



Tax Update

Amendment of the Treaty Signed Between Cyprus and Ukraine

November 2015

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An agreement was reached between Cyprus and Ukraine that will amend the existing Tax Treaty between the two states. The changes will take effect not earlier than the 1st January 2019, a date at which the existing treaty expires.

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The most significant changes are:

Dividends

- Existing treaty: The withholding tax rate on dividends is 5% provided that the beneficial owner holds at least 20% of the capital of the dividend paying company or has invested over €100,000 in its share capital. In all other cases the withholding tax rate is 15%.
- New treaty: The withholding tax rate on dividends will be 5% provided that the beneficial owner holds at least 20% of the capital of the dividend paying company and has invested over €100,000 in its share capital. In all other cases the withholding tax rate will be 10%.

Interest

- Existing treaty: The withholding tax rate on interest is 2%.
- New treaty: The withholding tax rate on interest will be 5%.

Capital Gains

- Existing Treaty: The taxing of the capital gains arising from the disposal of shares or any other movable property is granted to the state in which the person making the disposal is tax resident regardless of the underlying assets of the company whose shares are being sold. Therefore, it is also valid for disposing of shares of property rich companies.
- New Treaty: Subject to certain exceptions, profits from the sale of shares of property rich companies (i.e. companies where more than 50% of their value derives from property) may be taxed in the country where the property is situated.

Please note that the treaty includes a “most favoured nation” clause for dividends, interest, royalties and capital gains which ensures that Cyprus will be treated at least equitably with other jurisdictions.

Our View: Despite the changes, the new treaty which will come to effect not before 1st January 2019 will still be one of the most beneficial treaties in the Ukrainian treaty network, if not the most beneficial due to its “most favoured nation” clause .

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