Cyprus – UK double tax treaty: Amending protocol for government service pensions

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As indicated in our Tax Update Newsletters N-5-2018 and N-16-2018 a new double tax treaty (the new DTT) between Cyprus and the UK was signed on 22 March 2018 and is effective in Cyprus as from 1 January 2019. The new DTT replaces the previous DTT in place between the two countries which was signed in 1974 and updated in 1980 (the 1974 DTT).

The provisions of the new DTT change the taxing rights of Cyprus and the UK on government service pensions of individuals who are not nationals of the country in which they are tax resident. Government service pensions include pensions and similar remuneration paid in respect of services rendered to either the UK or Cyprus governments (or a political subdivision or a local authority thereof) which are paid by the UK or Cyprus governments (or a political subdivision or a local authority thereof). A state pension is not a government service pension.

In December 2018 an amending protocol (the amending Protocol) to the new DTT was signed and will now go through certain legal procedures in each of the two countries in order to enter into force. The amending Protocol is in respect of government service pensions of individuals who are not nationals of the country in which they are tax resident.

We set out below an overview of taxation rights on pensions between Cyprus and the UK:

1. State and any other pensions (other than government service pensions)

In accordance with the provisions of the new DTT and the amending Protocol state and any other pensions, excluding government service pensions, continue to be taxable only in the country in which the recipient is tax resident, as was the case under the 1974 DTT.

2. Government service pensions of individuals who are nationals of the country in which they are tax resident

In accordance with the provisions of the new DTT and the amending Protocol such government service pensions continue to be taxable only in the country in which the recipient is tax resident, as was the case under the 1974 DTT.

3. Government service pensions of individuals who are not nationals of the country in which they are tax resident

In accordance with the provisions of the new DTT such government service pensions are now taxable only in the country which pays the pension. Such government service pensions were, under the provisions of the 1974 DTT, taxable only in the country where the recipient is tax resident.

The amending Protocol provides that where an individual was entitled to the pension tax benefits of the 1974 DTT as at 18 July 2018 (i.e. the date of entry into force of the new DTT) that individual may make an election that the pension tax benefits of the 1974 DTT continue to apply to his/her government service pension for another 6 years only (i.e. from 1 January 2019 to 31 December 2024). In effect, under the new DTT together with its amending Protocol, where an individual wants his/her government service pension to be taxed only in his/her country of tax residence up to 31 December 2024 then an election is required. Where an individual wants his/her government service pension to be taxed in only the country that pays the pension then no such election is required.

Under the amending Protocol the above election should be made in writing to the Competent Authority of the country from which the government service pension is paid. The first calendar year for which an election is possible is 2019. Unless revoked by the individual, an election shall have effect for the calendar year in which it is made and for subsequent years ending on December 2024. It is important therefore for individuals to make an election in 2019 should the individual wish for the election to apply in 2019.

Let's talk

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