Cyprus and Denmark New Double Tax Treaty Agreement

On 11th October 2010, Cyprus and Denmark signed a new double tax treaty agreement which aims to replace the agreement signed in 1981 between the two countries and come into effect on 1st January 2011.

The changes the agreement introduces are as follows:

- Withholding rates on dividends being reduced to 0% originally being 10%.

  The above is subject to the beneficial owner of the dividend being a company holding directly 10% of the capital of the company issuing the dividend for an uninterrupted period of one year. A party not satisfying the requirements above may be subject to a withholding tax rate of 15% on the gross amount of the dividends.

- Withholding rates on interest are now 0% originally being 10%

- Withholding tax on royalties remains unchanged at 0%

- Permanent establishment is now expanded from 6 months to 12 months

  Taxation of profits from installation or drilling rig or ship used for exploration of natural resources are now included in the permanent establishment definition

- Activities carried out by associated companies are considered to be those of the original company if they concern the same project or are substantially the same

- Capital gains arising from the disposal of immovable property may be taxed where the immovable property is located if the residency requirements are satisfied.

- Movable property is taxed at the location of the alienator; with some exceptions.

The provision of exchange of information in the 1985 convention has been amended almost identical to the article 26 of the OECD Model Treaty. This means that the inquiring jurisdiction may request for identity information of a beneficial owner of a company but not without having strong reasons and evidence justifying why the information is required and this being provided to the Commissioner of the Inland Revenue tax office of Cyprus. In this way fishing expeditions on persons are avoided. This is a position also integrated in the Cyprus domestic legislation, Law 72(I)/2008 (the 'Law').

Furthermore, a declaration from the inquiring country must be provided to the Commissioner that the request for information is in accordance with its domestic legislation and administrative practice. The Commissioner will not release the requested information unless he/she have been satisfied of that respective disclosure is also permitted under the laws of the inquiring jurisdiction and unless the written consent of the General Attorney of Cyprus has been obtained.

By concluding, the important amendments are those of 0% of withholding rates on dividend under the specific conditions and the 0% withholding rate of interest originally being 10%. These amendments definitely give the green light to many investors and a prediction of an increase of the flow of investments through Cyprus is expected due to the above benefits provided by the new Double Tax Treaty Agreement.

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