# Double tax treaty with Switzerland effective January 1, 2016 and Protocol to South Africa treaty in force

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## *In brief*

The double tax treaty between Cyprus and Switzerland takes effect as from January 1, 2016.

A protocol amending the Cyprus – South Africa treaty entered into force on September 18, 2015. The protocol includes provisions relating to dividend taxation and exchange of information.

## In *detail*

### Cyprus-Switzerland

The first double tax treaty signed between Cyprus and Switzerland in 2014 entered into force on October 15, 2015 and its provisions will take effect as from January 1, 2016.

Under the treaty there is no withholding tax on interest and royalties. There is also no withholding tax on dividends in those cases where the beneficial owner of the dividends is:

- ❖ a company (other than a partnership), the capital of which is wholly or partly divided into shares, holding directly at least 10 percent of the capital of the company paying the dividends for an uninterrupted period of at least one year (the time period criterion may be satisfied post the date of the dividend payment); or
- ❖ a pension fund or similar institution recognized as such for tax purposes; or
- ❖ the Government, a political subdivision, local authority, or the central bank of one of the two Contracting States.

Per the treaty a 15% withholding tax on dividends applies in all other cases. Irrespective of this, per the provisions of Cyprus' domestic tax legislation, Cyprus does not apply withholding tax on dividend payments out of Cyprus at all times.

The 15% withholding tax in Switzerland on dividends from portfolio holdings (<10% holding) is the same with that applying under Switzerland's treaties with other financial centres.

Under the treaty Cyprus retains the exclusive taxing rights on disposal of shares in Swiss companies except in certain cases when the disposed-of shares derive more than 50% of their value directly or indirectly from immovable property situated in Switzerland.

### Cyprus-South Africa

The 2015 amending protocol to the Cyprus-South Africa double tax treaty entered into force on September 18, 2015. Per the provisions of the protocol it is effective retrospectively as from April 1, 2012.

The protocol revises the dividend article and in particular provides for the below withholding tax rates on dividends:-

- 5% of the gross amount of the dividends if the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividends; or
- 10% in all other cases.

The above amendment is only relevant in relation to payments of dividends from South Africa as Cyprus does not apply withholding tax on dividend payments out of Cyprus at all times per its domestic legislation. For dividend payments out of South Africa taxpayers should assess the potential impact of these rules should they be enforced retroactively (given the effective date of application of the protocol is April 1, 2012).

The protocol also modernises the provisions of the treaty relating to exchange of information and amends the term 'resident of a contracting state' to align it with the OECD Model Tax Convention.

## *The Takeaway*

Cyprus is expanding its treaty network as indicated by the new competitive treaty with Switzerland.

The South African treaty amendments in relation to taxation of dividends are due to a tax reform in South Africa.

## *Let's talk*

For an in-depth discussion of how these developments might affect you or your business, please contact:

**Theo C Parperis**
Partner
Head of Tax & Legal
theo.parperis@cy.pwc.com

**Marios S Andreou**
Partner
In charge of Tax Advisory
marios.andreou@cy.pwc.com

**Nicos P Chimarides**
Partner
In charge of Corporate Compliance
nicos.chimarides@cy.pwc.com

**Eftychios G Eftychiou**
Partner
Tax Advisory
eftychios.eftychiou@cy.pwc.com

**Antonis C Christodoulides**
Partner
Tax Advisory
antonis.christodoulides@cy.pwc.com

**Chrysilios K Pelekanos**
Partner
In charge of Indirect Tax
chrysilios.pelekanos@cy.pwc.com

**Christos S Charalambides**
Partner
Tax Advisory
christos.charalambides@cy.pwc.com

**Charalambos A Sergiou**
Director
Tax Advisory
charalambos.sergiou@cy.pwc.com

Or your usual PwC contact

**PwC Cyprus**
PwC Central
43 Demostheni Severi Avenue
CY-1080 Nicosia, Cyprus
P O Box 21612
CY-1591 Nicosia, Cyprus

***www.pwc.com.cy***