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Global Tax Alert

Cyprus-Iran Double Tax Treaty to come into effect on 1 January 2018

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Executive summary

Cyprus and Iran signed an Income Tax Treaty, on 4 August 2015, for the avoidance of double taxation and fiscal evasion with respect to taxes on income (the Treaty). The Treaty entered into force on 5 March 2017 and will come into effect on 1 January 2018.

With this new Treaty, Cyprus has further expanded its extensive Double Tax Treaty network and strengthens its economic and commercial relations with Iran.

This Alert summarizes the key features of the Treaty.

Detailed discussion

Permanent establishment

- Article 5 of the Treaty contains a definition of the concept of permanent establishment (PE), whose purpose is to determine the right of the Contracting State to tax the profits of an enterprise of the other Contracting State. The wording of this article is largely in line with the wording of the Organisation for Economic Co-operation and Development Model Tax Convention on Income, 2014.
- In particular, the relevant article provides that a building site, construction, assembly or installation project or supervisory activities in connection therewith will constitute a PE if such arrangement lasts for a period of more than 12 months.

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Dividends

- The Treaty provides that if the recipient is the beneficial owner of the dividends, withholding tax shall not exceed:
  - 5% of the gross amount of the dividend if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the company paying the dividends.
  - 10% of the gross amount of the dividends in all other cases.
- Cyprus and Iran currently do not levy withholding tax on dividend payments under domestic tax law.

Interest

- The Treaty provides that withholding tax on interest payments shall not exceed 5% of the gross amount of the interest, provided that the recipient is the beneficial owner of such interest.

Royalties

- The Treaty provides that the withholding tax on royalties shall not exceed 6% of the gross amount of the royalties if the recipient is the beneficial owner of the royalties.

Capital gains

- The Treaty provides for a "real estate-rich" clause according to which the capital gains derived by a resident of a Contracting State from the alienation of shares in a company deriving more than 50% of their value directly from immovable property shall be taxed in the State where the immovable property is situated.

Other considerations

- Article 21 of the Treaty provides that any income not addressed specifically in the relevant articles should be taxed only in the state of residence of the recipient of income.

Unlike other treaties recently concluded by Cyprus, the Treaty does not provide for a separate article covering offshore activities. It should be noted though that as per Article 6(2), any income derived from rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources including oil, gas and quarries, should be considered as income from immovable property and may be taxed in the Contracting State of situs.

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