

AMERICAN CHAMBER OF COMMERCE IN BULGARIA

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Public Affairs Committee

US-Bulgaria Double Tax Treaty (DTT) Update

Report by Ken Lefkowitz

June 15, 2006

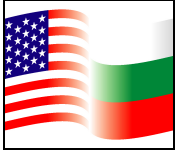
The Issue

AmCham has lobbied actively and successfully for the re-launch of negotiations on a US-Bulgaria DTT. In Europe, only former Yugoslavia, Albania, and Bulgaria still do not have DTTs with the US. In view of the outstanding political and military cooperation between Bulgaria and the US, and the rapidly growing volume of US investment in Bulgaria, such a treaty is now a necessity and the two sides have launched negotiations. A detailed position paper is available on the AmCham home page.

A key requirement of the US side is that Bulgaria adopt legislative amendments allowing the Bulgarian tax authorities to collect certain information from Bulgarian banks and other financial institutions pursuant to a formal request from the U.S. under the treaty.

Recent Developments

- The first round of treaty negotiations took place in February 2006 in Washington. Both sides viewed this round as a success. The level of withholding rates discussed is generally favorable -- 5% on interest, and 5% on dividends on stakes of greater than 10% in a company, otherwise 15% on dividends, but with many zero-rate exceptions. The withholding rate for royalties is still under discussion. The list of issues for further discussion in the second round is quite small.
- The Bulgarian Finance Ministry has drafted the necessary legislative amendments concerning information requests under the treaty. These amendments affect the Law on Banks, the Law on Public Offering of Securities, and the Tax and Social Security Code. As of May 30, the amendments were on the desk of the Finance Minister, awaiting his signature for submission to the Council of Ministers for consideration.
- In parallel, however, the Bulgarian National Bank (BNB) has submitted to Parliament a draft Law on Financial Institutions, to replace the existing Law on Banks. This draft law does not include the information-sharing provisions relevant to the DTT, because the BNB has not coordinated with the Finance Ministry on tax considerations. Iskra Slavcheva, who leads the negotiations on behalf of the Finance Ministry, assured us that the Ministry would take care to propose the necessary changes to the draft Law on Financial Institutions.
- There was a possibility on the Bulgarian side to schedule a second round of negotiations already in June, but the round currently is scheduled for October. We have understood from the Finance Ministry that the next opening for the second round of negotiations would be in September. Given the upcoming U.S.



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congressional elections and Bulgarian presidential elections, and given the significant increase in US investment in Bulgaria in the past year (*e.g.*, AES, Alcoa, New Image, Tischman, GE Capital, etc.), there is a concern about the possible loss of momentum on the negotiations. Therefore we have initiated contacts in Congress, starting with Barbara Cubin (R-Wyoming) to urge Treasury to consider a second round in September.

- On June 14, the U.S. Chamber of Commerce, our umbrella organization in Washington, contacted us to inform us that Harry Hicks, Tax Counsel at Treasury had called to report that the treaty “is being worked on very actively on our side.” According to Hicks, Treasury is optimistic about the outcome.