Cyprus and Luxembourg sign first time double tax treaty

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In brief

Cyprus and Luxembourg signed a first time Double Tax Treaty (DTT) on 8 May 2017, opening the way for new investment opportunities and trade relations between the two Countries. The text of the DTT was recently made available by the Luxembourg tax authorities. Neither county has yet ratified the DTT. The DTT will take effect as from 1 January of the year following that in which it enters into force.

The DTT provides for a 0% withholding tax (WHT) rate on interest and royalties. For dividends, a 0% WHT rate applies for corporate investors holding directly at least 10% of the capital of the paying company; a 5% WHT rate applies in all other cases of dividends.

In detail

A first time DTT between Cyprus and Luxembourg was signed on 8 May 2017 and was recently made available by the Luxembourg tax authorities. Neither country has yet ratified the DTT. The DTT will take effect from 1 January of the year following that in which all legal formalities to bring the treaty into force are completed.

The DTT provides for 0% WHT on dividends if the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 10% of the capital of the payer company. In other cases a 5% WHT applies on dividends.

For interest and royalties, the DTT provides for a 0% WHT.

For capital gains, under the DTT Cyprus retains the exclusive taxing rights on disposals of shares in Luxembourg companies except in those cases where more than 50% of the value of the shares is derived directly from immovable property situated in Luxembourg.

The DTT incorporates the OECD/G20 Base Erosion and Profit Shifting (BEPS) project Action 6 report 'Principal Purpose Test' (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.

For collective investment vehicles (CIVs) the accompanying Protocol to the DTT provides that, under conditions, exempt CIVs are to be considered as residents of a contracting state if they are considered as residents by the local law of that state, and as the beneficial owners of the income the CIV receives.

The takeaway

Irrespective of the withholding taxes provided for in this new DTT on dividends, as per the domestic Cyprus tax legislation there is no Cyprus withholding tax on payments of dividends to non-Cyprus tax residents.

This treaty further expands the Cyprus DTT network, and opens the way for new investment opportunities and trade relations between the two Countries.

Let's talk

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

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