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Cyprus Double Taxation Agreement Round-Up

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Conclusion Of A Protocol To The Double Taxation Agreement Between Cyprus And Ukraine

The Cyprus Ministry of Finance has announced that agreement has been reached with its Ukrainian counterpart on a Protocol that will amend the existing double taxation agreement (DTA) between the two countries. The existing DTA was signed in 2012 and entered into force on January 1, 2014. It has been subject to considerable criticism from populist politicians in the Ukrainian legislature, and at one stage the Ukrainian government began to take steps to denounce it. The new agreement ensures that the existing DTA continues in force and the Protocol, when signed and ratified by both countries, will enter into force no earlier than January 1, 2019.

According to the announcement issued by the Cyprus Ministry of Finance a "most favored nation" clause has been agreed for the taxes on interest, dividends, royalties and capital gains, ensuring that Cyprus is treated no less favourably than any other of Ukraine's DTA counterparties in the future.

An announcement on the website of the Ukrainian Ministry of Finance provides more details of the amendments made by the Protocol.

Dividends

The current DTA provides for withholding tax at 15 percent on dividends paid by Ukrainian companies to Cypriot shareholders, with a reduced rate of 5 percent if the beneficial owner owns more than 20 percent of the share capital of the company paying the dividend or has invested more than EUR100,000 (USD111,888) in the shares. Under the Protocol the lower rate will apply only if both conditions are satisfied.

Interest

Under the current DTA the rate of withholding tax on interest paid by a Ukrainian debtor to a beneficial owner in Cyprus is 2 percent. When the Protocol takes effect it will increase to 5 percent.

Capital gains

The current DTA provides that capital gains derived from movable property, including shares in

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so-called "property-rich" companies, the assets of which principally comprise immovable property, are taxable only in the country of residence of the person making the disposal. When the Protocol enters into force, which will not be before January 1, 2019, gains on shares in "property-rich" companies will also be taxable in the country in which the immovable property is located.

Conclusion

Subject to ratification by Cyprus and Ukraine the new Protocol provides a basis for the continuation of the existing DTA until at least January 1, 2019, after which the Protocol may enter into force. The Protocol provides slightly reduced benefits compared with the current DTA, but the "most favored nation" provision means that it will be at least as attractive as any other of Ukraine's DTAs.

Signature Of A Double Taxation Agreement Between Cyprus And The Islamic Republic Of Iran

After negotiations lasting for several years, on August 4, 2015 the first double tax agreement between Cyprus and Iran was signed. Like all Cyprus's recent DTAs it closely follows the 2010 OECD Model Tax Convention. The agreement covers only taxes on income (in Iran the income tax and in Cyprus, the income tax, the corporate income tax; special contribution for the defence of the Republic; and the capital gains tax). The relevant article of the OECD Model convention dealing with capital is not included.

Dividends

The maximum rate of withholding tax that may be imposed on dividends paid to a resident of the other Contracting State who is the beneficial owner of the dividends is 10 percent. If the beneficial owner is a company (but not a partnership) which holds directly at least 25 percent of the capital of the company paying the dividends the maximum rate is reduced to five percent.

Interest

The maximum rate of withholding tax that may be imposed on interest paid to a resident of the other Contracting State who is the beneficial owner of the interest is five percent.

Cyprus does not impose any withholding taxes on dividends and interest, so these maximum rates are effectively for Iran-resident companies paying dividends or interest to residents of Cyprus.

Royalties

The maximum rate of withholding tax that may be imposed on royalties paid to a resident of the other Contracting State who is their beneficial owner is six percent.

Capital gains

Gains derived by a resident of a Contracting State from the disposal of immovable property, of shares deriving more than half their value from immovable property, of movable property that is part of a permanent establishment or a fixed base for performing independent personal services, (including gains from the disposal of the permanent establishment or the fixed base), may be taxed in the contracting state in which the immovable property, permanent establishment or fixed base is located. Gains from the disposal of any other property are taxable only in the contracting state in which the disponor is resident.

Elimination of double taxation

Double taxation is eliminated by the credit method.

Exchange of information

The DTA provides for the exchange of information that is "necessary", rather than "foreseeably relevant" for carrying out its terms. The significance of this wording and how it is interpreted will only become clear over time.

The two final paragraphs of the information exchange article of the OECD Model Convention have been deleted and do not appear in the DTA. These are the paragraphs that oblige one contracting state to obtain information requested by the other, even though the first state may not need the information itself, and not to decline requests for information on grounds that it is held by a bank or the like.

Mutual assistance

Similarly, the entire article of the OECD Model dealing with mutual assistance in the collection of taxes has been deleted.

Entry into force and termination

The DTA will enter into force once both countries have ratified it. Cyprus did so on August 25 but Iran has not yet done so. Its provisions will take effect in Cyprus on the following January 1 and in Iran on the following Farvardin 1 (the first month of the Solar Hijri calendar, which is Iran's official calendar; which occurs around March 21).

The DTA may be terminated by notice given by either contracting state given at least five years after the agreement entered into force.

Conclusion

Iran is a major regional economy and the conclusion of a DTA at the time that it is rebuilding bridges with the west is particularly fortunate, as it provides opportunities for investment into Iran to be channelled via Cyprus.

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