

# Cyprus Business Headlines

AUTUMN 2009

VOLUME 4 ISSUE 3

## In this issue

- ≡ [Details of the new double tax treaty between Cyprus and the Czech Republic](#)
- ≡ [Cyprus - Italy double tax agreement](#)
- ≡ [Improvements to Cyprus's depositor protection scheme](#)
- ≡ [Designation of the Cyprus Stock Exchange as a recognised stock exchange for UK tax purposes](#)
- ≡ [Publication of draft Payment Services Law of 2009](#)
- ≡ [Reduction of fees charged by the Cyprus Stock Exchange](#)
- ≡ [Shipping - The new Merchant Shipping \(Port State Control\) Amendment Law of 2009](#)
- ≡ [Maritime Agreement between Cyprus and the Republic of Korea](#)
- ≡ [News about our firm](#)
- ≡ [Recent publications by Andreas Neocleous & Co](#)
- ≡ [Invitation to our office opening](#)

## DETAILS OF THE NEW DOUBLE TAX TREATY BETWEEN CYPRUS AND THE CZECH REPUBLIC

The text of the new double taxation treaty between Cyprus and the Czech Republic, which was signed in April 2009, is now available. The treaty will take effect only after ratification by the legislatures of both countries: if it is ratified before the end of 2009 it will take effect from 1 January 2010. When it takes effect it will replace the 1980 agreement between Cyprus and the former Czechoslovak Socialist Republic.

The main changes introduced by the new treaty are as follows:

### *Taxation of gains on investments in real estate companies*

The new treaty preserves the general rule that the right to tax income from the disposal of shares is given to the country of residence of the seller, but modifies it in certain specific circumstances. In particular, the right to tax capital gains derived on the sale of shares in a property rich company will be vested in the country where such property is located.

Accordingly, gains realised by a resident of one contracting state from the disposal of shares deriving more than 50% of their value from immovable property situated in the other contracting state may be taxed in that other state.

### *Creation of a "service" permanent establishment*

Article 5 of the new treaty widens the definition of a permanent establishment by providing that a permanent establishment is created if services are rendered on the territory of the other contracting state for more than six months in any 12-month period.

### *Removal or reduction of withholding tax on dividends*

The 1980 treaty provides for a 10% withholding tax on dividends paid by a company resident in one country to an investor resident in the other country. Under the new treaty, subject to the investor holding at least 10% of the equity of the investee for at least a year, there will be no withholding tax. If the minimum investment condition is not satisfied, the withholding tax will be 5%.

### *Removal of withholding tax on interest*

Similarly, the 1980 treaty provides for a 10% withholding tax on interest paid by a resident of one country to a resident of the other country. Under the new treaty, interest will be taxed only in the country of residence of the recipient, and there will be no withholding tax..

### *Withholding tax on royalties and licence fees*

The new treaty increases the withholding tax on industrial licence fees (for the use of patents, know-how, software and similar intellectual property) to 10% (compared with 5% under the 1980 treaty). The Czech Republic has undertaken that if it concludes a double tax treaty with another EU state providing for a lower rate of withholding tax on licence fees, it will reduce the rate in the Cyprus treaty to match it.

Royalties remain tax-exempt in the source country, and are taxed only in the country of residence of the recipient.



### *Method of eliminating double taxation*

In contrast to the 1980 treaty, which entitled the Czech Republic to use both the credit and exemption methods, the new treaty allows the use of only the credit method to reduce double taxation,.

### *Anti-abuse provisions*

The authorities of the contracting states may, by mutual agreement, withhold treaty benefits if they conclude that the principal objective of a transaction is to obtain benefits that would not otherwise be available.

Further information: [eliasn@neocleous.com](mailto:eliasn@neocleous.com)

## **CYPRUS - ITALY DOUBLE TAX AGREEMENT**

Cyprus and Italy have signed an additional protocol to their agreement on the avoidance of double taxation. The additional protocol provides for the exchange of bank and other information based on the OECD Model Tax Convention.

In statements to the press, the Cyprus Minister of Finance said that the additional protocol would remove Cyprus "from the so-called black list of Italy", and resolve outstanding tax issues between the two states. This will increase Cyprus's attractiveness to Italian investors as a gateway to the Russian, Eastern European and other markets.

The signature of the Italy protocol follows closely on the conclusion of revised double taxation agreements with the Russian Federation and the Czech Republic.

Further information: [eliasn@neocleous.com](mailto:eliasn@neocleous.com)

## **IMPROVEMENTS TO CYPRUS'S DEPOSITOR PROTECTION SCHEME**

In October 2008 the Cyprus government announced its intention to improve protection for bank depositors by increasing the deposit guarantee from €20,000 to €100,000. The necessary legislation has now been enacted and the Regulations on the Establishment and Operation of the Deposit Protection Scheme were amended on 24 July 2009 to put into effect the following changes:

- ≡ The maximum amount of compensation per depositor per bank has been increased from €20,000 to €100,000, well above the European norm of €50,000 agreed by finance ministers in 2008.
- ≡ The scheme now covers deposits in any currency, whereas it previously only covered deposits denominated in currencies of member states of the EU.
- ≡ The co-insurance element has been abolished and claims up to €100,000 are fully reimbursed

(prior to the change, only 90% of the claim was reimbursed).

- ≡ Reimbursement should take place within 20 days, in line with the relevant EU directive.

Both the government and the banking industry have been at pains to stress that, while the new protection scheme offers invaluable reassurance, it is unlikely to be called upon in practice, as Cyprus banks have adopted conservative business practices and have avoided investing in toxic assets.

Further information: [maria.kyriacou@neocleous.com](mailto:maria.kyriacou@neocleous.com)

## **DESIGNATION OF THE CYPRUS STOCK EXCHANGE AS A RECOGNISED STOCK EXCHANGE FOR UK TAX PURPOSES**

With effect from 22 June 2009 HM Revenue & Customs (HMRC) have designated the Cyprus Stock Exchange as a 'recognised stock exchange' under the Income Tax Act 2007. With effect from the same date the Cyprus Stock Exchange will also be treated as a recognised stock exchange for Inheritance Tax purposes.

Securities admitted to trading and listed on the EU regulated markets of the Cyprus Stock Exchange (those regulated under Title III of the Markets in Financial Instruments Directive (MiFID)) will meet the HMRC interpretation of 'listed' as set out in section 1005 (3) (a) and (3) (b) of the Income Tax Act 2007.

Securities traded on a new market (a multilateral trading facility) soon to be launched which will be called the Emerging Companies Market will not meet the HMRC definition of 'listed'.

Further information: [eliasn@neocleous.com](mailto:eliasn@neocleous.com)

## **PUBLICATION OF DRAFT PAYMENT SERVICES LAW**

The Central Bank of Cyprus has published the draft Payment Services Law of 2009, which implements the European Payment Services Directive, 2007/64/EC. The Payment Services Directive aims to create a single market in payment services, to guarantee fair and open access to payments markets and to increase consumer protection. It requires systems to be put in place to enable all euro or domestic electronic payments to be completed within one day after the payment order is given and provides the legal foundation for cross-border direct debit schemes. It also provides the necessary legal platform for the Single Euro Payments Area.

The draft law establishes the regime for payment institutions, which generally speaking are institutions other than banks and electronic money institutions that may provide payment services with the prior authorisation from the relevant authority, and designates the Central Bank of Cyprus as the competent authority



responsible for the authorisation and prudential supervision of payment institutions. It is expected to be enacted and become effective by 1 November 2009, the transposition date set by the Directive.

Further information:

[stephanos.evangelides@neocleous.com](mailto:stephanos.evangelides@neocleous.com)

### **REDUCTION OF FEES CHARGED BY THE CYPRUS STOCK EXCHANGE**

In August 2009 the Cyprus Stock Exchange announced the abolition of online fees for the provision of information for customers' orders transactions and balances of trading accounts. At the same time, fees charged by the Central Register and Depository for the clearing of transactions in securities listed in the Main Market were reduced from 0.03% to 0.025%. In addition, the lower rate of charge of 0.0075% for simple pre-agreed transactions in securities which are listed on the CSE or any other stock exchange will be applied to transactions in excess of €175,000 rather than the previous threshold of €600,000.

Further information: [marinellak@neocleous.com](mailto:marinellak@neocleous.com)

### **SHIPPING - THE NEW MERCHANT SHIPPING (PORT STATE CONTROL) AMENDMENT LAW OF 2009**

The Merchant Shipping (Port State Control) Amendment Law of 2009 (Law 60(I) of 2009), which came into effect at the end of June 2009, implements the provisions of Articles 7(3) (a) and 19 (a) of EU Directive 95/21/EC concerning "enforcement in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States of international standards for ship safety, pollution prevention and shipboard living and working conditions (Port State Control)" as amended by Article 4 of Directive 2002/84/EC of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships.

The new law introduces changes in the exercise of powers and execution of duties of State officers and officials, and empowers the Competent Authority to impose an administrative fine in cases of failure to properly and promptly pre-notify the arrival of a ship.

Further information: [stamatiou@neocleous.com](mailto:stamatiou@neocleous.com)

### **MARITIME AGREEMENT BETWEEN CYPRUS AND THE REPUBLIC OF KOREA**

In December 2008 the Republic of Cyprus and the Republic of Korea, one of the world's leading shipbuilding centres, signed a cooperation agreement in the field of maritime transport. Following ratification, the agreement entered into force on 10 July 2009. Its

main provisions are as follows:

- ≡ Each of the contracting parties agrees to grant vessels of the other contracting party the same treatment as it affords to its own vessels engaged in international maritime transport in respect of free access to ports, levying of port dues and taxes, use of ports for loading and unloading cargoes and for embarking and disembarking passengers.
- ≡ Each contracting party agrees to recognise seafarers' identity documents issued by the other contracting party.
- ≡ Crew members of ships of one contracting party visiting ports of the other contracting party will be permitted to go ashore and stay for temporary shore leave in the municipality in which the port is situated, as well as in the adjacent municipalities, on production of their identity documents, without any visa being required
- ≡ Each contracting party agrees to take all possible measures of rescue and assistance regarding the cargo, the vessel and all onboard any vessel of the other contracting party (including vessels chartered by a shipping company of that contracting party) in the event that it suffers any accident in its territorial waters or ports.
- ≡ The proceeds of the shipping activities of companies of either contracting party arising from shipping services rendered in the territory of the other contracting party may, in accordance with the laws and regulations of the other Contracting Party, be used for making payments in the territory of the host contracting party or transferred abroad in freely convertible currencies at the market exchange rate prevailing on the date of transfer.

Further information: [stamatiou@neocleous.com](mailto:stamatiou@neocleous.com)

### **NEW EU RULES ON STATE AID TO SHIP MANAGEMENT COMPANIES**

In June 2009 the European Commission provided new and detailed guidance on state aid granted to ship management companies, complementing the 2004 guidelines on state aid to maritime transport. The new guidance confirms that tonnage tax may be applied to all ship managers, as long as they contribute to the development of the European maritime cluster and that they make a commitment to implement the Maritime Labour Convention 2006 ahead of its entry into force.

The 2004 guidelines restricted tonnage tax schemes to ship managers providing a complete package of technical and crew management for the same ship, with a commitment to re-examine the issue after three



years. The Commission accordingly reassessed the matter and concluded that there was no justification for penalising partial outsourcing as compared with full outsourcing. Accordingly, crew management and technical management of ships will now also be eligible when they are supplied separately, subject to the ships managed being fully compliant with international safety rules, and subject to crew managers applying the main provisions of the 2006 Maritime Labour Convention, ahead of its entry into force.

The Cyprus government has announced that it now intends to publish a new draft law on shipping taxation which will further improve Cyprus's attractiveness as a shipping centre, with the aim of it being in force by the beginning of 2010.

Further information: [stamatiou@neocleous.com](mailto:stamatiou@neocleous.com)

### NEWS ABOUT OUR FIRM - OFFICIAL OPENING OF OUR NEW LIMASSOL OFFICES

We are delighted to announce that the official opening of our new Limassol office building will take place on 30 October 2009, from 7 pm onwards. The formal opening will be conducted by one of the pre-eminent jurists in our region, His Excellency Boutros Boutros-Ghali, former Secretary General of the United Nations Organisation.

Designed by Kristian Christou Architects of Limassol in conjunction with Kalliopi Kontozoglou of 3SK Architects of Athens, our new building of 3,500 square metres is one of Cyprus's most advanced buildings in terms of communications, infrastructure and energy efficiency. It offers a world-class working environment to our staff and visiting clients.

There will be a reception for guests, an exhibition of all our publications and tours of the new building. We hope that as many of our clients and friends as possible will be able to join us to celebrate the event. An invitation is attached: please let us know if you will be attending.

### NEWS ABOUT OUR FIRM - NEOCLEOUS'S INTRODUCTION TO CYPRUS LAW

We are delighted to announce that publication of "Neocleous's Introduction to Cyprus Law", the second edition of our groundbreaking comprehensive English-language guide to Cyprus law, is now imminent, with publication scheduled for the end of October. When we published the first edition of "Introduction to Cyprus Law" in 2000, we undertook to update it and correct its deficiencies in a subsequent edition, and readers may be forgiven for thinking that nine years is a long time to wait, particularly in such a fast-moving area as Cyprus law. However, the recent changes to

the Cyprus legal order have been so extensive and fundamental that, had we updated the work any earlier, the second edition would have been out of date before it was published.

We hope that the new edition will be welcomed by everyone with an interest in Cyprus law, and that it will serve them as well as its predecessor.

Further information: [andreas@neocleous.com](mailto:andreas@neocleous.com)

### RECENT PUBLICATIONS

- ≡ Cyprus chapter of "The International Comparative Legal Guide to Product Liability 2009" by Chrysanthos Christoforou and Christos Vezouviou, published by Global Legal Group Limited
- ≡ Cyprus chapter of "Getting the Deal Through – Labour & Employment 2009" by Nicolas Ktenas, published by Law Business Research
- ≡ "The importance of Cyprus as a regional international tax planning center for Greece" (in Greek) by Elias Neocleous and Philippos Aristotelous, published by Sinigoros
- ≡ Cyprus chapter of "PLC Dispute Resolution Handbook" by Christos Melides, Panayiotis Neocleous, Costas Stamatiou and Chrysanthos Christoforou, published by Practical Law Company

These publications may be viewed by following the links above or by visiting the publications section of our website.



Neocleous House,  
195 Archbishop Makarios III Avenue  
P.O. Box 50613, CY-3608, Limassol, Cyprus  
Tel.: +357 25 110000 Fax: +357 25 110001  
E-mail: [info@neocleous.com](mailto:info@neocleous.com)  
Website: [www.neocleous.com](http://www.neocleous.com)

Admiralty and shipping, banking and finance, corporate and commercial, e-Business, EU Law, intellectual property, litigation and arbitration, real estate, tax law and international tax planning

Other local and international offices

Nicosia • Paphos

Moscow • Brussels • Budapest

Kiev • Prague • Sevastopol



ANDREAS NEOCLEOUS & CO LLC

You are cordially invited to join us to celebrate  
the official opening of our new headquarters

**Neocleous House**

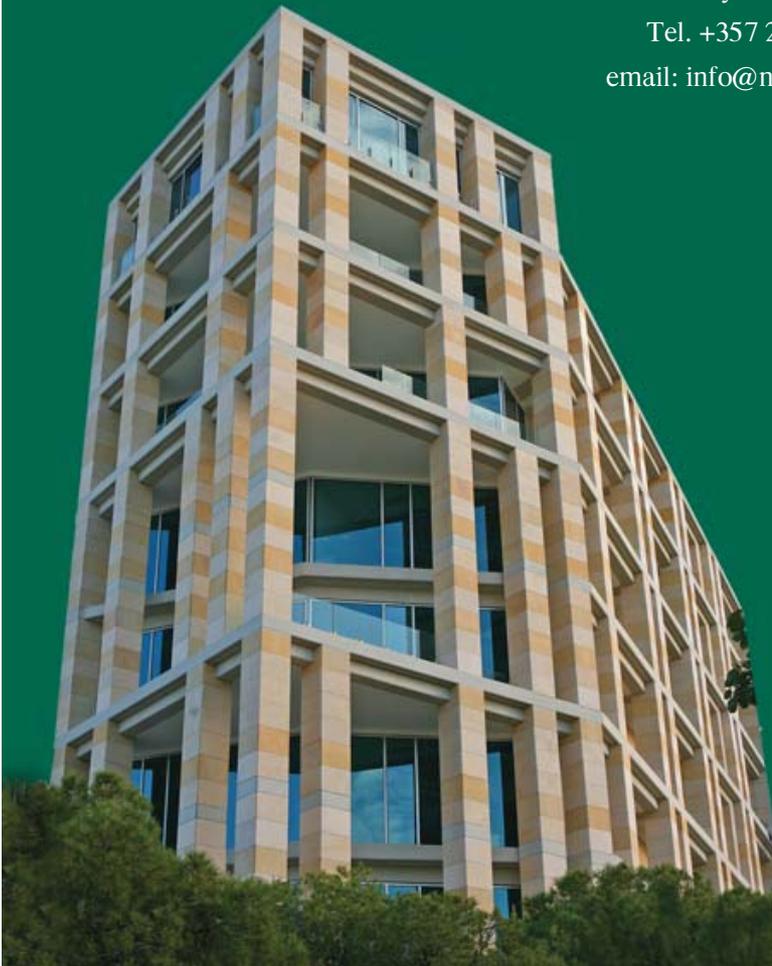
**on Friday 30 October 2009, at 7.00p.m.**

The opening ceremony will be conducted by  
a pre-eminent jurist in our region,  
His Excellency Mr Boutros Boutros-Ghali,  
former Secretary-General of the United Nations

R.S.V.P. by 15 October 2009

Tel. +357 25 110 000

email: [info@neocleous.com](mailto:info@neocleous.com)





[www.neocleous.com](http://www.neocleous.com)