Protocol amending the Cyprus - Russia Double Tax Treaty (DTT) has been signed

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In brief

The Protocol to the Cyprus-Russia DTT which amends the withholding tax rate on dividend and interest payments was signed on 8 September 2020 by the Minister of Finance of the Republic of Cyprus and the Deputy Minister of Finance of the Russian Federation. The Protocol was gazetted in Cyprus on 11 September 2020.

As mentioned in our Tax Update Newsletter N-22-2020, the Protocol increases the withholding tax rate on dividend and interest payments to 15% and provides a number of exceptions where the lower rates of 5% or 0% will apply.

In detail

Amendments introduced by the Protocol to the Cyprus-Russia DTT

Dividends

Article 10 of the DTT has been amended to state that withholding tax on dividends paid to a beneficial owner of the dividends who is a resident of the other Contracting State shall not exceed 15%.

Exemptions are available under which the withholding tax shall not exceed 5%. This reduced rate is applicable in cases where the beneficial owner of the dividends is:

- an insurance undertaking or a pension fund;
- a company whose shares are listed on a recognised stock exchange provided that no less than 15% of the voting shares of that company are in free float **and** which holds directly at least 15% of the capital of the company paying the dividends throughout a 365-day period that includes the day of payment of the dividends;
- the Government or a political subdivision or a local authority;
- the Central Bank.

Interest

Article 11 of the DTT has been amended to state that withholding tax on interest paid to a beneficial owner of the interest who is a resident of the other Contracting State shall not exceed 15%.

There are a number of exemptions for which interest income payable to the following taxpayers will be exempt in the country that is the source of such income:

- insurance undertakings and pension funds;
- the Government or a political subdivision or a local authority;
- the Central Bank;
- banks;

In addition to the above the Protocol allows for the below categories of securities listed on recognised stock exchanges to be exempted from tax in the country that is the source of such income:

- Government bonds;
- Corporate bonds;
- Eurobonds.

Furthermore the Protocol allows a 5% withholding tax on interest paid if the beneficial owner of the interest is a company whose shares are listed on a recognised stock exchange provided that no less than 15% of the voting shares of that company are in free float **and** it holds directly at least 15% of the capital of the company paying the interest throughout a 365-day period that includes the day of payment of the interest.

No withholding tax on royalties

There have been no amendments to the Cyprus-Russia DTT regarding the provisions for royalty payments and the withholding tax on such payments remains at 0%.

Cyprus withholding tax rates remain at 0%

Despite the rates of withholding tax mentioned above on dividends and interest Cyprus will continue to apply no withholding tax on such payments, as per the local Cyprus law there is no withholding tax on dividend and interest payments to non-residents of Cyprus.

Availability of foreign tax credit

Credit is available for tax suffered in Russia in accordance with the provisions of the treaty on the same income which is subject to taxation in Cyprus and such foreign tax credit shall not exceed the tax arising in Cyprus.

Applicable date for the amendments

The amendments introduced by the Protocol shall apply from 1st January 2021 and the intention of both States is to ratify the Protocol by the end of 2020 (Cyprus gazetted the Protocol on 11 September 2020).

The takeaway

The amended withholding tax rates on dividends and interest are in line with the publicly announced intentions of the Russian Government in the wake of the Covid-19 pandemic. The Russian side has confirmed that the same provisions will also apply to agreements that Russia has concluded with other treaty partners. Up to now Russia has started negotiations with countries such as Malta, Luxembourg and the Netherlands.

The agreement reached between the two countries and the signing of the Protocol is a welcome development since this puts an end to the short period of uncertainty that was triggered by the intention of Russia to denounce the Cyprus-Russia DTT and secures the continuation of the implementation of the Cyprus-Russia DTT.

With the exceptions provided in the Protocol amending the Cyprus-Russia DTT and the number of the other non-tax considerations relating to Cyprus, such as the establishment of regional headquarters in Cyprus, easy access to international capital markets, access to EU markets, the common law system, and others, Cyprus still remains an important jurisdiction for investments into Russia and for undertaking international transactions through Cyprus entities.

Groups with Cyprus companies receiving dividends and interest from Russia should assess the potential implications of these amendments on their structure and analyse the strategies or actions that can be taken.

We, at PwC, are ready to support your business in assessing the impact of these amendments on your structure and discussing any actions that can be taken.

Let’s talk

For a deeper discussion of how this issue might affect your business, please contact:

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