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SUBJECTS TRANSFER PRICING INTELLECTUAL PROPERTY VAT, GST AND SALES TAX CORPORATE TAXATION INDIVIDUAL TAXATION REAL ESTATE AND PROPERTY TAXES INTERNATIONAL FISCAL GOVERNANCE BUDGETS COMPLIANCE OFFSHORE

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Recent Tax Developments In Cyprus

by Philippos Aristotelous, Andreas Neocleous & Co LLC

Introduction

As well as the signing of a new double taxation agreement ("DTA") with Latvia, which was analyzed in detail recently in *Global Tax Weekly,*[1] there have been several other significant developments in Cyprus tax over the past few months, and this article brings them together for reference.

Double Taxation Agreements

Progress On Ratification Of The New Protocol To The DTA Between Cyprus And Ukraine

The protocol amending the DTA between Cyprus and Ukraine took a further step towards ratification with the announcement by Ukraine's Cabinet of Ministers that on March 30, 2016, it had approved the protocol and forwarded it to the Verkhovna Rada, the Ukrainian parliament, for ratification.

The protocol was signed in December 2015 and will take effect on January 1, 2019, provided it is ratified by both countries before that date.

The protocol limits Ukrainian withholding tax on dividends to 5 percent if the beneficial owner holds at least 20 percent of the shares in the company paying the dividend and has invested more than EUR100,000 in them. Otherwise, the withholding tax is limited to 10 percent. The withholding tax on interest is limited to 5 percent. Cyprus does not impose withholding taxes on dividends or interest.

Gains from sale of shares of property rich companies (companies in which 50 percent or more of the value derives from immovable property) may be taxed in the country in which the immovable property is located.

According to the Cyprus Ministry of Finance the protocol also includes a "most favored nation" commitment, that if Ukraine subsequently enters into a DTA with any country containing mere favorable provisions, the Cyprus–Ukraine agreement will be amended to match them.

Entry Into Force Of The DTA Between Cyprus And Bahrain

The DTA between Cyprus and Bahrain, which was signed on March 9, 2015, entered into force on April 28, 2016 following completion of ratification procedures in both countries. Its provisions will have effect for tax years beginning on or after January 1, 2017, and for taxes withheld at source on or after that date.[2]

In Principle Agreement On New DTA With India

For some years, the Indian Government has been trying to amend the capital gains tax provisions of its DTAs with Cyprus, Mauritius and Singapore, to give India taxing rights over capital gains on shares in Indian companies held by residents of those countries. According to the Indian tax authorities, the absence of taxing rights in India frequently resulted in misuse of the DTAs in order to allow rich Indians to avoid Indian taxes by routing investments through Mauritius, Singapore or Cyprus, a practice known as "round tripping."

The India–Mauritius DTA has recently been amended to give India taxing rights on capital gains on shares in Indian companies held by Mauritius residents. Since the capital gains provisions of the India–Singapore DTA are linked to those of the India–Mauritius DTA, India will also have taxing rights on shares in Indian companies held by Singapore residents.

It appears that Cyprus has recognized the impossibility of being the sole "hold-out" to retain the status quo and, according to reports in the Indian media, the Cyprus authorities have recently informed their Indian counterparts of their acceptance in principle of the proposed changes regarding the taxation of capital gains and their readiness to finalize a new DTA.

Rates For Calculating Notional Interest Deduction For New Equity Capital Introduced In 2015 And 2016

In July 2015, the Cyprus Government introduced a notional interest deduction ("NID") on new equity capital (paid-up share capital and share premium) injected into companies and permanent establishments of foreign companies on or after January 1, 2015 for the purpose of financing business assets, calculated by applying a reference rate to the new equity. The reference rate is the higher of the ten-year government bond yield of Cyprus or the country in which the assets funded by the new equity are utilized, in each case plus three percentage points. The bond yield rates to be used are as at December 31 of the year preceding the year of assessment.

Earlier this year the tax department announced the ten-year government bond rates at December 31, 2014 which will be used as the basis for the NID for the 2015 tax year, for Cyprus, Germany, India, Romania, and Russia. It subsequently announced the corresponding rates at December 31, 2015 as well as a rate for Ukraine, which will be used as the basis for the NID on capital introduced during 2016. In May, it announced rates at December 31, 2015 for four further countries, namely the Czech Republic, Latvia, Poland and the United Arab Emirates, on which the NID on capital introduced in 2016 will be based. The NID for capital introduced during 2015 to finance assets used in any of these countries or in Ukraine will be based on the rate for Cyprus.

The bond rates announced so far are listed below:

	December 31	
	2014	2015
Cyprus	5.037	3.685
Czech Republic	–	0.499
Germany	0.540	0.568
India	7.860	7.758
Latvia	–	1.104
Poland	–	2.937
Romania	3.570	3.703
Russia	13.730	9.570
Ukraine	–	9.622
United Arab Emirates	–	7.490

Based on the above, the NID rates for the 2015 and 2016 tax years are as follows:

	2015	2016
Cyprus	8.037	6.685
Czech Republic	8.037	6.685
Germany	8.037	6.685
India	10.860	10.758
Latvia	8.037	6.685
Poland	8.037	6.685
Romania	8.037	6.685
Russia	16.730	12.570
Ukraine	8.037	12.622
United Arab Emirates	8.037	10.490

Fees For Issuance Of Advance Tax Rulings

In October 2015, in anticipation of changes at EU level regarding the automatic exchange of cross-border rulings, the Cyprus tax department introduced a new formal procedure for obtaining advance tax rulings.[3] The Government has now issued a statutory order under Article 44 of the Income Tax Law setting the fee for obtaining advance rulings at EUR1,000. The taxpayer may request an expedited ruling, guaranteeing a response within 21 working days provided all the necessary information is supplied, in which case the fee is EUR2,000.

Endnotes

1 Philippos Aristotelous, "The New Double Tax Agreement Between Cyprus And Latvia," *Global Tax Weekly,* No. 189, June 23, 2016.

2 A full analysis of the agreement can be found in Philippos Aristotelous, "Cyprus' New Double Taxation Agreement With Bahrain," *Global Tax Weekly,* No. 127, April 16, 2015.

3 Details are set out in Philippos Aristotelous, "Cyprus Formalizes Its Tax Rulings Procedure," *Global Tax Weekly,* No. 155, October 29, 2015.