New Cyprus-India Double Tax Treaty

On 18 November 2016 Cyprus and India signed a new agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income (DTT). The new DTT replaces the previous double tax treaty concluded between the two countries in 1994.

The new agreement was ratified by Cyprus and published in the Official Gazette of the Republic on 25 November 2016. The agreement will apply in Cyprus as of 1 January 2017 and in India as of 1 April 2017.

Apart from several modifications, the treaty generally complies with the provisions of the OECD Model Convention of 2010 on the Avoidance of Double Taxation on Income and on Capital, with the main provisions discussed below.

Permanent Establishment:

Its definition as included in the DTT is closely in line with the one provided by the OECD Model Convention and is considered to include a building site, construction, assembly or installation project, or any supervisory activities in connection with such site or project with duration exceeding six months. The DTT also envisages other situations when permanent establishment is deemed to have arisen; among others this includes cases when a company provides consulting services through its employees or other staff for more than 90 days during any 12-month period, as well as when an enterprise has an individual representative on the territory of the other contracting state exercising agreements on behalf of such enterprise on a regular basis.

Withholding tax rates:

The DTT prescribes that dividends, interest and royalties may be taxed in the income-receiving country; however, such dividends, interests and royalties may also be taxed in the contracting state of which the company paying them is a resident and according to the laws of that state. In cases when the beneficial owner of the amounts is a resident of the other contracting state, then the tax so charged is not to exceed 10 % of the gross amount of dividends, interests or royalties.
The DTT also contains provisions restricting relief to arm's length interest and royalties in transactions between related parties.

Capital Gains Tax:

According to article 13 of the DTT, gains derived by a resident of a contracting state from the alienation of immovable property referred to in the DTT and situated in the other contracting state, may be taxed in that other state.

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Gains from the disposal of shares which derive their value from immovable property may be taxed in the country where the property is located. Gains from the disposal of other shares may be taxed in the country of residency of the company – issuer of shares. It is worth mentioning that a Protocol to the DTT contains a specific provision according to which gains from the disposal of shares acquired at any time prior to 1 April 2017 will be taxable only in the country of residency of the seller of such shares.
Gains from the alienation of other property- in particular ships or aircraft - are to be taxed only in the state of residence of the person which alienates such property.

Exchange of information:

The new DTT has updated provisions in regards to the exchange of information in accordance with international standards, in order to enable the effective mechanism of exchange of banking and financial information between the two countries and to allow the use of such information not only for taxation purposes. As a result of the new DTT, Cyprus (which had failed to provide requested information to the Indian tax authorities based on the previous double tax treaty) has been excluded by India from the list of non-cooperative jurisdictions.

Here at Eurofast, our advisors' standpoint is that Cyprus is a very convenient location for a regional headquarters hub for doing business with India and this treaty creates very favourable conditions towards enhancing the economic relations between the two contracting states. Our professionals are ready to provide necessary guidance for successful enactment of new projects between the two countries.

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