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## **Cyprus and Luxembourg sign their first double tax treaty**

For the first time, on 08 May 2017, Cyprus and Luxembourg have signed a Double Tax Treaty (DTT), thus leading the way for new trade and investment opportunities between the two countries. Neither country has ratified the DTT yet. The treaty will take effect as from the 1<sup>st</sup> of January of the year following that in which it will enter into force.

The DTT provides for a 0% withholding tax (WHT) rate on interest and royalties. For dividends, a 0% WHT rate applies for corporate investors holding directly at least 10% of the capital of the paying company; a 5% WHT rate applies in all other cases of dividends.

This DTT incorporates the Base Erosion and Profit Shifting (BEPS) project Action 6 report 'Principal Purpose Test' (PPT) established by the OECD. This is a minimum standard under the BEPS project. The PPT provides that a DTT benefit shall not be granted, if obtaining that benefit was one of the principal purposes of an arrangement or transaction. This measure puts a strong emphasis on ensuring that operations are supported by appropriate substance and reflect a principal commercial rationale in order to avoid treaty shopping.

For collective investment vehicles (CIVs) the accompanying Protocol to the DTT provides that, under conditions, exempt CIVs are to be considered as residents of a contracting state if they are considered as residents by the local law of that state, and as the beneficial owners of the income the CIV receives.

To clarify, irrespective of the WHT provisions contained in this DTT in relation to dividends, domestic Cyprus tax legislation does not impose WHT on payments of dividends to non-Cyprus tax residents.

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