

## Corporate Tax - Cyprus

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### Further details on Cyprus-Kuwait double taxation agreement

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Details of the new double tax treaty between Cyprus and Kuwait have now been made public. The new treaty, signed on October 5 2010, will take effect when it has been ratified by both countries. Until then, the existing treaty - which dates back to 1984 - will continue in effect.

#### **Taxes covered**

The range of Kuwaiti taxes covered by the treaty has been significantly expanded and now explicitly includes:

- the contribution to the Kuwait Foundation for Advancement of Science;
- the *zakat* payable under Law 46/2006; and
- the tax payable under the National Employee Law.

#### **Withholding tax rates**

A major benefit of the new treaty is the elimination of withholding tax on

dividends and interest. The 1984 treaty provided for a withholding tax of 10%.

## **Permanent establishment**

Under the new treaty, the provision of consultancy or managerial services through employees or other personnel for a period of more than six months within any 12-month period gives rise to a permanent establishment.

## **Directors' fees**

Under the new treaty, fees received by a resident of one contracting state in respect of services as a director of a company resident in the other contracting state are taxable in the state in which the director is resident. Under the 1984 treaty, such fees were taxable in the company's country of residence.

## **Profits from international shipping operations**

The new treaty confers exclusive taxing rights over profits derived by an enterprise of a contracting state from ships operating in international traffic on the state of the enterprise. Both the 1984 treaty and the current Organisation for Economic Cooperation and Development (OECD) Model Convention give exclusive taxing rights to the state in which the place of effective management of the enterprise is situated.

In practice, this should not make a difference, since tax residence in both countries is based on the place of management and control.

## **Independent personal services**

There is no longer an article dealing with independent personal services (it was removed from the OECD Model Convention some years ago), and income derived from such services is no longer dealt with separately, but instead is included under the article on business profits.

## **Other amendments**

The articles on mutual agreement procedures and exchange of information have been aligned with the equivalent provisions of the current OECD Model Convention equivalent provisions and the obligations and powers of the contracting states have been clarified.

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