# PROTOCOL AMENDING THE DOUBLE TAX TREATY BETWEEN CYPRUS AND UKRAINE AS OF 1ST JANUARY 2019, UNDER WHICH CYPRUS ENSURES A MOST FAVOURABLE NATION CLAUSE

On the 11th of December 2015, Cyprus and Ukraine signed a protocol amending the existing Convention for the Avoidance of Double Taxation (which was signed on 8th November 2012) and the prevention of fiscal evasion with respect to taxes on income and on capital. The provisions of the signed protocol will come into effect as of 1st January 2019 on the date when the existing Convention will expire.

The signed protocol is based on the OECD Model Tax Convention for the Avoidance of Double Taxation on Income and on Capital and contributes to the further development of the trade and economic links between Cyprus and Ukraine.

### "Most favourable nation clause"

During the negotiations of the protocol the "most favourable nation clause" was granted, for taxes on interest, dividends, royalties and capital gains. This means that in case Ukraine enters into a double tax treaty agreement with another country which provides for more favourable provisions for dividends, interests, royalties and capital gains than those provided to Cyprus, the Double Tax Treaty between Cyprus and Ukraine will have to be amended to include these more favourable provisions.

## *Main provisions of the Protocol amending the Double Tax Treaty*

### Withholding Tax rate on dividends payments

- 5% withholding tax on dividends paid, if the beneficial owner of the dividends is a company holding at least 20% of the capital of the company paying the dividend **and** has invested at least €100.000 in the acquisition of shares;

- 10% withholding tax on dividends paid, in all other cases;

### Withholding Tax on interest payments

- 5% withholding tax

### Capital Gains Tax

- Gains from the disposal of shares deriving at least 50% of their value from immovable property would be taxed in the country in which the immovable property is situated.

**The above provision would not apply if the disposal relates to shares:**

- listed on an approved stock exchange
- in the process of a corporate reorganisation
- where the immovable property is used in the company's business
- of public companies
- similar to interest in Real Estate Funds

**The above provision would also not apply if the seller is:**

- listed on an approved stock exchange
- a public company
- a pension, provident or similar fund

*The following table provides a comparison of the existing Double Tax Treaty (applicable up to 31st December 2018) and the new Protocol signed (applicable as from 1st January 2019)*

| | Existing Double Tax Treaty | New Protocol |
|---|---|---|
| **Dividends** | **5%** withholding tax on dividends paid, if the beneficial owner of the dividends is a company holding at least 20% of the capital of the company paying the dividend **OR** has invested at least €100.000 in the acquisition of shares;<br><br>**15%** withholding tax on dividends paid, in all other cases | **5%** withholding tax on dividends paid, if the beneficial owner of the dividends is a company holding at least 20% of the capital of the company paying the dividend **AND** has invested at least €100.000 in the acquisition of shares;<br><br>**10%** withholding tax on dividends paid, in all other cases |
| **Interest** | **2%** withholding tax | **5%** withholding tax |
| **Royalties** | **5%** withholding tax;<br><br>**10%** in case of royalties from films | **5%** withholding tax;<br><br>**10%** in case of royalties from films |
| **Capital Gains Tax** | Gains from the disposal of shares (irrespective of whether the gain arises mainly from immovable property in the books of the company) **are taxed in the country of which the seller is resident.** | Gains from the disposal of shares deriving at least 50% of their value from immovable property **are taxed in the country in which the immovable property is situated** (subject to exemptions). |

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