

Cyprus-Germany Double Tax Treaty Amending Protocol: Cyprus ratifies

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In brief

On 5 March 2021 Cyprus ratified the amending Protocol to the Double Tax Treaty (DTT) between the Republic of Cyprus and the Federal Republic of Germany signed on 19 February 2021. Certain legal procedures now need to take place in both states following which the Protocol will 'enter into force'.

The Protocol introduces, among others, minimum standards of the Base Erosion and Profit Shifting (BEPS) actions of the Organization for Economic Co-operation and Development (OECD).

The amendments effected by the Protocol include:

- the replacement of the wording in the Preamble of the DTT;
- the alignment of "Article 7 Business Profits" with the OECD Model Tax Convention;
- the introduction of a Principal Purpose Test (PPT) through the pre-existing Article 27 'Entitlement to Benefits' of the DTT.

In detail

1. Overview of the amendments effected by the Protocol

(i) Preamble of the DTT

The newly introduced preamble wording specifies that the intention of the DTT is to eliminate double taxation with respect to taxes on income and on capital, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this convention for the indirect benefit of residents of third states).

This is in line with the OECD minimum standard in BEPS Action 6.

(ii) Business Profits

The protocol has amended the text of "Article 7 Business Profits" in order to align it with the respective wording included in the 2017 OECD Model Tax Convention (i.e. the latest version) and away from the UN Model Tax Convention. This Article allocates taxing rights with respect to the business profits of an enterprise of a Contracting State to the extent that these profits are not subject to different rules under other Articles of the DTT.

(iii) Entitlement of benefits

A benefit under this new DTT shall not be granted in respect of an item of income or capital should this benefit be one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it can be established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provision of this DTT.

This is in line with the OECD minimum standard in BEPS Action 6 (PPT).

2. Applicable date for the amendments effected by the Protocol

The Protocol will be 'in effect' as from the next 1 January following the year in which the Protocol 'enters into force'.

The takeaway

The main purpose of this Protocol is the introduction of minimum standards of BEPS actions.

Let's talk

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

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