Cyprus expands treaty network as of 1 January 2020

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Executive summary

Cyprus' Double Tax Treaty network has been further expanded with two new tax treaties between Cyprus and Andorra and the Kingdom of Saudi Arabia, respectively. In addition, a Protocol amending the existing treaty with Ukraine is also effective.

This Alert summarizes the key provisions of the new treaties and amending Protocol which are in effect as of 1 January 2020.

Detailed discussion

Treaty with Andorra

The Treaty provides for 0% withholding tax on dividends, interest and royalties if the beneficial owner of the income is a resident of the other country.

In general, capital gains are taxable only in the Contracting State in which the alienator is resident except for gains relating to immovable property and gains from the alienation of movable property of a permanent establishment (PE). However, capital gains arising from the sale of shares in real estate rich companies (i.e., shares deriving more than 50% of their value, directly or indirectly, from immovable property) may also be taxed in the source state, except for shares listed on a recognized stock exchange, where the alienator at all times during the 12-month period preceding such alienation held, directly or indirectly, not more than 25% of the capital of the company whose shares are alienated.

Article 27 of the Treaty includes a principal purpose test whereby a benefit under the Treaty shall not be granted in respect of an item of income if it is reasonable to conclude, considering all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the objective and purpose of the relevant provisions of the Treaty.

The Treaty also includes an article on taxation of offshore activities in connection the exploration and exploitation of the seabed or subsoil of their natural resources which overrides any other provisions of the Treaty.

The Treaty between Cyprus and Andorra is effective as from 1 January 2020 for both Cyprus and Andorra.

Treaty with the Kingdom of Saudi Arabia

The Treaty provides for no withholding tax on dividends if the beneficial owner is a company (other than a partnership) which holds, directly or indirectly, at least 25% of the capital of the company paying the dividends. In all other cases, the withholding tax rate is 5% of the gross amount of the dividends paid.

The Treaty also provides for 5% withholding tax on the gross amount of royalties paid for the use of, or the right to use, industrial, commercial or scientific equipment. In all other cases, the withholding tax rate is 8% of the gross amount of the royalties paid. These rates apply provided the recipient is the beneficial owner of such income.

In principle, the Treaty provides for no withholding tax on income from debt-claims provided that the recipient is the beneficial owner of such interest.

In general, capital gains are taxable only in the Contracting State in which the alienator is resident except for gains relating to immovable property and gains from the alienation of movable property of a PE. However, capital gains arising to a resident of a Contracting State from the sale of shares of a substantial participation in the capital of a company (except for shares listed on a stock exchange) which is resident of the other Contracting State may also be taxed in the State in which the company whose shares are sold is resident. For the purposes of this article, a substantial participation means ownership of at least 25% of the capital of a company at any time within 12 months prior to the alienation of such shares.

According to the Protocol to the Treaty, any gains derived from the alienation of rights, including shares or interests in a trust or partnership, deriving the greater part of their value from such rights, in connection with the exploration or exploitation of the seabed and its subsoil and their natural resources on the territorial sea, as well as any area outside the territorial sea, including the Contiguous Zone, the Exclusive Economic Zone, or the Continental Shelf of a Contracting State, may be taxed in the country where the natural resources are situated.

The Treaty between Cyprus and the Kingdom of Saudi Arabia is effective as from 1 January 2020 for both Cyprus and the Kingdom of Saudi Arabia.

Both treaty partners have signed the Organisation for Economic Co-operation and Development's Multilateral Convention (MLI) and have included the agreement on their respective list of Covered Tax Agreements.

Protocols to existing treaties

Treaty with Ukraine

The Protocol revises the provisions of Article 10 of the Treaty and provides for 5% withholding tax on dividends paid by a company if the beneficial owner is a company (other than a partnership) which holds at least 20% of the capital of the dividend paying company and has invested at least €100,000 in the acquisition of shares or other rights in such company. In all other cases, the withholding tax rate is 10% on the gross amount of the dividends paid (previously 15%).

Moreover, the Protocol revises the provisions of Article 11 of the Treaty and provides for a 5% withholding tax on interest if the beneficial owner is resident in the other State (previously 2%).

Furthermore, Article 13 of the Treaty has been revised and provides that capital gains derived by a resident of a Contracting State arising from the sale of shares in real estate rich companies (i.e., shares deriving more than 50% of their value, directly or indirectly, from immovable property situated in the other Contracting State) may only be taxed in the State where the immovable property is situated. A number of exceptions apply such as, inter alia, for shares listed on an approved stock exchange, disposal of shares made in the course of a corporate reorganization and other situations listed in paragraph 5.

The Protocol also includes an article based on which, if after 2 July 2015, Ukraine agrees, under a treaty with another country, to grant an exemption from Ukrainian tax on dividends, interest or royalty payments arising in Ukraine, or to apply lower rates of tax in Ukraine to such payments other than those provided in the respective Articles of the Cyprus-Ukraine Treaty, or to include more favorable provisions regarding Article 13 of the Treaty, then the Contracting States shall have the right to renegotiate these Articles with a view to the application of such exemption or lower rate or provisions to this Treaty or any new or renegotiated Treaty.

The Protocol between Cyprus and Ukraine is effective as from 1 January 2020 for both Cyprus and Ukraine with respect to all taxes covered by the Treaty.

Other developments

During 2019, Cyprus signed new tax treaties with Egypt and Kazakhstan. The treaty with Kazakhstan entered into force on 17 January 2020 with the application of the provisions starting on 1 January 2021. Moreover, in 2019, Cyprus initialed a tax treaty with the Netherlands.

For additional information with respect to this Alert, please contact the following:

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