</sup>

Phillipines<sup>4</sup>

Zimbabwe<sup>5</sup>

## III AGREED (Initialled) TREATIES (*not signed*)

Country	Scope of the Convention
Algeria	income and capital
Botswana	income
Jordan	income and capital
Oman	income and capital
Republic of South Africa	income and capital
Zambia	income and capital

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<sup>1</sup> Not ratified by Ghana

<sup>2</sup> Not ratified by Guinea

<sup>3</sup> Not ratified by Palestine

<sup>4</sup> Not ratified by Philippines

<sup>5</sup> Not ratified by Zimbabwe

**IV TAXATION OF DIVIDENDS, INTEREST AND ROYALTIES**  
**DTT chart: Dividends, Interest and Royalties**

No:	Country	Rate <sup>6</sup> <i>(to be applied on the gross amount of the dividends)</i>	Rate <sup>7</sup> <i>(to be applied on the gross amount of the interest)</i>	Rate <sup>8</sup> <i>(to be applied on the gross amount of the royalties)</i>
1.	Armenia	8	8	8
2.	Azerbaijan	10	10	10
3.	Albania	5/15	10	10
4.	Austria	5/15	10	5/10
5.	Belarus	5/15	8	10
6.	Belgium	10/15	15	10
7.	Bosnia and Herzegovina	5/10	10	10
8.	Bulgaria	5/15	10	10
9.	Canada	5/15	10	10
10.	China	5	10	10
11.	Croatia	5/10	10	10
12.	Cyprus	10	10	10
13.	Czech Republic	10	10	5/10
14.	Denmark	5/15	10	10
15.	Egypt	5/15	15	15
16.	Estonia	5/10	10	5/10
17.	Finland	5/15	-	10
18.	France	5/15	-	-
19.	Georgia	5/10	10	10
20.	Germany	15	-	10
21.	Greece	5/15	10	10
22.	Hong Kong	5/10	10	5/10
23.	Hungary	5/15	10	10
24.	India	5/15	10	10

<sup>6</sup>If the recipient company holds at least 25% (*5% in DTA with the United Arab Emirates; 20% in DTA with Switzerland*) of the paying company, the lower of the two rates shown applies.

<sup>7</sup>Agreements with the following countries have 0% withholding rate on interest derived and beneficially owned by the Government of the other Contracting State, including any political subdivision or local authority thereof, the Central Bank or any financial institution wholly or principally owned by that Government (*wording is not always the same*): Azerbaijan; Austria; Canada; China; Czech Republic; Denmark; Estonia; Georgia; Iran; India; Indonesia; Ireland; Israel; Hong Kong; Japan; Kazakhstan; Korea (*Rep.*); Kuwait; Latvia; Libya; Lithuania; Luxembourg; Malta; Montenegro; Morocco; Pakistan; Qatar; San Marino; Singapore; Slovenia; Turkey; Spain; Ukraine and United Arab Emirates.

<sup>8</sup>Rate for royalty tax differs depending on kind of royalty paid (patents, know how, copyright, etc.) - 5 per cent rate applies to intellectual property, and 10 per cent rate applies to industrial property.

25.	Indonesia	15	10	15
26.	Iran	10	10	10
27.	Ireland	5/10	10	5/10
28.	Israel	5/15	10	5/10
29.	Italy	10	10	10
30.	Japan	5/10	10	5/10
31.	Kazakhstan	10/15	10	10
32.	Korea (DPR)	10	10	10
33.	Korea (Rep.)	5/10	10	5/10
34.	Kuwait	5/10	10	10
35.	Latvia	5/10	10	5/10
36.	Libya	5/10	10	10
37.	Lithuania	5/10	10	10
38.	Luxembourg	5/10	10	5/10
39.	Macedonia (FYROM)	5/15	10	10
40.	Malta	5/10 <sup>9</sup>	10	5/10
41.	Moldova	5/15	10	10
42.	Montenegro	10	10	5/10
43.	Morocco	10	10	10
44.	Netherlands	5/15	-	10
45.	Norway	5/15	10	5/10
46.	Pakistan	10	10	10
47.	Poland	5/15	10	10
48.	Qatar	5/10	10	10
49.	Romania	10	10	10
50.	Russian Federation	5/15 <sup>10</sup>	10	10
51.	San Marino	5/10	10	10
52.	Singapore	5/10 <sup>11</sup>	10	5/10
53.	Slovak Republic	5/15	10	10
54.	Slovenia	5/10	10	5/10
55.	Sri Lanka	12.50	10	10
56.	Spain	5/10	10	5/10
57.	Sweden	5/15	-	-
58.	Switzerland	5/15	10	10 or 0 <sup>12</sup>
59.	Tunisia	10	10	10
60.	Turkey	5/15	10	10

<sup>9</sup>5% or 10% rates apply only where the dividends are paid by a resident of Serbia to a resident of Malta.

However, where the dividends are paid by a company which is a resident of Malta to a resident of Serbia, Malta tax on the gross amount of the dividends shall not exceed that chargeable on the profits out of which the dividends are paid.

<sup>10</sup>Lower rate for dividends tax applies to the companies receiving dividends and having at least 25% shares in the company

which is paying dividends and the higher rate to the companies receiving dividends and having less than 25% shares. In addition to the mentioned share percent, for applying lower rate, it is also required that is invested at least 100,000 \$ by one who is receiving dividends.

<sup>11</sup>Dividends arising in a Contracting State and paid to the Government of the other Contracting State shall be taxable only in that other State.

<sup>12</sup>Provided by the Protocol

61.	Ukraine	5/10	10	10
62.	United Arab Emirates	5/10 <sup>13</sup>	10	10
63.	United Kingdom	5/15	10	10
64.	Vietnam	10/15	10	10

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<sup>13</sup>Dividends arising in a Contracting State and paid to the Government of the other Contracting State shall be taxable only in that other State.