

Protocol
amending the Convention between the Government of Ukraine
and the Government of the Republic of Cyprus for the avoidance of double
taxation and the prevention of fiscal evasion with respect to taxes on income

The Government of Ukraine and the Government of the Republic of Cyprus (hereinafter referred to as "the Contracting States"),

Desiring to conclude a Protocol to amend the Convention between the Government of Ukraine and the Government of the Republic of Cyprus for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "the Convention"), signed at Nicosia on 8th November 2012,

Have agreed as follows:

Article 1

Paragraph 2 of Article 10 (Dividends) of the Convention shall be replaced by the following paragraph:

"2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 20 per cent of the capital of the company paying the dividends and at least has invested in the acquisition of the shares or other rights of the company equivalent of at least 100.000 EURO.

b) 10 per cent of the gross amount of the dividends in all other cases."

Article 2

Paragraph 2 of Article 11 (Interest) of the Convention shall be replaced by the following paragraph:

"2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation."

Article 3

Article 13 (Capital gains) of the Convention shall be replaced by the following article:

"1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting

State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic by an enterprise of a Contracting State boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft, or boats shall be taxable only in that Contracting State.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. (a) Paragraph 4 applies only to the gains attributable to the immovable property.

(b) Paragraph 4 does not apply to gains derived from alienation of shares:

- i. listed on an approved stock exchange,
- ii. in the course of a corporate reorganisation,
- iii. where the immovable property from which the shares derived their value is immovable property in which the business is carried on,
- iv. of public companies, and
- v. similar interests in Real Estate Funds.

(c) Paragraph 4 does not apply to gains derived from alienation of shares when the alienator is:

- i. listed on an approved stock exchange,
- ii. a public company,
- iii. a pension fund, a provident fund or similar entity.

6. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident provided that those gains are subject to tax in that Contracting State.”.

Article 4

If after 2 July 2015, date of finalisation of the renegotiation of the Convention between the Government of Ukraine and the Government of the Republic of Cyprus for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, Ukraine should agree in any Convention for the avoidance of double taxation to grant exemption from Ukrainian tax on dividends or on interest or on royalty payments arising in Ukraine or to apply lower rates of Ukrainian tax on such payments than those provided for in Articles 10, 11, 12 or grants more favourable provisions regarding Article 13 of this Convention, then the Contracting States shall have the right to renegotiate these Articles with a view to the application of such

exemption or lower rate or provisions to this Convention or any new or renegotiated Convention.

Article 5

1. The Contracting States shall notify each other in writing, through diplomatic channels, on the completion of the procedures required by the domestic law for the bringing into force of this Protocol.

2. This Protocol shall form an integral part of the Convention and shall enter into force on the date of the latter of the notifications referred to in paragraph 1 of this Article. This Protocol shall have effect:

a) in respect of taxes withheld at source, on amounts paid or credited to non-residents either on or after 1st January 2019 or the first day of January of the calendar year next following that in which this Protocol enters into force if this date is later than 1st January 2019; and

b) in respect of other taxes for taxable years or periods beginning on 1st January 2019 or after the first day of January of the year next following the entry into force of this Protocol if this date is later than 1st January 2019.

In witness whereof the undersigned, duly authorized thereto, have signed this Protocol.

Done in duplicate in Kyiv this 11 day of December 2015, in the Ukrainian, Greek and English languages, all texts being equally authentic. In case there is any divergence in interpretation of this Protocol the English text shall prevail.

**For
the Government of Ukraine**

H.E. Ms. Natalie Jaresko
Minister of Finance

**For
the Government of
the Republic of Cyprus**

H.E. Mr. Yiorgos Lakkotrypis
Minister of Energy, Commerce,
Industry and Tourism