Corporate Tax - Cyprus

Amendment to the Cyprus-Poland double taxation agreement

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Introduction

The protocol amending the double taxation agreement between Cyprus and Poland has recently been signed on behalf of both countries. When ratified, the protocol will make a number of changes to the existing agreement, which dates back to 1992.

Main changes

The principal changes are outlined below.

Withholding tax on dividends
The maximum rate of withholding tax on dividends will be reduced from 10% to 0% if the owner is a company (other than a partnership) that is resident in the other contracting state and has directly held at least 10% of the capital of the company that pays the dividends for an uninterrupted 24-month period. Otherwise, the tax will be reduced to 5%.

Withholding tax on interest
The maximum rate of withholding tax on interest will be reduced from 10% to 5%.

Beneficial ownership and withholding tax
In line with the latest Organisation for Economic Cooperation and Development (OECD) Model Convention, the concept of beneficial ownership has been introduced in the articles relating to withholding tax on dividends, interest and royalties.

Directors' fees
Under the 1992 agreement, directors' fees could be taxed both in the state in which the director was resident and in the company's state of residence. Once the protocol takes effect, directors' fees will be taxable only in the state in which the director is resident.

Double taxation
The amount allowed as a deduction from tax on income or capital gains in Poland will be based on the tax paid in Cyprus, limited to the amount attributable to such income or capital gains derived from Cyprus. The protocol explicitly includes tax on capital gains, which was not included in the 1992 agreement. Furthermore, the 'tax-sparing' provisions of Article 24(3) of the 1992 agreement will be abolished.

Exchange of information
The protocol replaces Article 27 of the 1992 agreement with a new article, which reproduces the information exchange article of the OECD Model Convention verbatim and supplements it with details of the information that must be supplied by a state when making a request for information, which must demonstrate the foreseeable relevance of the information to the request. This provision prevents tax authorities from embarking on speculative enquiries and safeguards the interests of taxpayers.

Entry into force and effective date
The protocol will enter into force when both states have exchanged notifications that the necessary ratification procedures have been completed. The changes will have effect from the beginning of the following calendar year.

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