INFORMATION SHEET NO.120

Cyprus for inbound and outbound investments in South Africa

April 2019

Introduction

Investments in and out of South Africa have traditionally been structured efficiently through Cyprus. Specifically, the island has served as an efficient platform for inbound investments in South Africa as well as for South African outbound investments to the rest of world.

Why Cyprus for South Africa?

Cyprus is a well-established international business centre with an EU and OECD compliant tax system. The island maintains one of the lowest corporate tax rates in the EU, being a uniform tax rate of 12.5% on taxable profits. 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) or taxed at much lower effective rates.

Payments received in Cyprus can have the related foreign withholding tax eliminated or significantly reduced through access to benefits of the good Cyprus double tax treaty network or of the relevant EU Directives. Payments made from a Cyprus company are not subject to any WHT or other tax leakage.

Cyprus - South Africa Double Tax Treaty ('DTT')

The withholding tax rates under the current DTT between Cyprus and South Africa are set out below:

South African WHT rates on payments to		
	Non-Treaty country	Cyprus (by access to DTT)
Dividends	20%	0%
Interest	15%*	0%
Royalties	15%**	0%

** As of 1 March 2015, South Africa has introduced a 15% withholding tax on **interest** paid to nonresidents. This rate may be reduced under a tax treaty.*

*** As of 1 January 2015, the domestic South African withholding tax rate on **royalties** has been increased from 12% to 15%. This rate may be reduced under a tax treaty.*

New Cyprus – South Africa Protocol

On 1 April 2015, Cyprus and South Africa signed a Protocol amending their existing 1997 DTT. This treaty shall come into force as soon as it is ratified by both countries (expected to happen soon).

This new Protocol amends the following areas:

- Residence
  The definition of "resident in a Contracting State" is aligned with the 2010 OECD treaty model.

- Dividend withholding tax
  The dividend withholding tax rate shall be limited to 5% if the recipient is the beneficial owner of the dividend and owns 10% or more of the share capital of the company paying the dividend, else the rate shall be 10% in all other cases.

  Once the Protocol is ratified, this provision shall have a retrospective effect from 1 April 2012, being the date of the introduction in South Africa of the dividend tax at shareholder level.

  This change affects only dividend payments from South Africa as Cyprus does not impose a withholding tax on outbound dividends to non-Cyprus residents. Even after this change, Cyprus shall still be considered as one of the preferred routes for inward investments into South Africa.

- Exchange of information
  Article 26 in relation to the exchange of information is aligned with the relevant article of the 2010 OECD treaty model.

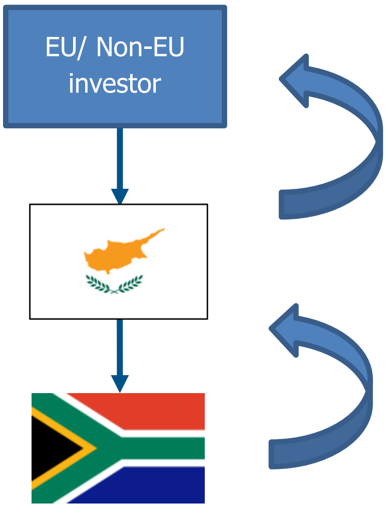
- Capital Gains Tax provision:
  The beneficial capital gains tax provision that gives exclusive taxing rights from the alienation of shares to the country of the seller is being retained even for shares in 'property-rich' companies. As this provision does not exist or has been removed from most other DTTs with South Africa, this gives a significant advantage to the use of Cyprus in such transactions.

Tax aspects for South Africa - Cyprus structures

- Payments from South Africa to Cyprus get the advantage of eliminated South African withholding taxes (WHT) through access to the DTT between the two countries
- At the level of Cyprus the two main incomes of a holding company are tax exempt (i.e. dividend that derives from South African operating subsidiaries as well as profit from sale of shares). Other revenue related profit is taxable in Cyprus at the flat rate of 12,5%
- Payments from Cyprus to its non-Cyprus resident shareholders (companies or individuals) are not subject to any Cyprus withholding taxes
- Confidentiality on the identity of beneficial shareholders can be secured through the use of nominee / trustee shareholders at the level of the Cyprus Company

NOTE: South Africa has significant domestic anti-avoidance provisions. These need to be taken into account from a local perspective in whatever structure is being implemented.

Inward investment into South Africa via Cyprus



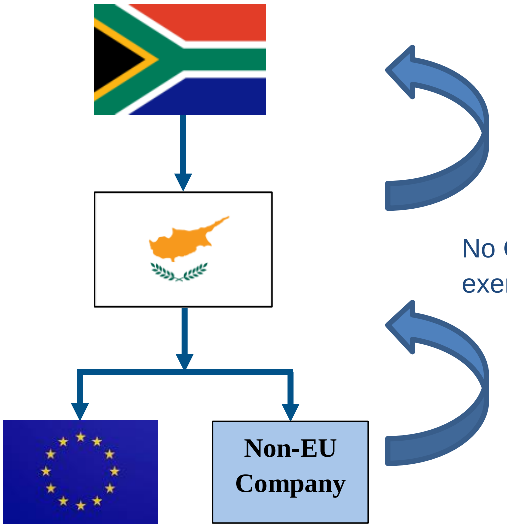
Dividend: 0% Cyprus WHT
Interest: 0% Cyprus WHT
Royalties: 0% Cyprus WHT

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

Dividend: ~~20%~~ → 5% SA WHT (as per new Protocol)
Interest: ~~15%~~ → 0% SA WHT
Royalties: ~~15%~~ → 0% SA WHT

through access to South Africa-Cyprus DTT

Outward investment from South Africa via Cyprus



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

No Cyprus taxes as dividend and capital gains are tax exempt (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 prior to any implementation. Please do not hesitate to contact us for any assistance.