Tax Alert

ISSUE 22 | **JULY 2016**

Proposal to amend the India-Cyprus tax treaty

Shift from resident-based taxation to source-based taxation

On 1 July 2016, Central Board of Direct Taxes (CBDT) issued a press release on the India-Cyprus tax treaty to provide for source based taxation of capital gains. In addition, a grandfathering clause would be provided for investments made prior to 1 April 2017. These provisional agreements will now be placed before the Cabinet for its approval, subsequent to which the new tax treaty can be signed by the two countries.

Rescinding the earlier notification

On 1 November 2013, the Indian Ministry of Finance notified Cyprus as a non-cooperative jurisdiction, stemmed from a row over sharing of information under the India-Cyprus tax treaty.

Key implications of the November 2013 notification are:

- Applicability of Transfer Pricing provisions with respect to any transaction with a person located in Cyprus
- Deduction for expenses in relation to transaction with a Cyprus entity allowed only where prescribed information is furnished
- 30 percent withholding tax on any sum payable to a Cyprus entity on which tax is deductible at source
- Indian entities taking receipt of funds from Cyprus being obliged to make additional disclosures, including source of funds

It is now agreed that India will consider rescinding the above notification of Cyprus under Section 94A of the Indian Income-tax Act, 1961, with retrospective effect from 1 November 2013.

Our Comments

The proposed changes in relation to the capital gains article is similar to the recent changes made to the India-Mauritius tax treaty on 10 May 2016. However, one should wait for the final amended agreement to understand whether the power of India to tax capital gains is limited only to 'shares' or extends even to other instruments, and if there are other changes to the tax treaty.

Based on the press statements by senior government officials of India, the provisions of the tax treaties with Netherlands and Singapore (specifically the capital gains article) are slated to be amended next. The investing community in Singapore are thus keenly tracking this development in India. They hope that the capital gains tax exemption, reduced withholding tax rate on interest income, etc, may be retained or at least amended in line with the recent protocol to the India-Mauritius tax treaty. This should ensure that Singapore continue to play a crucial role in India's much needed development.

How we can help

As a committed tax advisor to our clients, we welcome any opportunity to discuss the relevance of the above matters to your business.

Contact us

Tay Hong Beng
Head of Tax
T: +65 6213 2565
E: hongbengtay@kpmg.com.sg

Ajay Kumar Sanganeria
Partner, Tax
T: +65 6213 2292
E: asanganeria@kpmg.com.sg

KPMG
16 Raffles Quay
#22-00 Hong Leong Building
Singapore 048581
T: +65 6213 3388
F: +65 6227 1297
E: tax@kpmg.com.sg

Find out more about our services at **kpmg.com.sg**

Asia Tax Firm of the Year; Asia International Tax Firm; Asia Indirect Tax Firm; Asia Global Executive Mobility Firm and National Firm for Transfer Pricing in Singapore – ITR Asia Tax Awards 2016.

Ranked Tier 1 Firm for Tax Advisory - International Tax Review 2016.

For more details of our Tax services, please click here.

About Tax Alert

KPMG's Tax Alerts highlight the latest tax developments, impending change to laws or regulations, current practices and potential problem areas that may impact your company. As certain issues discussed herein are time sensitive it is advisable to make plans accordingly.

"Tax Alert" is issued exclusively for the information of clients and staff of KPMG Services Pte. Ltd. and should not be used or relied upon as a substitute for detailed advice or a basis for formulating business decisions.

kpmg.com/socialmedia