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Double tax agreement between Cyprus and Latvia agreed

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On May 24 2016, after almost 10 years of negotiations, Cyprus and Latvia signed a new double tax agreement. Unlike many former members of the Soviet Union, Latvia did not adopt the 1982 Cyprus-USSR double tax agreement when it became independent and the new agreement is the first between the two countries. It closely follows the latest Organisation for Economic Cooperation and Development (OECD) Model Convention, but also includes provisions from the 2011 United Nations Model Double Taxation Convention Between Developed and Developing Countries.

Permanent establishment

Article 5 of the agreement, which defines a 'permanent establishment', is almost identical to the corresponding article of the OECD Model Convention, except that a building site, construction or installation project will constitute a permanent establishment if it lasts more than nine months, rather than the 12 months required by the OECD Model Convention.

Dividends, interest and royalties

Dividends, interest and royalties paid by a company resident in one contracting state to a resident of the other are subject to zero tax in the contracting state from which they originate provided that the beneficial owner of the dividend, interest or royalty is a company (but not a partnership) resident in the second contracting state. If this is not the case, tax payable in the first contracting state is limited to 10% of the gross amount in the case of dividends and interest and 5% of the gross amount in the case of royalties. As both countries are EU members, the EU Interest and Royalties Directive (2003/49/EC) and the EU Parent-Subsidiary Directive (2011/96/EU) will also be relevant.

Capital gains

Gains derived by a resident of one contracting state from the alienation of immovable property situated in the other may be taxed in the contracting state in which the property is situated. Gains on disposal of shares or similar interests in a company or other entity deriving more than 50% of its value from immovable property may also be taxed in the contracting state in which the immovable property is situated. Gains arising from the disposal of immovable or movable property associated with a permanent establishment or from the disposal of movable property used in connection with the performance of independent personal services, may be taxed in the contracting state in which the permanent establishment is located or the services are performed.

Gains derived from the alienation of all other property (including ships or aircraft operated in international traffic) are taxable only in the contracting state in which the alienator is resident.

Offshore activities

Like several of Cyprus's recent double tax agreements, the agreement with Latvia includes comprehensive provisions regulating the taxation of offshore hydrocarbon exploration and exploitation activities, intended to ensure that each state's taxation rights in respect of offshore activities are preserved in circumstances where they might otherwise be limited by other provisions of the agreement. Special rules are required because of the short duration of some of these activities.

An enterprise of one contracting state carrying out offshore exploration or exploitation activities in the other is deemed to be carrying out business through a permanent establishment if the activities are carried out for an aggregate of 30 days or more in any 12 months. The article dealing with offshore activities also includes rules for determining when the 30-day threshold is exceeded in respect of offshore activities undertaken by associated enterprises. This provision overrides the articles regarding permanent establishment and business profits. Similarly, the normal provisions regarding income from employment are modified to the effect that remuneration derived by a resident of one contracting state employed in offshore activities in the other may be taxed in the second state. Gains derived by a resident of a contracting state from the alienation of assets (either tangible or intangible) relating to exploration or exploitation activities in the second contracting state or its exclusive economic zone may be taxed in the second state.

Elimination of double taxation

The elimination of double taxation is by the credit method. The credit against tax in the country of residence is limited to the amount of tax that would be payable on the income concerned in the country of residence.

Exchange of information

Article 26 of the agreement reproduces Article 26 of the OECD Model Convention verbatim and adds a proviso allowing information received by a contracting state to be used for wider purposes than the determination of tax liabilities if this is allowed under the laws of both states and the competent authority of the state that supplied the information authorises such wider use.

Entry into force and termination

The agreement will enter into force once each country has notified the other through diplomatic channels that the relevant constitutional procedures have been completed. Its provisions will have effect in both countries from the beginning of the following year.

The agreement will remain in force until terminated. Either country may terminate the agreement by giving written notice of termination at least six months before the end of any calendar year through diplomatic channels. The agreement will cease to have effect from the beginning of the following year.

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