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### DOUBLE TAX TREATY ROUND-UP

#### ***The DTA between Cyprus and United Arab Emirates took effect on 1 January 2014***

The double taxation agreement between Cyprus and the United Arab Emirates took effect on 1 January 2014. For a detailed analysis of the new agreement, the first between the two countries, please follow this link.

#### ***The DTA between Cyprus and Spain entered into force on 28 May 2014***

The Spanish government has announced that the double tax agreement between Cyprus and Spain entered into force on 28 May 2014. Certain of its provisions will take effect from that date, and the remainder will take effect from 1 January 2015. The Cyprus tax authorities have indicated that they will allow the benefits included in the new agreement with effect from 1 January 2014.

For several years up to 2009 Cyprus-resident companies were ineligible for certain Spanish tax benefits and exemptions on account of Cyprus being included in the Spanish authorities' so-called black list of tax havens, despite complying with all relevant information exchange requirements. In 2009 the Spanish authorities removed the restrictions and progress in the negotiations regarding the double taxation agreement resumed. The entry into force of the agreement normalises tax relations between the two countries and has already led to a significant expansion of economic ties and reciprocal investment between them.

#### ***The DTA between Cyprus and Lithuania will take effect from 1 January 2015***

The double taxation agreement between Cyprus and Lithuania is now in force and will take effect on 1 January 2015. For a detailed analysis of the new agreement, the first between the two countries, please follow this link.

#### ***New DTA signed with Switzerland***

On 25 July 2014 Switzerland and Cyprus signed a new double taxation agreement. It is the first DTA between the two countries and has to be ratified by both countries before it takes effect. The new agreement closely follows the 2010 OECD Model Convention, with only minor modifications, and the Protocol to the agreement clarifies certain detailed provisions. The 2004 agreement between the European Community and the Switzerland on taxation of savings income will continue in force, but the double taxation agreement will be much more beneficial to taxpayers once it takes effect.

As well as being one of the world's most important financial centres Switzerland is the base for many ultra-high net worth individuals with business and personal interests in Cyprus. The new DTA will therefore be a valuable addition to Cyprus's extensive treaty network and it is hoped that the remaining steps required to bring the new agreement into effect can be achieved quickly.

#### ***New DTA signed with Guernsey***

Cyprus and Guernsey have signed a comprehensive double taxation agreement. The agreement was signed on behalf of the Republic of Cyprus on 15 July and on behalf of the States of Guernsey on 29 July. The agreement will enter into force once the necessary ratification procedures have been completed and will have effect from the following 1 January. The agreement provides for dividends, interest and royalties paid by a resident of Guernsey to a recipient in Cyprus to be taxable only in Cyprus, and vice-versa. The 2004 agreement on taxation of savings income between Cyprus and Guernsey will continue in force, but the double taxation agreement will be much more beneficial to taxpayers once it takes effect.

For further information please contact [Stavros Supashis](#).

### THE ALTERNATIVE INVESTMENT FUNDS LAW

The Alternative Investment Funds Law of 2014 (the "AIF Law") was enacted by the Cyprus parliament on 10 July 2014 and entered into force at the end of July. The AIF Law replaces and repeals the International Collective Investment Schemes Law (the "ICIS Law"), which has been in place since 1999.

Under the ICIS Law, International Collective Investment Schemes ("ICIS") were regulated and supervised by the Central Bank of Cyprus. The AIF Law gives the Cyprus Securities and Exchange Commission ("CySEC") responsibility regulation and supervision of alternative investment funds ("AIFs"), bringing all investment products, asset managers and investment firms under a single regulatory body.

The AIF Law updates the funds regime in Cyprus and aligns it with the latest EU directives on asset

management, with a focus on transparency and investor protection. It sets out rules for the authorisation, ongoing operations, transparency requirements and supervision of AIFs in Cyprus and regulates the role and responsibilities of their directors, custodians and external managers.

The AIF Law defines an AIF as a collective investment undertaking that raises external capital from a number of investors with a view to investing it in accordance with a defined investment policy for the benefit of those investors, and that has not been authorised as a UCITS.

Holding companies, schemes covered by the Social Insurance Law or the law regulating Insurance Business, occupational benefit and retirement schemes, employee participation schemes or employee savings schemes, securitisation special purpose entities and approved investment companies listed on the Cyprus Stock Exchange are outside the scope of the AIF Law.

The AIF Law provides for two classes of AIF, namely AIFs available to an unlimited number of investors ("unlimited") and those available to 75 investors or fewer ("restricted"). The former may be marketed to all investors, including retail investors. The latter may be marketed only to well-informed or professional investors. The definition of a professional investor follows the Markets in Financial Instruments Directive 2004/39/EC. A well-informed investor is an investor not considered to be a professional investor who confirms in writing that he is a well-informed investor and has been notified of the risks associated with investing in the AIF in question, and invests at least €125,000 in the AIF or has been evaluated by a bank or regulated investment business as a well-informed investor possessing the appropriate expertise and knowledge to assess the suitability of the investment.

AIFs may be structured as variable or fixed capital companies or as limited partnerships. In addition, unlimited AIFs may be structured as a mutual fund. The unit trust structure provided for by the ICIS Law is no longer available.

The AIF Law introduces new structuring options which were not available under the previous legislative framework, such as umbrella structures with multiple investment compartments, which allow the management of different pools of assets with distinct investment policies, with the each such pool of assets being ring-fenced, and common contractual funds, which are commonly used in other jurisdictions, where investors participate as co-owners of the assets of the AIF.

The AIF Law also enables public offerings of shares of AIFs to take place, in contrast to the position under the ICIS Law, where only private placements were allowed. Securities issued by AIFs may also be listed, which increases liquidity, marketability and transparency and widens the potential investor base.

Under the AIF Law the role of depositary is no longer reserved to credit or banking institutions and may, subject to specified conditions be undertaken by other entities. This may be more convenient for AIFs not investing in financial and money market instruments, such as private equity and real estate funds.

The enactment of the new AIF Law marks a long-awaited modernisation of Cyprus's investment funds regime. Combined with the island's stable and transparent political legal and commercial infrastructure, its reliable and familiar common-law legal system and the excellent professional and financial services available at a competitive cost, it should transform Cyprus into a major force in the international funds market. Cyprus's tax regime is particularly beneficial, offering a corporate income tax rate of 12½%, among the lowest in the EU, full exemption from tax on gains from trading in securities and a generous participation exemption regime on foreign dividends in conjunction with an extensive network of double tax treaties for international tax planning.

For further information please contact [Elias Neocleous](#).

#### **AMENDMENTS TO THE LAW REGULATING COMPANIES PROVIDING ADMINISTRATIVE SERVICES**

The Law Regulating Companies Providing Administrative Services and Related Matters of 2012 (the "ASP Law") transposed the provisions of Directive 2005/60/EC into national law and provided Cyprus with an effective regulatory framework.

A number of practical issues and uncertainties have emerged since the law took effect and following discussions between the Ministry of Finance, the "troika" of providers of international financial support to Cyprus, and the competent authorities (the Cyprus Securities and Exchange Commission, the Cyprus Bar Association and the Institute of Certified Public Accountants of Cyprus), the Cyprus parliament has enacted a number of amendments to the ASP Law in order to resolve these and to implement the commitments included in the Memorandum of Understanding with the troika.

The amendments took effect at the end of July 2014 and are as follows:

- ≡ Cyprus companies offering administrative services only to fellow members of the group of companies of which they are a member and private trustee companies belonging to the beneficiaries of the trust or their close relatives (spouses or relatives up to the fourth degree of kinship) are excluded from the scope of the ASP Law provided that they have a representative in Cyprus who is accessible and accountable for anti-money laundering purposes. This representative should be the secretary of the company, who should be a natural person or a company regulated under the ASP Law. In addition, such companies may not advertise their services or solicit clients for such services.
- ≡ An ambiguity in the ASP Law which might be interpreted as indicating that officers acting as signatories of bank accounts of certain companies must be authorised again under the ASP Law has been removed.

This change was made in order to make clear that all persons who can legally be appointed as directors may continue to be signatories on company bank accounts without being required to apply for a license.

- ≡ The role of protector of a trust is excluded from the scope of the ASP Law on the basis that the protector is a person who the settlor appoints to exercise oversight in a personal capacity and that since the trustee is regulated there is no need for the protector to be regulated as well.
- ≡ Foreign providers of custodian services that are appropriately regulated in a home jurisdiction that has a co-operation agreement with Cyprus for regulatory purposes are excluded from the scope of the ASP Law for the purpose of holding shares in Cyprus companies.
- ≡ Occupational retirement benefit funds which are under the supervision of the Registrar of Occupational Retirement Benefit Funds in accordance with the Establishment, Activities and Supervision of Occupational Retirement Benefit Funds Law of 2012 are explicitly excluded from the scope of the ASP Law.
- ≡ Companies falling within the scope of the ASP Law may employ a lawyer who does not hold a licence to practise law as an advocate in Cyprus in the role of in-house legal advisor. In such case, the legal advisor should be employed in-house whereas in the case of a licensed advocate, the lawyer should be retained.
- ≡ CySEC is required to issue a registration number to all service providers it authorises and to maintain a register of authorised service providers containing information on their business. The other competent authorities are required to maintain registers containing the corresponding information in respect of their members that provide regulated services.

These changes further enhance Cyprus's reputation as a fully transparent and attractive trust jurisdiction with a legal infrastructure which entrenches jurisdictional and asset protection for trusts whilst fully complying with all applicable EU and domestic anti-money laundering laws and regulations.

For further information please contact [Philippos Aristotelous](#).

#### **CENTRAL BANK OF CYPRUS DIRECTIVE ON GOVERNANCE AND MANAGEMENT ARRANGEMENTS IN CREDIT INSTITUTIONS**

The Central Bank of Cyprus (CBC) has published an updated Directive on Governance and Management Arrangements in Credit Institutions. The Directive, which was published in the Official Gazette of the Republic on 8 August 2014, sets requirements on the governance structures of credit institutions, on the roles and responsibilities of the management body and senior management and on the development, implementation, and effective oversight of compliance, risk management and internal control frameworks in line with Regulation (EU) No 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms.

It applies to authorised credit institutions incorporated in Cyprus and may, at the discretion of the CBC, be extended to the Cyprus branches of credit institutions incorporated in another EU member state or outside the EU if their Cyprus based branches are considered significant in accordance with Section 27E of the Credit Institutions Laws of 1997 to (No. 4) of 2013.

An English version of the Directive is available on the CBC website.

For further information please contact [Panos Labropoulos](#).

#### **THE NEW AGREEMENT ON MERCHANT SHIPPING BETWEEN CYPRUS AND GEORGIA**

The new agreement on merchant shipping between Cyprus and Georgia, which was signed on 5 February 2014, entered into force on 24 May 2014. Its main provisions are as follows.

##### ***Equivalent treatment***

Each country will treat vessels of the other in the same way as it treats its own vessels engaged in international voyages in respect of free access to ports, use of ports for loading and unloading of cargoes and for embarking and disembarking passengers, payment of dues and taxes based on the tonnage or otherwise, in accordance with the national legislation, exercising normal commercial operations and use of services related to navigation (Article 4).

##### ***Parallel registration***

Vessels of one country may be registered in parallel for a specified period of time in the register of ships of the other and fly that country's flag, provided that the vessel is bareboat chartered by a national of the second country or by a corporation registered there which is qualified to own a vessel flying its flag (Article 5).

##### ***Crew facilities***

Each country will recognise the identity documents issued by the competent authorities of the other contracting party to members of the crew who are its nationals (Article 9).

Crew members holding the seafarer's identity documents specified in Article 9 of the Agreement, together with any members of their families embarked on the same vessel, are permitted to stay for temporary shore leave during the stay of the vessel in a port of the other contracting party, without any requirement for a visa, provided the Master of the vessel has submitted the list of persons on board the vessel to the appropriate authorities, in accordance with the national legislation in force in that port (Article 10).

Shipowners of one country may engage, in accordance with its relevant legislation in force, qualified nationals of the other country for the safe manning of merchant vessels (Article 13).

**Shipwrecks and accidents**

If a vessel of one country is shipwrecked, runs aground, is cast ashore or suffers any other accident off the coast in the territorial sea of the other, the vessel and the cargo will be given the same benefits and privileges and be subject to the same liabilities as a vessel of the second country and its cargo (Article 16).

**Remittance of income**

Shipping companies of either country may use income and other revenue obtained in freely convertible currency within the territory of the other contracting party and deriving from maritime transport operations for the purpose of making payments in the territory of that contracting party. Any surpluses, after settlement of all amounts due locally, including tax, if any, are freely remittable abroad (Article 18).

For further information please contact [Costas Stamatiou](#).

**AMENDMENTS TO THE CAPITAL GAINS TAX LAW**

Most capital gains are exempt from tax in Cyprus, and the only gains that are subject to tax are gains relating to real estate located in Cyprus. The Capital Gains Tax Law ("CGT Law") provides for capital gains tax at the rate of 20% to be charged on gains arising from the disposal of real estate in Cyprus, including gains from the disposal of shares in unlisted companies owning real estate in Cyprus to the extent that the gain derives from the company's real estate assets. Laws 119(I) of 2013 and Law 120(I) of 2013 have made detailed amendments to the CGT Law.

Law 119(I) extends the definition of gains subject to capital gains tax to include gains accruing on disposal of rights derived from a contract for sale of immovable property in Cyprus, including the assignment of rights derived from such a contract. This amendment addresses the situation where an initial purchaser of property disposes of his interest in the property by assigning his contract to buy the property to a new purchaser before the title has formally been transferred. For example, A enters into an agreement to buy a property from B at a price of €100,000. He pays the purchase price and the contract is deposited with the Department of Lands and Surveys but the property is not transferred because title deeds are not available. A year later, the property has appreciated in value and A agrees to assign the contract to a new purchaser, C, for €150,000 (meaning that C takes over A's rights under the original contract). The new amendment makes clear that A's gain of €50,000 is subject to capital gains tax.

Gains are generally calculated by reference to the value of the property on 1 January 1980. Law 120(I) of 2013 amends the CGT Law to provide that the value is to be determined in accordance not only with the general valuation of property at that date carried out under the Immovable Property (Tenure, Registration and Valuation) Law but also with other relevant provisions of that law. Provision is also made to deal with cases where property is sold at public auction by or on behalf of the Lands and Surveys Department and for the Director of the Lands and Surveys Department to determine property values in certain cases, including where the property disposed of was created following a division into building plots to which no property title has been issued.

For further information please contact [Philippos Aristotelous](#).

**NEW MARINE ACCIDENTS INVESTIGATION REGIME**

Cyprus's Marine Accidents Investigation Committee (MAIC) was established on 19 December 2013 under the Marine Casualties and Incidents Investigation Law of 2012 (Law 94(I) of 2012), which transposed EU Directive 2009/18/EC into domestic legislation.

MAIC is an independent committee responsible for investigating all types of marine accidents (casualties and incidents) and is supported by the Marine Accidents and Incidents Investigation Service. The MCI Law applies to marine casualties and incidents that involve merchant ships flying the Cyprus flag, wherever they occur; that occur within Cyprus's Territorial and Internal Waters as defined in UNCLOS; or that involve other substantial interests of the Republic of Cyprus.

The Master or the Owner or Manager or the Agent of the ship must notify the MAIC of any incident falling within the scope of the MAI Law as soon as practicable, by submitting the prescribed accident notification form electronically or by fax.

The MCI Law and EU Directive 2009/18/EC give the personnel of the MAIC extensive powers to discharge their duties, including access to any relevant area or casualty site and to any evidence or witnesses, and the Owner or Manager, the Master and the crew of any vessel concerned are required to co-operate fully and provide any information and evidence requested, including statements.

The MAIC will publish its report, in conformity with Annex I of EU Directive 2009/18/EC, within 12 months from the date of the casualty. If it is not possible to produce the final report within that time, an interim report will be published within 12 months from the date of the casualty. All reports of full investigations will be published on the MAIC website.

Recommendations may be made as a result of an investigation. If only a preliminary assessment has been conducted they will be in the form of a letter. If a full investigation has been conducted, the recommendations will be included in the final report. Under no circumstances will a safety recommendation determine liability or apportion blame for a casualty.

Recommendations will be addressed to those considered best fitted to implement them, and the recipient is required to consider the recommendations and inform the MAIC of the measures taken to implement them or the reasons for non-implementation.

For further information please contact [Vassilis Psyrras](#).

#### NEWS ABOUT OUR FIRM

##### **IBSA Cyprus branch launch**

The Cyprus branch of the International Business Structuring Association (IBSA) was launched in Limassol on 10 June in the presence of Mr Roy Saunders, the founder and chairman of IBSA. Andreas Neocleous, Chairman of our firm welcomed Mr Saunders and commented on the importance of business structuring in today's global economies. Mr Saunders introduced the IBSA and its objectives, and stressed the importance of the Cyprus branch, which is to be chaired by Andreas Neocleous, as a key part of the IBSA network. Mr Saunders went on to illustrate the principles and benefits of holistic business structuring by reference to a real-life case study. The event was attended by a large number of professionals and businessmen, and was followed by a cocktail reception on the roof garden of Neocleous House. For further information on the IBSA please contact [Irene Demetriou](#).

##### **Andreas Neocleous & Co LLC shortlisted for Citywealth Cyprus Law Firm of the Year award**

We are delighted to announce that we have again been shortlisted for the Citywealth Cyprus Law Firm of the Year award, which we won in January 2013 and 2014. Now in their fourth year, the Citywealth International Financial Centre Awards were established to highlight the excellence of the advisors and managers in the private wealth sector in the major international financial centres, and they are recognised as a major accolade in this highly-specialised sector.

In addition to Cyprus, there are awards for the Caribbean, Gibraltar, Guernsey, Hong Kong, Isle of Man, Jersey, Luxembourg, Malta, Singapore and Switzerland. The awards will be judged by an international panel of highly respected practitioners and the winners will be announced at a dinner in London in January 2015. If you would like to find out more, or to vote, you can do so by following [this link](#).

For further information please contact [Andreas Neocleous](#).

#### RECENT PUBLICATIONS

The following are a selection of our publications since the previous edition of this newsletter. They may be viewed by following the links below or by visiting the publications section of our website, which is constantly updated and contains a wealth of useful information on recent developments in Cyprus law.

- ≡ [Cyprus chapter of "Cyprus chapter of 'International Execution against Judgment Debtors'"](#)
- ≡ ["Restructuring and insolvency in Cyprus"](#)
- ≡ ["The Double Taxation Agreement Between Cyprus And The United Arab Emirates"](#)
- ≡ [Cyprus chapter of "Public Procurement 2014"](#)
- ≡ ["The Potential impact of Russian de-offshorisation on Cyprus holding and finance structures"](#)
- ≡ [Cyprus chapter of "International Telecommunications Law"](#)
- ≡ [Cyprus chapter of "International Agency and Distribution Law"](#)
- ≡ [Cyprus chapter of "Corporate Recovery and Insolvency 2014"](#)
- ≡ [Cyprus chapter of "Getting the Deal Through Dispute Resolution"](#)
- ≡ [Cyprus chapter of "Global Legal Insights - Corporate Tax - second edition"](#)
- ≡ [Cyprus chapter of "The Merger Control Review"](#)
- ≡ [Cyprus chapter of "International Franchising, Second Edition "](#)



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