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Cyprus

The new Double Taxation Agreement between Cyprus and Ethiopia

On December 30, 2015 Cyprus and Ethiopia signed a new double taxation agreement. Like all of Cyprus's recent DTAs it closely follows the 2010 OECD Model Tax Convention. Its main provisions are summarized below.

Taxes Covered

The DTA applies to taxes on income imposed by either country. In Ethiopia these are currently the tax on income and profit and the tax on income from mining, petroleum and agricultural activities; in Cyprus they are income tax, corporate income tax, Special Contribution for Defence ("SDC tax") and capital gains tax. It will also extend to any identical or substantially similar taxes that are imposed in the future.

Residence

The article dealing with residence reproduces the corresponding article of the 2010 OECD Model verbatim. For individuals, residence is determined by reference to the following factors, in descending order of priority:

- location of permanent home;
- centre of vital interests;
- location of habitual abode;
- nationality; and
- mutual agreement between the contracting states.

For persons other than individuals the determining factor is the place of effective management.

Permanent Establishment

The permanent establishment article differs from the corresponding article of the 2010 OECD Model only in that:

- it includes other examples of permanent establishment such as a shop, a farm or a plantation;
- it deals explicitly with insurance companies, providing that the collection of premiums or the assumption of risks in a contracting state gives rise to a permanent establishment; and
- it provides for a permanent establishment to arise after six months, rather than the 12 months provided for in the OECD Model.

Income from Immovable Property

Article 6, which deals with income from immovable property, is a word-for-word reproduction of the corresponding article of the 2010 OECD Model, allowing for income derived by a resident of a contracting state from immovable property situated in the other to be taxed in the state in which the property is located.

As private ownership of real estate is not permitted under the Ethiopian constitution, the immovable property provisions are of limited relevance in the short term as regards property in Ethiopia.

Business Profits

The article of the agreement dealing with business profits reproduces the corresponding article of the 2003 OECD Model verbatim, with profits (apart from profits of a permanent establishment in the other contracting state) being taxable only in the contracting state in which the enterprise is resident.

Shipping and Aviation

Profits from the operation of ships or aircraft in international traffic are taxable only in the contracting state in which the enterprise concerned is resident. Residence is determined by the place of effective management; if the place of effective management of a shipping enterprise is aboard a ship, it is deemed to be in the contracting state in which the home harbor of the ship is located, or, if there is no such home harbor, in the contracting state of which the operator of the ship is a resident.

Associated Enterprises

The article dealing with associated enterprises reproduces the corresponding article of the 2010 OECD Model verbatim, providing for the adjustment of profits from transactions between associated enterprises carried out other than on arm's length terms.

Dividends, Interest and Royalties

Dividends, interest and royalties paid by a resident of one contracting state to a resident of the other may be taxed in the contracting state in which the company or person paying them is resident. However, if the beneficial owner of the dividends is a resident of the other contracting state, the tax is limited to no more than 5% of the gross amount.

Offshore Activities

As has been the case with several of Cyprus's other recent double tax agreements, there is a separate article dealing with offshore activities. A resident of a contracting state who carries on activities offshore in the other for more than 30 days in any period of 12 months in connection with the exploration or exploitation of the seabed or subsoil or their natural resources will be deemed to be carrying on business in the other contracting state through a permanent establishment. Associated enterprises will be treated as one. Profits derived from the transportation of supplies or personnel or from similar activities will be taxable only in the contracting state of which the enterprise is a resident.

Salaries, wages and similar remuneration paid to a resident of one contracting state in respect of employment connected with offshore activities in the other may be taxed in the contracting state where the employment is carried out. However, such remuneration is be taxable only in the contracting state in which the individual is resident if the employer is not a resident of the other contracting state and the employment does not exceed 30 days in any period of 12 months beginning or ending in the fiscal year concerned.

Gains derived by a resident of a contracting state from the alienation of exploration or exploitation rights or property situated in the other contracting state and used in connection with the exploration or exploitation of the seabed or subsoil there may be taxed in the other contracting state. Similar provisions apply to shares deriving the greater part of their value from such rights or such property.

Capital Gains

Gains derived by a resident of one contracting state from the alienation of immovable property (or of moveable property associated with a permanent establishment) situated in the other may be taxed in the contracting state in which the property is situated. 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. As noted earlier, the provisions regarding immovable property seem to be of limited relevance in the short term.

Elimination of Double Taxation

In either contracting state a credit is given against local tax for tax paid in the other contracting state in respect of the income concerned. The credit may not exceed the local tax payable on the income.

Exchange of Information

The information exchange article follows the corresponding article of the OECD Model. In addition the Protocol to the agreement stipulates the supporting information required to demonstrate the foreseeable relevance of the information to the request in accordance with Cyprus's Assessment and Collection of Taxes Law.

Entry into Force and Effect

The agreement will enter into force once both countries have exchanged notifications that their formal ratification procedures have been completed. It will have effect from the beginning of the following fiscal year. For Cyprus this is the following January 1 and for Ethiopia it is the following July 8, the first day of the government's fiscal year.

Conclusion

Although Ethiopia ranks relatively low in global rankings of wealth and income its economy is growing and the Ethiopian government is trying to reduce its susceptibility to natural phenomena. Although the benefits of the new agreement are unlikely to be fully realized for some years, it is a potentially valuable extension of Cyprus's network of DTAs. It is therefore to be hoped that the remaining steps required to bring the agreement into effect can be achieved quickly. In the meantime the Cyprus tax authorities will doubtless follow their normal practice of allowing unilateral relief for taxes paid overseas.

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