

Benefits for the few: protocol to the DTT between Russia and Cyprus announced



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Background

On 10 August 2020, representatives from Russia and Cyprus initialed a new Protocol to the Double Taxation Treaty (DTT) between the countries.

As you will recall, in March the Ministry of Finance of Russia sent an official letter to the Ministry of Finance of Cyprus proposing to revise the then-current DTT, and bringing in a draft Protocol to introduce the amendments to the DTT (the Protocol). For more details on the buildup, click [here](#).

In the draft Protocol, the Ministry of Finance of Russia proposed altering Articles 10 *Dividends* and 11 *Interest* of the DTT so that dividends / interest paid may also be subject to taxation in the country that is the source of income at a rate not exceeding 15%. No option for applying lower tax rates was provided.

The parties held several rounds of negotiations to agree upon a list of persons for whom benefits for dividends and interest might be preserved, against the background of Russia announcing it was happy to potentially bring about a [denunciation](#) of the DTT with Cyprus. However, a compromise was achieved.

Pursuant to the final version of the [Protocol](#), a 5% preferential rate for dividends will be preserved for certain categories of income recipients. This rate will therefore apply to beneficial owners of income if they are one of the entities listed below:

- an insurance institution or a pension fund; or
- a publicly listed company; or
- a government, its political subdivision or local authorities; or
- the Central Bank.

A beneficial rate will apply to publicly listed companies if at least 15% of company shares are in the free float on registered stock exchange and if the company's stake in a dividend payer is at least 15% and the period of ownership has been at least one year.

The exemption for the taxation of interest income will be preserved for banks and the entities listed above, except publicly listed companies. The exemption also applies to income paid on certain classes of securities traded on a registered stock exchange:

- government bonds;
- corporate bonds; and
- external loan bonds (Eurobonds).

In respect of paying interest on loans provided by a publicly listed company (if the conditions above are met), the WHT rate may be reduced to 5% on the condition that the recipient company is the beneficial owner of the interest.

Please note that 'foreign listed company' status may trigger additional tax benefits, such as the opportunity to confirm beneficial ownership status via a simplified procedure, and exemption from

taxation on CFC income. However, the requirements for such a company are different from those set forth by the Protocol for applying DTT-related benefits.

The amendments introduced by the Protocol are expected to take effect on 1 January 2021.

Action to be taken

Not all payments will be affected by the increase in DTT-related WHT rates. As such, please assess whether these benefits cover payments under your business's structure and whether you may need to perform restructuring in order to be covered by these benefits.

Special care should be given to application of 'look-through' approach in structures involving Cypriot companies. It is necessary to make sure that throughout the entire payment chain all necessary conditions are met so that the final recipient of income (rather than interim companies) is recognised as the beneficial owner of income.

There do exist alternative structures, such as using a company redomiciled to Russia. For more details, please click [here](#).

We would be delighted to discuss the information contained herein with you to clarify it, and to assess the impact of the new amendments on the structures of your groups.

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