

# Cyprus–Kazakhstan first-time double tax treaty: Cyprus ratifies

*Issue N-10-2019, 27 May 2019*

On 24 May 2019, Cyprus ratified the first-time double tax treaty it had signed with Kazakhstan on 15 May 2019 (the DTT). Certain legal procedures now need to take place in both states following which the DTT will ‘enter into force’. The DTT will be ‘in effect’ as from the next 1 January following the year in which the DTT ‘enters into force’.

We set out below an overview of selected provisions of the DTT:

## **Dividends**

A maximum 5% withholding tax (WHT) rate applies on dividend payments where the recipient is a company (other than partnership) that directly holds at least 10% of the capital of the paying company. For other cases, the DTT provides for a maximum 15% WHT rate on dividends.

We note that irrespective of these 5% or 15% WHT rates provided for in the DTT, as per the domestic Cyprus tax legislation no Cyprus WHT applies on dividend payments to non-Cyprus tax residents.

## **Interest**

A maximum 10% WHT rate on interest payments. For certain interest payments to the Government the DTT provides for a 0% WHT rate.

We note that irrespective of the 10% WHT rate provided for in the DTT, as per the domestic Cyprus tax legislation no Cyprus WHT applies on interest payments to non-Cyprus tax residents.

## **Royalties**

A maximum 10% WHT rate in the case of royalty payments. Royalty payments are in consideration for: the use of, or the right to use, any copyright of literary, artistic or scientific work, software, including cinematograph films, tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information (know how) concerning industrial, commercial or scientific experience and payments for the use of, or the right to use, industrial commercial or scientific equipment. Royalty payments do not include payments for the use of, or the right to use, ships or aircrafts.

We note that irrespective of the 10% WHT rate provided for in the DTT, as per the Cyprus domestic tax legislation no Cyprus WHT applies on royalty payment to non-Cyprus tax residents (except in the case of royalty payments earned on rights used within Cyprus).

## **Capital gains**

For capital gains Cyprus retains the exclusive taxing rights on disposals of shares made by Cyprus tax residents, except in the following cases:

- non-listed shares which derive more than 50% of their value, directly or indirectly, from immovable property situated in Kazakhstan, and,
- shares which derive the greater part of their value from certain offshore rights and/or movable property relating to exploration or exploitation of the seabed or subsoil or their natural resources located in Kazakhstan.



### **Principal Purpose Test (PPT)**

The DTT incorporates the OECD/G20 Base Erosion and Profit Shifting (BEPS) project Action 6 PPT, which is a minimum standard under the BEPS project. The PPT provides that a DTT benefit shall not be granted, under conditions, if obtaining that benefit was one of the principal purposes of an arrangement or transaction. This measure is designed to tackle “treaty shopping” and puts a strong emphasis on ensuring that operations are supported by appropriate substance and reflect a principal commercial rationale.

### **Let's talk**

For a deeper discussion of how this development might affect you or your business, please contact:

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