Cyprus; France

Tax Treaty Between Cyprus and France – Details

15 February 2024

Report from our correspondent Pierre Burg

Details of the Cyprus - France Income Tax Treaty (2023), signed on 11 December 2023, have become available. The treaty was concluded in the French and Greek languages, each text having equal authenticity. The treaty generally follows the OECD Model (2017).

The maximum rates of withholding tax are:

- 15% on dividends, reduced to 0% if the beneficial owner is a company holding directly at least 5% of the capital of the distributing company for a 365-day period including the payment day;
- 0% on interest; and
- 5% on royalties.

The main deviations from the OECD Model (2017) are as follows:

- article 1 (Persons covered) contains specific rules regarding fiscally transparent entities established in third states;
- article 2 (Taxes covered) does not include "taxes on the total amounts of wages or salaries paid by enterprises" among taxes covered by the treaty;
- article 4 (Resident): the residence tie-breaker rule for legal persons is the place of effective management. French partnerships are considered as resident if they fulfil the three following conditions:
  - (i) their place of effective management is located in France;
  - (ii) the partnership is liable to tax in France; and
  - (iii) all partners are personally subject to tax with respect to their share of the partnership's profits;
- article 5 (Permanent establishment): exploration activities carried out off the coast of a contracting state, as well as the installation and operation of pipelines, constitute a permanent establishment if their duration exceeds 60 days in any 12-month period;
- article 8 (International shipping and air transport): specific rules apply to profits derived from international shipping or air transport;
- article 10 (Dividends): specific rules apply to dividends distributed from income or gains derived by a real estate collective investment vehicle the profits of which are exempt from taxation. Such dividends may be subject to a withholding tax in the source state with no limit if their beneficial owner holds directly or indirectly 10% or more of the capital of the investment vehicle or at a maximum rate of 15% if the beneficial owner holds less than 10% of the capital of the investment vehicle;
- article 16 (Entertainers, sportspersons and models): income derived by entertainers, sportspersons, or models, including income paid to a "rent-a-star" company and income from performances that are not independent from their professional fame, is taxable in the source state. However, income funded by a governmental entity of the residence state is taxable in the residence state only;
- article 17 (Pensions): pensions and other payments made under the social security legislation of a contracting state may be taxed in that state;
- article 20 (Teachers and researchers): income earned by teachers or researchers who transfer their residence in the other contracting state for professional reasons are taxable in their former residence state only, for a 24-month period, except if such income is exempt in the former residence state. However, if the research is not carried out in the general interest but for the benefit of specific persons, standard rules on employment income apply;
- the treaty does not contain any article on assistance in the collection of taxes as per article 27 of the OECD Model (2017); and
- article 27 (Denial of benefits under the Convention) incorporates only the principal purpose test (PPT).

France eliminates the double taxation of Cyprus-source income through a tax credit:

- equal to the Cyprus tax ("real" tax credit) with respect to business profits, dividends, royalties, certain capital gains, directors' fees, income derived by entertainers, sportspersons and models, and pensions; or
- equal to the French tax (i.e. equivalent of an exemption method) for other income, provided that the income was subject to tax in Cyprus.

Cyprus eliminates the double taxation of income taxable in France through a tax credit equal to the French tax, up to the Cyprus tax corresponding to the income.

The treaty provisions generally apply from 1 January of the year following the entry into force. Once in force and effective, the new treaty will replace the Cyprus - France Income and Capital Tax Treaty (1981), except for certain pensioners who benefit from a grandfather clause allowing them to continue to be taxed under the rules provided by this latter treaty (article 29).

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