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Nicosia, Cyprus

Defensive measures in respect of dividend, interest and royalty payments to Non-Cooperative and Low-Tax Jurisdictions

Following the publication in the Government Gazette on 16/4/2025 of Law No. 47(I)/2025 and Law No. 48(I)/2025, rules are introduced adopting defensive measures concerning dividend, interest and royalty payments.

The rules are as follows:

Definitions

- I. An EU blacklisted jurisdiction is a jurisdiction that is included in:
 - the latest published and valid edition of the EU blacklist in the calendar year in question; and
 - the latest published edition of the previous calendar year.
- II. A low-tax jurisdiction is a jurisdiction of a third country in which the corporate tax rate is less than 50% of the Cyprus corporate tax rate of 12.5%.

Dividends

Companies that are not tax residents of Cyprus which:

- I. Are tax residents in a low-tax jurisdiction or are incorporated in a low-tax jurisdiction and are not residents of a country which is not a low-tax jurisdiction; or
- II. Are tax residents in an EU blacklisted jurisdiction or are incorporated in an EU blacklisted jurisdiction and are not residents of a country which is not an EU blacklisted jurisdiction,

and receive dividends distributed by a Cyprus tax resident company shall be subject to Special Contribution for the Defence at the rate of 17%.

The recipient also includes permanent establishments.

The rule will also apply to the distribution of assets from a share capital reduction to the extent that the value of the distributed assets exceeds the amount of the share capital actually paid by such shareholder.

An exemption applies for outbound payments of dividends received by a company in respect of titles listed on any recognised stock exchange under certain conditions.

Anti-abuse provisions are in place as explained below.

Interest

There is a differentiation in the law between interest paid to companies that are tax resident or organized in an EU blacklisted jurisdiction and interest paid by a Cyprus company to a company resident or organized in a low-tax jurisdiction.

The recipient also includes permanent establishments.

Interest payments by an individual are subject to the defensive measures.

Interest payments to companies in EU blacklisted Jurisdictions

Interest payments to companies that are tax residents in an EU blacklisted jurisdiction or are incorporated in an EU blacklisted jurisdiction and are not residents of a country which is not an EU blacklisted jurisdiction will be subject to a withholding tax of 17% in accordance with the Special Contribution for Defence Law.

Interest payments to companies in low-tax jurisdictions

Interest payments to companies that are tax residents in a low-tax jurisdiction or are incorporated in a low-tax jurisdiction and are not residents of a country which is not a low-tax jurisdiction will not be deductible as an expense for the Cyprus paying company.

An exemption applies for outbound payments of interest received or credited to a company in respect of titles listed on any recognised stock exchange under certain conditions.

Anti-abuse provisions are in place as explained below.

Royalties

There is a differentiation in the law between royalties paid to companies that are tax resident or organised in an EU blacklisted jurisdiction and royalties paid by a Cyprus company to a company resident or organised in a low-tax jurisdiction.

The recipient also includes permanent establishments.

Royalty payments by an individual are not subject to the defensive measures.

Royalty payments to companies in EU blacklisted Jurisdictions

Royalty payments to companies that are tax residents in an EU blacklisted jurisdiction or are incorporated in an EU blacklisted jurisdiction and are not residents of a country which is not an EU blacklisted jurisdiction will be subject to a withholding tax of 10% in accordance with the Income Tax Law.

Royalty payments to companies in low-tax jurisdictions

Royalty payments to companies that are tax residents in a low-tax jurisdiction or are incorporated in a low-tax jurisdiction and are not residents of a country which is not a low-tax jurisdiction will not be deductible as an expense for the Cyprus paying company.

Anti-abuse provisions are in place as explained below.

General provisions

Minimum percentage holding

The defensive measures (i.e. the WHT or the non-deductibility of the payment) are applicable to payments by a Cyprus tax resident company to a recipient if the recipient is a related party (50% capital/voting/profit entitlement threshold, owned directly or indirectly, on its own or together with related parties).

Payments to Permanent Establishments

WHT would also apply in respect of dividend, interest and royalty payments to permanent establishments established by a company that is not a Cyprus tax resident, in EU blacklisted or low-tax jurisdictions unless the head office of the relevant company is resident in a jurisdiction that is not a low-tax or an EU blacklisted jurisdiction and:

- the payment to the permanent establishment is subject to tax and not exempted in the jurisdiction in which the relevant company is a tax resident; or
- the payment to the PE is subject to tax at the minimum corporate tax rate of 15% under the Pillar 2/Global Minimum Tax Rules.

Anti-abuse provisions

Anti-abuse provisions have been introduced. They apply in case an arrangement or series of arrangements were implemented with the main purpose or one of the main purposes of avoiding the imposition of withholding and/or non-deductibility and where such arrangement or series of arrangements are not implemented for valid commercial reasons reflecting economic reality.

According to the Anti-abuse provisions, any company which pays interest, dividend or royalty income to another company (subject to the provisions explained above) will need to inform the Tax Commissioner of such transactions and certify that the receiving company meets at least 2 out of the 6 requirements below:

1. At least one of the members of its Board of Directors:
 - 1.1. has the qualifications and authority to take decisions in relation to the activities, assets or rights that generate the company's revenue; and
 - 1.2. carries out its duties actively and independently.
2. At least one of its decision-making members of its board of directors resides in the jurisdiction in which the receiving company is resident for tax purposes (or at a distance that allows travel daily).
3. Has at its disposal office premises, in which its directors and employees perform their duties, in the jurisdiction in which the receiving company is resident for tax purposes.

4. The majority of its board meetings are held in the jurisdiction in which it is resident for tax purposes.
5. Its operating expenses (including directors' remuneration and personnel costs) are paid to persons within the jurisdiction in which it is resident for tax purposes for the tax year to which the transactions relate are proportionate to its activities.
6. The group of companies of which it is a member is not structured in such a way that the receiving company has as its sole activity the receipt of interest, dividend or royalty income and the transfer of all or almost all of it, very soon after receipt, to another affiliated company, with the result that it makes only an insignificant taxable profit in order to allow the flow of funds to the beneficial owner.

The Cyprus paying company will maintain relevant supporting evidence with respect to the receiving company for a period of at least six (6) years from the end of the tax year to which the transactions relate.

Where the above conditions are not met (and the receiving company does not meet two or more of the above conditions), the defensive measures shall apply, unless the company demonstrates that such an arrangement or series of arrangements is for valid commercial reasons reflecting economic reality and that obtaining a tax advantage was not the main purpose of the arrangement or series of arrangements.

Payments to the following companies are exempted from the conditions stated above:

- Cyprus tax resident companies.
- Companies that are tax resident in EU/EEA countries.
- Companies that are part of an MNE group subject to tax at the minimum corporate tax rate of 15% under the Pillar 2/Global Minimum Tax Rules.
- Companies that are part of a consolidated group for accounting purposes and that do not have a presence in either EU blacklisted or low-tax jurisdictions.

Entry into Force

The above provisions have been entered into force on 16/4/2025, except for the provisions relating to low-tax jurisdictions, which will enter into force on 1 January 2026.

Should you require further assistance and/or clarifications please contact our team of experts at tax@hlb.com.cy.

Yours Sincerely

HLB Cyprus Ltd



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