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Tax Update 01/2022

On 9 December 2021, the Cypriot House of Representatives approved the bills amending the Income Tax Law as well as the Special Contribution for the Defense of the Republic Law with respect to the definition of corporate tax residency and the imposition of withholding tax on outbound payments of dividends, interest and royalties made to companies resident or registered in jurisdictions included in the https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/EU , so- called EU Blacklist.

Amendment to the definition of corporate tax residency

Currently, the definition of corporate tax residency is solely based on the management and control criterion. As of 31 December 2022, the definition of corporate tax residency is expanded to additionally include the incorporation test. More specifically, a company which is incorporated or registered in Cyprus, and its management and control is exercised outside Cyprus, should be considered a resident of Cyprus for tax purposes unless it is a tax resident in another country.

Introduction of withholding tax on outbound payments to EU listed companies

Withholding tax on dividend payments

Dividends paid by a Cypriot tax resident company to a company which is a resident in a jurisdiction that is included on the EU Blacklist, or to a company incorporated or registered in a jurisdiction included on the EU Blacklist and not considered to be tax resident in another jurisdiction which is not included on the EU Blacklist, will be subject to 17% withholding tax on the amount of the dividend paid.

The withholding tax applies where the company receiving the dividend is included on the EU Blacklist and such company participates directly in the Cypriot company paying the dividend by more than 50% in voting rights or owns more than 50% of the share capital or is entitled to 50% or more of the profits of the Cypriot company. In addition, withholding tax shall apply in the case where two or more associated enterprises, which are included on the EU Blacklist, participate directly in the Cypriot company paying the dividend and collectively have more than 50% in voting rights or own more than 50% of the share capital or are entitled to 50% or more of the profits of the Cypriot company.
No withholding tax will be imposed on dividends paid in relation to securities listed on a recognized stock exchange.

Change in the deemed dividend distribution rules

Under certain conditions, a non-resident person may be entitled to a refund of tax withheld under the so-called deemed dividend distribution rules. As per the amended law, any tax so withheld should not be refunded if the recipient of the dividend is a company included on the EU Blacklist.

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Withholding tax on interest payments

Withholding tax at the rate of 30% will be imposed on interest received by or credited to a company which is resident in a jurisdiction included on the EU Blacklist, or to a company which is incorporated or registered in a jurisdiction included on the EU Blacklist and is not resident in another jurisdiction that is not included on the EU Blacklist, if the interest is derived from sources within Cyprus. However, no withholding tax shall apply on any interest payments made by an individual. Further, no withholding tax will be imposed on interest received by or credited to a non-Cypriot tax resident company which relates to securities listed on a recognized stock exchange.

Withholding tax on royalty payments

Royalties paid to a company which is not a tax resident of Cyprus and is a tax resident in a jurisdiction included on the EU Blacklist, or to a company which is incorporated or registered in a jurisdiction included on the EU Blacklist and is not resident in another jurisdiction that is not included on the EU Blacklist, will be subject to 10% withholding tax. However, no withholding tax shall apply on any royalty payments made by an individual.

The relevant laws implementing the new provisions were published in the Official Gazette of the Republic on 21 December 2021 and will be effective as of **31 December 2022**.

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