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Double Tax Treaty between Spain and Cyprus

The governments of the Republic of Cyprus and Spain signed on Thursday 14 February 2013 a double taxation agreement between the two countries after almost eight years of negotiations. The signing of the double tax treaty is expected to remove Cyprus from the Spanish "black list", facilitate investments and strengthen the economic relations between the two countries.

The treaty will enter into force three months after its ratification from both Countries and for taxes on income and capital at the beginning of the year following the date the treaty enters into force.

The treaty is based on the OECD Model Tax Convention of 2010 and it incorporates the latest version of the OECD Model Convention on the exchange of information showing Cyprus commitment to accept transparency and international tax standards.

It is interesting to note that a Limitation of Benefits provision has not been inserted in the treaty. However, the Protocol to the treaty clearly stipulates that the domestic anti-abuse provisions will still be applicable and deny the benefits of the treaty where transactions are motivated by tax evasion or tax avoidance considerations.

This new agreement is the result of strong governmental resolution to seal the cooperation bond between the two countries.

The main provisions of the double taxation treaty signed between Cyprus and Spain are summarized below.

Dividends

- Dividends received by a resident of the one Contracting State from a company resident in the other Contracting State will be subject to withholding tax at the rate of 5%.

- No withholding tax will be imposed if the beneficial owner is a company holding at least 10% of the capital of the company paying the dividend.

- It should be noted that under Cyprus domestic law, no withholding taxes are imposed on the payment of dividends. In this respect, no withholding tax will be suffered in case of payment of dividends by a Cyprus company to a Spanish resident.

Interest

No withholding tax will be imposed on any interest earned by a resident of the one Contracting State from a person of the other Contracting State.

Royalties

No withholding tax will be imposed on any royalty payments made in respect of copyrights of literary, artistic or scientific work, patents, trademarks, secret formulas, processes or information regarding industrial, commercial or scientific experience.

Capital Gains Tax

- Gains arising to a resident of the one Contracting State from the disposal of immovable property will be subject to tax in the Contracting State where the immovable property is situated.
- Gains arising to a resident of the one Contracting State from the disposal of shares not listed on the Stock Exchange of either country in "property rich" companies (deriving more than 50% of their value from immovable property), will be subject to taxation in the Contracting State where the immovable property is situated.

Exchange of Information

It is important to note that the treaty incorporates Article 26 of the OECD Model Convention in relation to bilateral exchange of information for tax purposes indicating Cyprus' commitment to financial transparency and international standards and requirements.

Removal from the Spanish "black list"

Since 1991, Cyprus has been included in the Spanish "black list" of uncooperative jurisdictions. As the new treaty adheres to the international standards on exchange of information Cyprus is expected to be excluded from the relevant list. As a result of this upcoming development the economic interaction between the two states is expected to gain a welcoming momentum.

- *5% Withholding tax on the payment of dividends;*
- *0% Withholding tax on the payment of interest;*
- *0% Withholding tax on the payment of royalties;*
- *Capital gains from the sale of shares in "property rich" companies will be taxed in the Contracting State where the immovable property is situated.*

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Cyprus: An International Business Center

Cyprus is ideally suited for international business due to the many benefits it has to offer. Its geographic location and excellent commercial infrastructure coupled with numerous tax incentives are among the factors, that have assisted Cyprus towards becoming an important International Business Center.

The island's 42 double tax treaties offer ample opportunities for international tax planning to legitimately reduce the overall tax burden for businesses and their shareholders. Cyprus has double tax treaties in force with the following countries:

Armenia, Austria, Belarus, Belgium, Bulgaria, Canada, China, Czech Republic, Denmark, Egypt, France, Germany, Greece, Hungary, India, Ireland, Italy, Kuwait, Kyrgystan, Lebanon, Malta, Mauritius, Moldova, Montenegro, Norway, Poland, Romania, Russia, San Marino, Serbia, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Sweden, Syria, Tadzhikistan, Thailand, Ukraine, United Kingdom and United States of America.

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