

Serbia-Vietnam

Date this Convention is Modified by the MLI (Enters into Force):

September 1, 2023

MLI instrument of ratification deposited (Serbia): June 5, 2018

MLI instrument of ratification deposited (Vietnam): May 23, 2023

MLI effective date, withholding taxes (Serbia and Vietnam): January 1, 2024

MLI effective date, all other taxes (Serbia): March 1, 2024

MLI effective date, all other taxes (Vietnam): January 1, 2025

Editor's Note. This summary is based on the MLI positions submitted to the Depositary upon the deposit of the ratification instruments by Serbia and Vietnam, and does not constitute business, legal, tax, or other professional advice or services. It is intended only to provide a general guide. In applying the MLI provisions to this treaty, researchers should ensure they review other relevant MLI sources. Please see the Bloomberg Tax [MLI Watch](#) page for further research.

Purpose of a Covered Tax Agreement (MLI Article 6).

According to MLI Art. 6(2), to meet the minimum standard, the text of MLI Art. 6(1), indicating the intent to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty shopping arrangements, replaces the notified preamble language of this Convention. The optional language of MLI Art. 6(3), indicating a desire to develop an economic relationship and to enhance cooperation in tax matters is also included in this Convention.

Prevention of Treaty Abuse (MLI Article 7). According to MLI Art. 7(2), the Principal Purpose Test (PPT) provision of MLI Art. 7(1), that denies benefits that would otherwise be provided where the principal purpose or one of the principal purposes of any arrangement or transaction was to obtain those benefits, applies and supersedes the provisions of this Convention to the extent of incompatibility (i.e. the PPT provision is added to this Convention) to meet the minimum standard. The optional additional language of MLI Art. 7(4) does not apply. The Simplified Limitation on Benefits Provision (S-LOB) does not apply.

Artificial Avoidance of Permanent Establishment Status through Commissionaire Arrangements and Similar Strategies (MLI Article 12). [Note: The OECD MLI Matching Database has indicated a possible notification mismatch which requires confirmation as to whether both jurisdictions have notified the same provision under MLI Art. 12(5)). Bloomberg Tax analysts are unclear on what the mismatch would be, as both Serbia and Vietnam notified Art. 5(5)(1). The following discussion assumes there is no mismatch. If it is determined there is a mismatch, MLI Art. 12(1) does not apply to this Convention.]

According to MLI Art. 12(3), the provision of MLI Art. 12(1), which expands the definition of dependent agent to include situations where a person, acting on behalf of an enterprise, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts, without material modifications by the enterprise, replaces Art. 5(5)(1) of this Convention. In addition, the provision of MLI Art. 12(2), which restricts the definition of independent agent to exclude persons acting exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, replaces Art. 5(7) of this Convention.

Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions (MLI Article 13).

According to MLI Art. 13(5)(a), Option A under MLI Art. 13(2), which preserves the specific activity exemptions only if the specific activity or, where there is a combination of such activities, the overall activity, is of a preparatory or auxiliary character applies, changing the application of Art. 5(4) of this Convention.

According to MLI Art. 13(5)(b), the anti-fragmentation rule of MLI Art. 13(4) applies, changing the application of Art. 5(4) of this Convention without replacing it.

Definition of a Person Closely Related to an Enterprise (MLI Article 15).

The definition of a person closely related to enterprise in MLI Art. 15(1) applies for the purposes of Art. 5(4) of this Convention (as modified by the anti-fragmentation rule of MLI Art. 13(4)) and Art. 5(7) of this Convention (as modified by the provision addressing independent agents, acting in the ordinary course of their business of MLI Art. 12(2)).

Mutual Agreement Procedure (MLI Article 16). The first sentence of MLI Art. 16(1), providing that a person may present a case to the competent authority of either jurisdiction, does not apply as both Serbia and Vietnam intend to meet the minimum standard through other measures.

The remaining provisions of this Convention relating to dispute resolution are retained as they are considered consistent in content with the provisions of MLI Art. 16(1)(second sentence), MLI Art. 16(2), and MLI Art. 16(3), and meet the minimum standard.