K. TREPPIDES & CO LTD

Direct Taxation

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Double Tax Treaty Agreement signed between Cyprus and the Netherlands

We would like to inform you that on 1 June 2021, Cyprus and the Netherlands have signed a Double Tax Treaty (DTT) (ratified by Cyprus on 4 June 2021), which is the first of its kind between the two countries.

The DTT generally follows the provisions of the OECD Model Tax Treaty and should contribute to the further development of trade and economic relations between the two states. The DTT will enter into force after certain legal procedures are finalised, and the DTT provisions will be effective as from 1 January of the next calendar year.

The main provisions of the DTT are briefly summarized below.

Dividends

No withholding tax (WHT) if the beneficial owner (BO) is:

a. a company that holds directly at least 5% of the capital of the company paying the dividends, throughout a 365-day period that includes the day of the dividend payment;

b. a recognised pension fund which is generally exempt under the Cyprus Corporate Income Tax law.

For all other cases, the treaty provides for a maximum of 15% WHT.

Interest and Royalties

There is no WHT on payments of interest and royalties provided that the recipient is the BO of the income.

Capital Gains

Cyprus retains the exclusive taxing rights on disposals of shares made by Cyprus tax residents, except where:

a. the shares derive more than 50% of their value, directly or indirectly, from immovable property situated in the Netherlands;
b. the shares derive more than 50% of their value, directly or indirectly, from certain offshore rights/technical equipment relating to exploration or exploitation of the seabed or subsoil or natural resources located in the Netherlands.

Regarding point (a) above, Cyprus still retains sole taxing rights on certain capital gains on disposal of shares, including shares listed on a recognized stock exchange and shares which derive their value from immovable property in which the business is carried on.

Entitlement to benefits

The treaty includes a specific article limiting the entitlement to benefits under the DTT. Thus, a benefit under this DTT shall not be granted in respect of an item of income, if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes (Principal Purpose Test) of any arrangement or transaction that resulted directly or indirectly in that benefit.

For any further information required, please do not hesitate to contact us and we would be happy to assist.

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