Information Sheet No. 51

South Africa: Introduction of Dividend Withholding Tax Favours Cyprus

Introduction - New development

As of 1 April 2012, the South African Secondary Tax ("STC") of 10% will be replaced with a 10% Dividends Tax ("DT"). Whereas STC was suffered at the level of the SA companies upon declaration of dividends, the new DT will be withheld at source as a tax of the shareholder.

Importance of this new development

The decision to replace the STC and align its tax legislation with international practice, forms part of South Africa's ongoing efforts to attract foreign direct investment in the country. From a foreign investor's perspective this is a **favorable** development as the DT (being a withholding tax) can be reduced or eliminated through the provisions of applicable Double Tax Treaties ("DTT's") that South Africa has into force, as opposed to the STC which could not. Further, any suffered South African withholding tax ("WHT") can now be claimed as tax credit by the shareholder in case such dividend is taxable in their place of tax residence.

Favorable DTT's with South Africa

South Africa currently has favorable DTT's with certain countries such as Cyprus, Luxembourg, Ireland, Malta and Seychelles, through which the South African dividend WHT can be reduced or eliminated. The spotlight however falls on **Cyprus** which in addition to the favorable DTT with South Africa, it also offers a number of other attractive elements for foreign investors, thereby constituting Cyprus as one of the prime routes for inward and outward investments for South Africa.

Why Cyprus?

The Cyprus tax system is EU and OECD compliant whilst having the lowest corporate tax rate in the EU, being a uniform tax rate of 12.5% on taxable profit. At the same time, certain types of income are tax exempt (e.g. dividend income under easy to meet conditions and profit from sale of shares). Payments received in Cyprus can have the related foreign WHT eliminated or significantly reduced through access to benefits of the good Cyprus DTT network or of the relevant EU Directives. Payments made from a Cyprus company are not subject to any WHT or other tax leakage.

The WHT rates provided in the current DTT between South Africa and Cyprus are set out below:

South African WHT rates on payments to		
	Non-Treaty country	Cyprus (by access to DTT)
Dividends	10%	0%
Interest	0%	0%
Royalties	12%	0%

Note: South Africa is expected to re-negotiate treaties with all countries that provide for a zero WHT on

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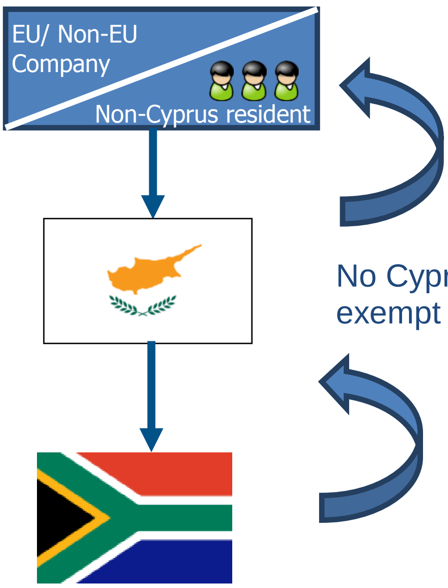
dividends. Under the protocol between South Africa and Cyprus (which is not yet in force) the dividend South African WHT provided in the DTT is expected to change to a reduced 5% for holdings over 10%. Even after this protocol comes into force and the DTT changed, Cyprus shall still be considered as the preferred route for inward or outward investments for South Africa.

The efficient use of Cyprus for inbound and outbound investment with South Africa is being displayed diagrammatically below.

Inward Investments into South Africa via

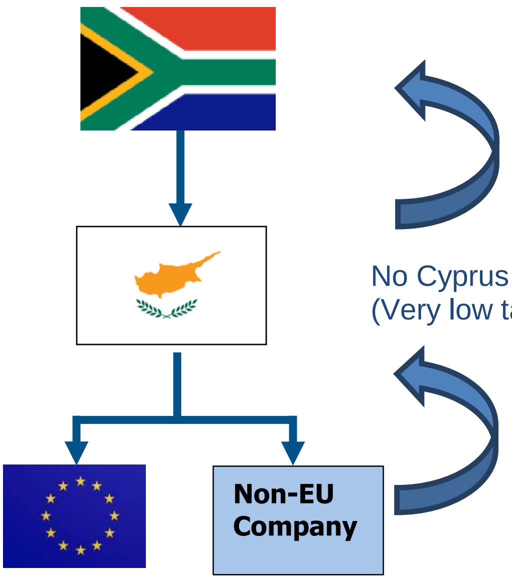


Dividend: 0% Cyprus WHT
Interest: 0% Cyprus

No Cyprus taxes as dividend and capital gains are tax exempt (Very low tax on interest and royalties)

Dividend: ~~10%~~ → 0% SA WHT
Interest: ~~0%~~ → 0% SA WHT

Outward Investments from South Africa via



Dividend: 0% Cyprus WHT
Interest: 0% Cyprus WHT
Royalties: 0% Cyprus

No Cyprus taxes as dividend and capital gains are tax exempt (Very low tax on interest and royalties)

Dividend: 0% or reduced WHT
Interest: 0% or reduced WHT
Royalties: 0% or reduced WHT
through access to DTT or EU Directive benefits

NOTES:

The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained. P.G. Economides & Co Ltd will be glad to assist you in this respect. Please do not hesitate to contact us.

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