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Cyprus Tax News
New agreements for the avoidance of double taxation

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With effect from 1 January 2014 four new agreements for the avoidance of double taxation (DTA) between Cyprus and the following countries have come into force. All of the new agreements follow the OECD Model Convention.

- **Ukraine**
- **Finland**
- **Estonia**
- **Portugal**

Furthermore, the DTA between Cyprus and **Spain** has been approved by the Spanish Senate on 18 December 2013 and the DTA shall enter into force three months following the date of receipt of the notification documents, that the internal procedures required for the entry into force of this DTA have been complied with. Its provisions shall have effect, in respect of taxes relating to any tax year beginning on or after the date on which the DTA enters into force and regarding all other cases, the date on which the DTA enters into force.

Below, we briefly outline the main provisions of the new DTAs and the applicable withholding tax rates with respect to dividends, interest and royalties.

DTA between Cyprus and Ukraine

The agreement with Ukraine replaces the agreement between Cyprus and the USSR, which had been adopted by Cyprus and Ukraine following the dissolution of the USSR.

The main provisions of the DTA and the applicable withholding tax rates are as follows:

Permanent Establishment: The permanent establishment definition included in the treaty is in line with the definition provided in the OECD model tax convention. In particular, any building site or construction or installation project or any supervisory activities in connection with such site or project constitutes a permanent establishment only if it lasts more than twelve months.

Dividends: 5% withholding tax applies where the company receiving the dividend owns at least 20% in the capital of the paying company or has invested an amount of at least EUR €100.000. In all other cases a withholding of 15% will apply.

Interest: 2% withholding tax applies in all cases.

Royalties: 5% withholding tax applies.

Capital Gains: Movable property including shares, is taxable only in the country of residence of the owner, irrespective of whether in the underlying assets of the company, the shares of which are being disposed of, there is immovable property.

Note: The new DTA with Ukraine retains one of the primary benefits of the DTA it replaced, regarding capital gains on disposal of shares in property-rich companies. As Cyprus does not impose any tax on disposal of shares except when the gain is derived from immovable property situated in Cyprus, tax efficient structures can be set up for holding immovable property in Ukraine.

DTA between Cyprus and Finland

The main provisions of the DTA and the applicable withholding tax rates are as follows:

Permanent establishment: The permanent establishment definition included in the treaty is in line with the definition provided in the OECD model tax convention. In particular, any building site, a construction, assembly or installation project or a supervisory activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than twelve months.

Dividends: 5% withholding tax if the beneficial owner is a company (other than a partnership) holding at least 10% of the voting power of the capital of the company paying the dividend or 15% in all other cases.

Interest: Nil withholding tax.

Royalties: Nil withholding tax.

Capital gains: Gains from the disposal of immovable property, including shares or other corporate rights in a company whose assets are more than one-half consisting of immovable property situated in the other state are taxable in the other state. Gains from the disposal of any other type of shares are taxed in the country of which the seller is resident.

DTA between Cyprus and Estonia

The main provision of the DTA and the applicable withholding tax rates are as follows:

Permanent establishment: The permanent establishment definition included in the treaty is in line with the definition provided in the OECD model tax convention. In particular, any building site, construction, assembly or installation project or supervisory or consultancy activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than twelve months.

Dividends: Nil withholding tax.

Interest: Nil withholding tax.

Royalties: Nil withholding tax.

Capital gains: Gains from the disposal of immovable property, including shares or comparable interests deriving more than 50 per cent of their value from immovable property situated in the other Contracting State may be taxed in that other State. Gains from the disposal of any other type of shares are taxed in the country of which the seller is resident.

DTA between Cyprus and Portugal

The main provisions of the DTA and the applicable withholding tax rates are as follows:

Permanent establishment: The permanent establishment definition included in the treaty is in line with the definition provided in the OECD model tax convention. In particular, any building site, or construction or installation project or supervisory activities in connection therewith, constitutes a permanent establishment only if such site, project or activities continue for a period or periods exceeding in the aggregate twelve months.

Dividends: 10% withholding tax.

Interest: 10% withholding tax.

Royalties: 10% withholding tax.

Capital gains: Gains from the disposal of immovable property, including shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State. Gains from the disposal of any other type of shares are taxed in the country of which the seller is resident.

DTA between Cyprus and Spain

The main provisions of the DTA and the applicable withholding tax rates are as follows:

Permanent Establishment: The permanent establishment definition included in the treaty is in line with the definition provided in the OECD model tax convention. In particular, any building site or construction or installation project or any supervisory activities in connection with such site or project constitutes a permanent establishment only if it lasts more than 12 months.

Dividends: Nil if the beneficial owner is a company (other than a partnership) holding at least 10% of the capital of the company paying the dividend or 5% in all other cases.

Interest: Nil withholding tax.

Royalties: Nil withholding tax.

Capital Gains: Gains from the disposal of immovable property, including gains from the disposal of shares or comparable interests not listed on the Stock Exchange of either country (deriving more than 50% of their value from immovable property), are taxed in the country in which the immovable property is situated. Gains from the disposal of any other type of shares are taxed in the country of which the seller is resident.

In addition, Cyprus will cease to be considered a tax haven for Spanish tax purposes on the date on which the tax treaty will enter into force.

Notwithstanding the above, it should be noted that the withholding tax rates can be reduced to 0% under the provisions of domestic Finnish, Portuguese and Spanish tax legislation interposed as a result of the relevant EU directives. Under Cypriot domestic legislation there is no withholding tax on dividends and interest paid to non-residents and where withholding tax on royalties applies, if rights are used in Cyprus, such withholding tax can be reduced to 0% under the EU Interest and Royalties Directive.

We are at your disposal to assist and advise you with regards to the above.