

Cyprus further strengthens reputation and credibility as a financial center

An amendment has been made to the existing Cypriot domestic tax legislation as to facilitate the provisions of Art. 26 of the OECD model convention found in the Double Tax Treaty agreements entered into by Cyprus. The changes adopted are vital in ensuring the transparency of the Cypriot regime and strengthen its reputation and credibility as a financial centre. As a consequence to this, Cyprus has been included in the updated whitelist of jurisdictions, as released by OECD following the G20 Summit in London.

This list includes countries that have substantially implemented the internationally agreed standards on the exchange of tax information based on OECD requirements. The new Protocol to the Russian – Cyprus DTT incorporates a new exchange of information clause that is in compliance with article 26 of the OECD model convention. Below are detailed answers to the frequently asked question on the subject. For more information please contact CIPA at info@cipa.org.cy

What is the content of the OECD model agreement, specifically Art. 26?

The OECD provides a model double taxation agreement (for cross-border tax issues) for its 30 member states to be used as a basis for negotiating and concluding state treaties.

Cyprus is one of the countries that voluntarily adopted the model agreement as a basis for its DTT's although not a member of the OECD.

Article 26 provides a definitive ruling on information exchange, i.e. administrative assistance among tax authorities of the signatory countries.

States that have implemented Art.26 in its standard form agree to the exchange of information upon request, but not to the automatic disclosure of information. This means that the country seeking information must produce a substantiated request, naming the taxable person and the specific bank or describing the information requested in sufficient detail.

What will happen now that Cyprus has adopted Art.26 of the OECD's model agreement?

Bank-client confidentiality, guarantees a confidential relationship between client and bank. Nothing about this will change. The Cyprus government has made it clear that there will be no "fishing expeditions" permitted (i.e. random, indiscriminate searches). Bank-client confidentiality and protection of privacy for domestic and international clients is an important feature and will remain intact.

Article 26 of the OECD Model Agreement deals with bank client confidentiality in taxation matters, which to date has meant that Cyprus has only handed over bank documents with regard to tax fraud offences.

Does Article 26 mean that tax authorities can now make automatic account inquiries or conduct investigations at random?

No. Only the provisions of the relevant double taxation agreement are authoritative. Information will only be provided by the tax authority of Cyprus upon receipt of a written request from another. There must be sufficient grounds for the request including an adequate description of the person and the bank in question. "Fishing expeditions" are not permitted under Article 26 in any way.

What are the specific requirements for administrative assistance?

Under the current regulations that apply now and also in the future, the following conditions must be met:

§ The foreign Authorities must in their request provide the following information

§ The identity of the person under examination

§ A description of the information requested and the nature and manner in which the requesting state wishes to receive the information from the Cyprus tax authorities

§ The tax purpose for requesting the information

§ The reason for belief that the requested information is held by the Cyprus tax authorities or is found in the possession or under the control of a person within the jurisdiction of Cyprus

§ The name and address of any person who may hold such requested information to the extent that such information is made available

§ A declaration that the provision of such information is in accordance with the legislation and the administrative practices of the requesting state and that where the requested information is found within the jurisdiction of the state in question, the relevant authority may obtain the information according to its laws and according to the terms of its ordinary administrative practices

§ A declaration that the requesting state has exhausted all means at its disposal within its jurisdiction to obtain the requested information, except where resorting to such means would have imposed an excessive burden.

§ The Cyprus Tax Authorities must then obtain the written consent of the Attorney-General of Cyprus in order to proceed in collecting the information requested from third parties in Cyprus.

Taxable persons who do not consent to administrative assistance may appeal against the process.

Will Cyprus lose market share as one of the largest providers of offshore banking services?

Cyprus is steadily becoming a well known, transparent and respectable financial centre. The core values of the Cyprus system are expertise, stability, and international focus, and discretion. All of these values will hold steady as Cyprus pursues its forward strategy. Financial privacy will still be guaranteed to foreign clients not under suspicion. This is a key asset in a world where personal privacy is constantly dwindling. "Fishing expeditions" will

also not be permitted under the new double taxation agreements that are negotiated. Administrative assistance will only be provided if there is justified suspicion that tax evasion or tax fraud has taken place.

Why is Cyprus the only country that has to do this? What about other countries with bank-clients confidentiality?

Cyprus is not the only country to do this. Due to the financial crisis, international pressure has increased on many countries with similar legislation over the last few months. Based on our analysis, many jurisdictions have recently taken similar steps, or indicated that they will soon do so. Examples include Singapore, Austria, Belgium, Luxemburg, Hong Kong, Liechtenstein and Switzerland, which have said they will adopt the content of Article 26 of the OECD's Model Agreement.

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