



## New developments under the Cyprus – Russia Double Tax Treaty

The Moscow Department of the Russian Federal Tax Service was recently given further clarification to the meaning of permanent establishment in Russia, as well as to the tax treatment of the liquidation proceeds with respect to the application of the Double Tax Treaty (DTT) between Cyprus and Russia.

- **Clarification of Permanent Establishment**

In an attempt to increase the state revenues the term “Permanent Establishment” was recently further clarified with regards to the application of the Cyprus – Russia Double Tax Treaty.

The Russian authorities aim to maximise their revenues not by increasing the tax base of the Russian companies which pay management services to Cypriot companies but by re-characterising fees earned by Cypriot companies for the provision of management services essentially as Russian sourced income.

In line with the circular, the provision of management services gives rise to a Permanent establishment in Russia. It appears that from a Russian perspective it is arguable that a Cypriot Company can not provide management services without the presence of representatives in Russia.

Accordingly, a Cyprus company which provides management services and issues the relevant invoices to a Russian Company shall be deemed to have a representative in Russia, thus giving rise to a permanent establishment therein. Respectively, profits attributed to the Russian permanent establishment shall be taxed accordingly under the provisions of the Cyprus – Russia DTT.

- **Taxation of liquidation proceeds**

The tax treatment of liquidation proceeds was also subject to further interpretation from the Russian perspective. Respectively, considering the fact that the Cyprus – Russia Tax Treaty is in the spotlight, specific rules were laid down having application to the taxation of liquidation proceeds realised

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by Cyprus corporate shareholders of Russian subsidiary companies.

Accordingly proceeds from liquidations of Russian Companies realised by Cyprus Corporate shareholders shall not be taxed in Russia to the extent that such proceeds are not in excess of the share capital contribution of the said shareholder.

Any income exceeding the amount of the share capital contribution is seen as undistributed profits and shall be treated as a dividend distribution and be taxed accordingly under the provisions of the existing Cyprus – Russia DTT.

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