

Corporate Tax - Cyprus

Amendments to Cyprus-Austria double taxation agreement confirmed

Contributed by **Andreas Neocleous & Co LLC**

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A protocol and an additional protocol to the double taxation agreement between Austria and Cyprus were signed on behalf of the two countries on May 21 2012 (for further details please see "[Cyprus-Austria double taxation avoidance agreement amended](#)").

The protocol consists of only two articles. The first article replaces the information exchange article of the existing agreement, which dates back to 1990, with the corresponding article of the current Organisation for Economic Cooperation and Development model treaty. The second article deals with entry into force of the protocol, which occurs on the first day of the third month after both countries have notified each other that they have formally ratified the protocol.

The additional protocol elaborates the information exchange arrangements. It stipulates that any request for information must include the following details in order to demonstrate the foreseeable relevance of the information to the request:

- the identity of the person under examination or investigation;
- a statement of the information sought, including its nature and the form in which the applicant wishes to receive the information;
- the tax purpose for which the information is sought;
- grounds for believing that the information requested is held in the country to which the request is addressed or is in the possession or control of a person within that country;
- to the extent known, the name and address of any person believed to be in possession of the requested information;
- a statement that the applicant has pursued all practicable means available in its own territory to obtain the information; and
- a declaration that the request is in conformity with the law and administrative practices of the applicant country, that if the requested information was within the jurisdiction of the applicant country then the competent authority of the applicant country would be able to obtain the information under the laws of the applicant country or in the normal course of administrative practice and that the request is in conformity with the double tax agreement.

The additional protocol also makes clear that the exchange of information provided in the relevant article does not include measures that constitute "fishing expeditions" and that the contracting countries are not required to exchange information on a spontaneous or automatic basis.

The provisions of the additional protocol provide robust protection against abuse of the information exchange arrangements. As a final safeguard, Cyprus's Assessment and Collection of Taxes Law requires the written consent of the attorney general to be obtained before any information is released to an overseas tax authority.

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