Michalis Avraam & Partners Limited
AUDITORS AND BUSINESS ADVISORS

TAX UPDATE

NEW DOUBLE TAX TREATY SIGNED BETWEEN CYPRUS-UKRAINE

On 8 November 2012, a new tax treaty between Cyprus and Ukraine was signed during an official visit of the President of Ukraine Mr Viktor Yanukovych in Cyprus. The treaty is to replace the 1982 Convention for the avoidance of double tax on income and property "the Cyprus –USSR Treaty" and will enter into effect on 1st January following the year in which the parties exchange notifications of ratification.

The most significant provisions of the treaty are highlighted below:

1. With respect to the definition of a **permanent establishment**, article 5 of the Treaty is in accordance with OECD model. In particular, a building site or construction or installation project or any supervisory activities in connection with such site or project will be considered a permanent establishment only if it lasts more than 12 months.

2. Under the Treaty, the withholding tax rate on **dividends** will be limited to 5% if the beneficial owner holds at least 20% of the capital of the dividend paying company or has invested in the acquisition of shares or other rights of the dividend paying company of at least €100,000. In all other cases the withholding tax rate is 15%.

3. The withholding tax rate on **interest** is 2% provided the beneficial owner of the interest income is resident of the other contracting state.

4. Under the Treaty, the withholding tax rate on **royalties** is 5% in respect of any copyright of scientific work, any patent, trade mark, secret formula, process or information concerning industrial, commercial or scientific experience, and 10% in all other cases.

5. **Capital gains** arising from disposal of shares (irrespective of the underlying assets of the company in which the shares are being disposed of) or any other movable property are taxed in the Contracting State where the alienator is resident (the State in which the person making the disposal is tax resident).

6. The wording of "**Exchange of information**" is now in accordance with Article 26 of the OECD model. The Protocol states that the requesting Contracting State shall provide certain information when making a request for information to demonstrate the foreseeable relevance of information to the request. No information shall be provided unless the requesting Contracting State has reciprocal provisions and/or applies appropriate administrative practices for the provision of the information requested.

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