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Double tax treaty roundup

On 1 January 2014 five new agreements for the avoidance of double taxation (DTAs) between Cyprus and other countries took effect. The new agreements are with Estonia, Finland, Portugal, Spain and Ukraine. The first four are entirely new agreements, extending Cyprus's network of DTAs, and the agreement with Ukraine replaces the agreement between Cyprus and the USSR, which had been adopted by Cyprus and Ukraine following the dissolution of the USSR. All the new agreements follow the OECD Model Convention. Furthermore, according to the Ministry of Finance, new agreements with Norway and Switzerland are expected to be signed in the next few weeks, and negotiations on a new agreement with Malaysia are also at an advanced stage.

The new DTAs with Estonia, Finland, Portugal and Spain are expected to lead to a substantial expansion of economic ties and reciprocal investment activities between Cyprus and the countries concerned. For example, Portugal still maintains a "blacklist" of more than 80 countries or territories, including the Channel Islands, Gibraltar, Hong Kong, the Isle of Man, Qatar, Seychelles and the British and US Virgin Islands, whose residents are denied certain benefits of the Portuguese tax system and are subject to the Portuguese CFC rules and to higher rates of certain taxes. Cyprus was removed from the list in 2011.

The revised agreement with Ukraine retains one of the principal benefits of the DTA it replaced, namely the highly favourable provisions regarding capital gains on disposal of shares in property-rich companies. Movable property including shares is taxable only in the country of residence of the owner, and since Cyprus imposes no tax on disposals of shares except and to the extent that the gain is derived from real estate in Cyprus, Cyprus companies have become an ideal means of holding real estate in Ukraine, effectively allowing property to be disposed of tax-free.

Most of Ukraine's other DTAs include a provision allowing gains from the disposal of property-rich companies to be taxed in the contracting state in which the property is located, and it was widely feared that a provision of this nature would be introduced into the new agreement with Cyprus. However, this fear has proved to be unfounded. Gains on disposals of movable property remain taxable only in the contracting state in which the disponor is resident, making Cyprus one of the world's most tax-effective jurisdictions for holding Ukrainian property assets.

For further information please contact [Philippos Aristotelous](#).

Welcome progress in resolving information exchange issues with the Indian tax authorities

A delegation from Cyprus visited India towards the end of November 2013 in order to resolve the issues that had led to the Indian tax authorities' decision to designate Cyprus as a "notified jurisdictional area" (see our website news item dated 12 November 2013). The talks between the representatives of the two countries focused on effective exchange of information and the renegotiation of the Cyprus-India double tax treaty.

It was agreed that the "notified jurisdictional area" status can be lifted immediately once effective mechanisms are put in place to allow the exchange of information by including the provisions of article 26 of the OECD Model Tax Convention in the Cyprus-India double tax treaty and by improving channels of communication in order to facilitate swift and effective responses to requests for information. Rescission of "notified jurisdictional area" status will have retroactive effect from 1 November 2013, the date when the notification was issued.

For further information please contact [Philippos Aristotelous](#).

Memoranda of Understanding and Cooperation regarding supervision of Alternative Investment Fund Managers

Following the enactment of the Alternative Investment Fund Managers Law (Law 56(I) of 2013), transposing the European Directive on Alternative Investment Fund Managers (the "AIFMD") into national law, the Cyprus Securities and Exchange Commission (CySEC) has announced that it has signed Memoranda of Understanding and Cooperation (MOUs) with various third-country authorities in order to regulate and facilitate cross-border supervision of entities subject to the AIFMD.

The AIFMD requires adequate co-operation arrangements between relevant member-state and third-country authorities in order for fund managers based outside the EU to access EU markets or perform fund management by delegation from EU managers. The arrangements were negotiated by the European Securities and Markets Authority on behalf of the EU authorities but each EU securities regulator signs its own bilateral MOU with its counterpart in each third-country.

CySEC has signed MOUs with the relevant authorities of Albania, Australia, Bermuda, Brazil, British Virgin Islands, Canada, Cayman Islands, Dubai, Guernsey, Hong Kong, India, Isle of Man, Israel, Japan, Jersey, Labuan, Mauritius, Montenegro, Morocco, Pakistan, Singapore, Switzerland, Tanzania, Thailand, the Republika Srpska, the United Arab Emirates and the United States of America. MOUs are also expected to be signed shortly with relevant authorities in the Former Yugoslav Republic of Macedonia, Kenya and Mexico.

For further information please contact [Kyriaki Stinga](#).

The Central Bank of Cyprus Directive on Arrears Management of 2013

In October 2013 the Central Bank of Cyprus ("CBC") issued a Directive (Directive on Arrears Management of 2013) under section 41 of the Banking Laws of 1997 to 2013 regarding arrears management and restructuring of bank customers' debts. The Directive applies to all credit institutions licensed by the CBC and to all branches of credit institutions of other member states operating in Cyprus, unless they are covered by corresponding provisions enacted in their home member state. It refers to institutions within its scope as authorised credit institutions ("ACIs").

The Directive aims to ensure that all ACIs operate efficient and effective strategies, policies, structures, procedures and mechanisms to manage arrears and, where necessary, to achieve fair and sustainable restructurings of credit facilities of borrowers facing financial difficulties, whether individual or corporate.

It requires all ACIs to develop a strategy on arrears management in accordance with the framework set out in the appendix to the Directive covering the institution's policy on arrears management for every category of credit facilities, the appropriate governance structures and control mechanisms and the available restructuring options. Every ACI is required to establish and operate an independent centralised department responsible for the effective monitoring of arrears and for the restructuring of credit facilities of borrowers in financial difficulties.

ACIs are also required to establish an independent internal appeals process for resolving disputes with borrowers, and to publish details of the appeal process on their website and communicate them to the borrower at the beginning of any restructuring process. As part of this process they must establish an appeals committee that is independent of the credit granting, monitoring and restructuring functions and that is charged with reaching a reasonable compromise between the borrower and the institution wherever possible.

The Directive also contains a Code of Conduct setting out the prescribed minimum standards to be observed by ACIs when dealing with borrowers and guarantors of their debts. The Code of Conduct on the Handling of Borrowers in Financial Difficulties of 2013 ("the Code") is intended to support and facilitate a meaningful interaction between ACIs on the one hand and obligors on the other, with the ultimate goal of achieving a fair and sustainable restructuring. It sets out the responsibilities of ACIs in the arrears management process and makes a clear distinction between cooperative and non-cooperative obligors, with the focus on consensual and voluntary restructuring.

The Code sets out in detail lenders' responsibilities in each of the six main phases of the restructuring process, namely:

- ≡ Initial communication with the borrower
- ≡ Obtaining financial and other information
- ≡ Assessment of the borrower's financial position
- ≡ Assessment of suitable restructuring options
- ≡ Presentation of restructuring proposals to the borrower
- ≡ Appeals

The Code requires ACIs to make all reasonable efforts to work with borrowers to obtain all the financial and other information required to make a proper assessment of borrowers' ability to meet their commitments and, based on this information, to attempt to formulate realistic and fair restructuring proposals. ACIs are required to implement a pricing policy which maintains a proper balance between the interests of the institution and its customers, so as to align interest and other charges with borrowers' repayment capacity as far as possible.

The CBC considers the issue of arrears management and restructuring to be of paramount importance in its goal of ensuring financial stability, since it forms the primary means of improving the quality and recoverability of ACIs' asset portfolios.

For further information please contact [Panos Labropoulos](#).

Cyprus re-elected to the Council of the International Maritime Organization

At the 28th Session of the International Maritime Organization (IMO) Assembly, which took place from 25 November to 4 December in London, Cyprus was re-elected to the Council of the Organization, the body

responsible for supervising and coordinating the Organization's work.

Cyprus submitted its candidacy to be re-elected as member of the Council in Category (c) comprising 20 elected member states of the IMO. Cyprus was first elected to the Council in this category in 1987, and has been re-elected ever since, ranking among the first four candidates in the number of votes received. In the 2013 election it was again among the top four candidates.

Membership of the IMO Council is particularly beneficial as it allows Cyprus to participate in the decision-making process affecting shipping and underlines the country's credentials in the international shipping market.

For further information please contact [Costas Stamatiou](#).

New Department of Merchant Shipping policy on Security Awareness Training or Security Training for Seafarers with Designated Security Duties under STCW 78

In December 2013 the Department of Merchant Shipping (DMS) announced the following new policy regarding Security Awareness Training or Security training for Seafarers with Designated Security Duties under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, STCW 78, as amended (the Convention).

- ≡ In accordance with regulation VI/6 of the Convention, seafarers holding valid ship security officer certificates of proficiency issued in accordance with regulation VI/5 are not required to undergo training in accordance with regulation VI/6.
- ≡ The DMS will accept certificates of proficiency issued in accordance with regulation VI/6 by or on behalf of a country confirmed by the IMO Maritime Safety Committee to have communicated information which demonstrates that full and complete effect is given to the relevant provisions of the Convention (the IMO White List).
- ≡ No Cyprus endorsement certificate is required to validate certificates of proficiency issued by other countries in accordance with regulations VI/5 and VI/6 of the Convention
- ≡ Seafarers who began their sea service on board Cyprus-flag vessels before 9 December 2013 and do not hold certificates of proficiency for security awareness training or security training for seafarers with designated security duties issued in accordance with regulation VI/6 of the Convention are exempted from the provisions of the regulation and can remain on board until the end of their contracts but not later than 9 December 2014.
- ≡ Seafarers with approved seagoing service as shipboard personnel for a period of at least six months in total during the three years ended 31 December 2011 were able to apply to the DMS for a Certificate of Proficiency for security awareness training or security training for seafarers with designated security duties in accordance with regulation VI/6 of the Convention.

For further information please contact [Vassilis Psyras](#).

News about our firm

The Cyprus Economic and Investment Summit

Andreas Neocleous & Co LLC was a main sponsor of and key participant in the Cyprus Economic and Investment Summit, which took place in Moscow on 10 December. The Summit attracted a substantial audience of senior bankers, businessmen and professional advisers, and generated intense media interest.

The Summit was organised in cooperation with the Cyprus government and the Cyprus Investment Promotion Agency. It was the first high-profile event since the approval of international financial support for Cyprus, and aimed to underline the message to businessmen and investors that the Cyprus economy is on the path to recovery, and that Cyprus is open for business. Haris Georgiadis, the Minister of Finance, and Christodoulos Angastiniotis, President of the Cyprus Investment Promotion Agency, both addressed the Summit and spent considerable time making contact with attendees and reassuring them that Cyprus offers a safe, reliable, transparent jurisdiction for cross-border investment.

Mr Georgiadis, who signed a protocol on economic cooperation between Russia and Cyprus on the day of the Summit, stressed that the outflow of capital from Cyprus banks has stopped, and the financial situation is moving towards stability. He also assured the audience that there would be no tax increases in Cyprus, and that the authorities were taking steps to improve tax information exchange and cooperation between Russia and Cyprus.

We were honoured to be selected to work with the government of Cyprus at this prestige event. Maria Kyriacou, head of the Nicosia office of our firm, gave a presentation on the Cyprus legal and tax system and the benefits of Cyprus holding companies and trusts for international investment purposes. Maria was accompanied by partners Philippos Aristotelous, Panos Labropoulos, and Kyriacos Xenophontos, who also attended the Summit and met with attendees.

Coming closely after the Eurogroup's positive announcement regarding the progress of Cyprus's economic

adjustment programme and President Putin's reassurance that there is no official objection to Russian businesses using offshore financial centres as long as they are not used as a means of evading tax obligations, the Summit reinforced the key message that Cyprus is a secure, reliable and transparent base for Russian businesses to expand into Europe, Asia and Africa. Its geographical location, the benefits of the double taxation agreement and the close business and cultural ties between the two countries make Cyprus the natural choice for Russian entrepreneurs wishing to expand into new markets.

Fourth Limassol Economic Forum

For the fourth successive year Andreas Neocleous & Co LLC was the main sponsor of the Limassol Economic Forum, which was held on 26 November 2013 at the Four Seasons hotel in Limassol. The event, organised in collaboration with the London School of Economics, was chaired by Tony Barber, the Europe editor of the Financial Times, and the speakers and panel chairs included prominent and respected figures from economics, banking, politics, law and the media. The programme included a comprehensive review and analysis of the bailouts in Greece, Spain and Ireland, and considered the opposing view of no bailouts and no austerity measures. Elias Neocleous, Vice-Chairman of our firm, chaired a wide-ranging discussion of the economic and financial issues arising from the Cyprus bail-in between world-class economics commentators.

Further ratings success

The newly-published Tax Director's Handbook 2014, the essential guide to the world's premier tax law firms, recommends Andreas Neocleous & Co LLC as a top-tier firm in Cyprus. The Tax Director's Handbook is published by Legalease, producers of the Legal 500 series of law firm ratings, and draws on the organisation's long-established and unbiased research methods and resources, which have won it a reputation as a leader in its field. Andreas Neocleous, Elias Neocleous and Panos Labropoulos are all recommended on an individual basis and Elias Neocleous is also ranked among the TDH 250, the publication's elite list of the world's leading specialist tax advisers, the lawyers that clients consistently mentioned as the outstanding tax advisers in their jurisdiction during the course of the research.

In addition, the 2014 Best Lawyers ratings for Cyprus are dominated by lawyers from our firm, Fourteen lawyers from our firm are ranked as leaders in their field, more than any other firm, holding leadership positions in all practice areas and accounting for more than 10 per cent of all the recommended lawyers in Cyprus. Andreas Neocleous is the Best Lawyers' 2014 Limassol Banking Law "Lawyer of the Year" and Elias Neocleous is Limassol Corporate Law "Lawyer of the Year."

Best Lawyers covers more than sixty countries and has been covering the legal profession in Cyprus for five years. Inclusion in its ratings is based entirely on peer-review. The methodology is designed to capture, as accurately as possible, the consensus opinion of leading lawyers about the professional abilities of their colleagues within the same geographical area and legal practice area, using a sophisticated, rigorous rational and transparent survey process.

Recent publications

The following are a selection of our publications since the previous edition of this newsletter. They may be viewed by following the links below or by visiting the publications section of our website, which is constantly updated and contains a wealth of useful information on recent developments in Cyprus law.

- ≡ [Cyprus chapter of "Cross-border Restructuring and Insolvency 2013"](#)
- ≡ [Cyprus chapter of "The Private Wealth and Private Client Review"](#)
- ≡ [Cyprus chapter of "Legal Aspects of Doing Business in Europe, second edition"](#)
- ≡ [Cyprus chapter of EU "Study on the Application of the Cross-Border Mergers Directive"](#)
- ≡ [Cyprus chapter of "Getting the Deal Through - Private Client"](#)
- ≡ [Cyprus chapter of "Getting the Deal Through - Restructuring and Insolvency"](#)
- ≡ ["Private client law in Cyprus: an overview"](#)



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