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Cyprus-Netherlands first-time Double Tax Treaty: Cyprus ratifies

In brief

On 4 June 2021 the first-time Double Tax Treaty (DTT) between Cyprus and the Netherlands, which was signed on 1 June 2021, was ratified by Cyprus. Certain legal procedures now need to take place in both states following which the DTT will 'enter into force'. Once the DTT enters into force it will take effect as from 1 January of the next calendar year.

The DTT is based on the OECD Model Tax Convention on Income and on Capital.

In detail

Overview of the DTT provisions

(i) Dividends

A 0% withholding tax (WHT) rate applies where the recipient/beneficial owner is:

a) a company that holds directly at least 5% of the capital of the company paying the dividends, throughout a 365 day period that includes the day of the payment;

b) a recognised pension fund which is generally exempt under the corporate income tax law of Cyprus.

For all other cases, the DTT provides for a maximum 15% WHT rate.

(ii) Interest

A 0% WHT rate applies.

(iii) Royalties

A 0% WHT rate applies.

The term “royalties” according to the DTT means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

(iv) Capital gains

Cyprus retains the exclusive taxing rights on disposals of shares made by Cyprus tax residents, except where:

a) the shares derive more than 50% of their value, directly or indirectly, from immovable property situated in the Netherlands;

b) the shares derive more than 50% of their value, directly or indirectly, from certain offshore rights/property relating to exploration or exploitation of the seabed or subsoil or their natural resources located in the Netherlands.

Regarding point a) above, Cyprus still retains the exclusive taxing rights on capital gains on disposal of shares:

- listed on a recognised stock exchange;
- in the course of a corporate reorganisation such as a qualifying merger, division and similar transaction;
- where the immovable property from which the shares derived their value is immovable property in which the business is carried on;
- when the alienator owns, directly or indirectly, either alone or with related persons, 25% or less of the capital or other comparable interests prior to the first alienation of shares;
- when the alienator is a recognised pension fund of Cyprus.

(v) Entitlement to benefits

A benefit under the 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.

The takeaway

The first-time DTT between Cyprus and the Netherlands will contribute to the further development of trade and economic relations between the two States.

Let’s Talk

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

Theo C Parperis, Nicosia
Partner
Head of Tax & Legal
theo.parperis@pwc.com

Marios S Andreou, Nicosia
Partner
In charge of Tax Advisory
marios.andreou@pwc.com

Nicos P Chimarides, Nicosia
Partner
Tax Advisory & In charge of
International Private Clients
nicos.chimarides@pwc.com

Eftychios G Eftychiou, Nicosia
Partner
Head of Tax Technical Committee
eftychios.eftychiou@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