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Polish-Cypriot tax treaty: 2011 amendments

An article by the CMS CEE Tax Group

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Recent amendments of the Polish-Cypriot tax treaty (DTT)

The Polish Ministry of Finance is currently negotiating new wording of the DTT. However, information on this new wording has not yet been officially published, and it is not likely that it will be published before the new version of the DTT enters into force.

According to unofficial verbal information from the Ministry of Finance, the main amendments are likely to include the removal of the:

— So-called “tax sparing clause”, which made it possible to decrease the effective Polish tax rate on dividends paid by a Cypriot company to its Polish shareholders from 19% to 9%, and

— Different tax treatment of directors of Cypriot companies who are not Cypriot tax residents. Under the existing rules the directors fees of such persons are not subject to taxation in either Cyprus or Poland.

The Ministry of Finance announced that it has already launched the formal procedure to obtain the Council of Ministers’ consent to sign the protocol amending the DTT. This is a complex multi-stage procedure, and therefore the date the DTT will enter into force is unknown. But according to unofficial information, it is likely to be 1 January 2012 or 1 January 2013, depending on the pace of work.

Similarly, depending on how quickly the work on the new wording of the DTT is completed, it may be necessary to accelerate the modification of holding structures involving Cypriot companies in order to ensure that the current level of their shareholders’ tax benefits is maintained. Tax advisors should therefore provide clients involved in business activity in Poland and Cyprus with appropriate solutions.

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