CYPRUS- SEYCHELLES COLLABORATION THROUGH THE DOUBLE TAXATION TREATY

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The Cyprus-Seychelles Double Taxation Avoidance treaty came into force on November 2, 2006.

The two countries however, share a history which goes well before that.

There is a closeness that has always existed between Seychelles and Cyprus on the basis of

- Their geographical features - their small size, location amidst several continents, flexibility to adapt to changes and a vast coastline

- Their historical past (both have faced turbulent past and survived invasions. And both have been part of the Commonwealth after their independence in recent times. Mr. Makarios the Archbishop was exiled to the Seychelles in 1956. He was released from exile a year later, although he was still forbidden to return to Cyprus. He went instead to Athens and worked hard to achieve freedom for his people.

- Their economy: is young and progressive, they have survived on tourism, shipping, fishing, agriculture etc. But now in order to compete and outperform their counterparts they have opened the gates of their economy for foreign investments. Through introduction of new laws, simplified procedures, fiscal incentives, inward investment opportunities and DTA treaties and many more changes, they intend to emerge as new super power jurisdictions.

Seychelles Special License Company (CSL) :

After Seychelles success with the IBC (with over 50,000 companies on register), Seychelles has diversified and now provides an excellent wider scope of vehicles for more efficient tax structures involving Protected cell companies and Limited Partnerships and the use of Special License Company to utilize the ever-increasing network of double taxation agreements.

In this article, we shall examine the Cyprus-Seychelles Double Taxation Treaty and how it has opened avenues for accessing investments into EU and CIS countries.

A Special License Company is a resident company with access to double taxation avoidance agreements and is liable to tax at a marginal rate of 1.5% on worldwide income. It is exempt from withholding taxes on dividends, interest and royalties. It is also exempt from stamp duties on property transfers, share transfers and other business transactions.

The Company needs to submit annual returns and financial statements to the Seychelles International Business Authority within 90 days from the end of the financial year.

The Cyprus-Seychelles treaty :

The Double Taxation Avoidance treaty has been in force for well over 1 year now.

The key features of the treaty are:

Dividend, Royalties and Interest exemptions for Cyprus Company:

Dividends, interests and royalties derived from Seychelles by offshore entities are tax exempt. According to the treaty there is no withholding of tax on repatriated dividends, and repatriated interests. However this provision shall not apply if the Special License Company (CSL) has a permanent establishment in Cyprus.

DTAA provides for 5% on repatriated Royalties; similarly this withholding of tax rate shall not apply if the CSL has a permanent residence in Cyprus.

When a Seychelles resident is a recipient of dividends from a company, which is resident of the treaty country like Cyprus, the Seychelles recipient is entitled to a tax credit which shall take into account the tax paid by the resident company (Cyprus), which is the treaty country paying dividends in respect of the profits out of which the dividend is paid.

Capital Gains Exemption:

Double taxation is eliminated by the credit method, i.e. the taxpayer's country of residence will grant a credit for taxes paid in the source country. DTAA states that gains made from sale of shares by CSL holding shares in Cyprus company which derives its value from immovable property, may avoid Cyprus capital gains if the value of the gains is less than 50%.

Any capital gains made from sale of shares by a CSL holding shares in a Cyprus company is taxable in Seychelles if the permanent establishment is in Seychelles.

Tax on Income:

A CSL is liable to 1.5% Seychelles tax on its worldwide income. DTAA provides that any withholding tax paid in Cyprus can be credited against the 1.5% Seychelles tax payable by the CSL and where the Cyprus tax exceeds 1.5% the Cyprus tax credit will discharge all tax liability in Seychelles.

Examples of Cyprus-Seychelles DTAA application:

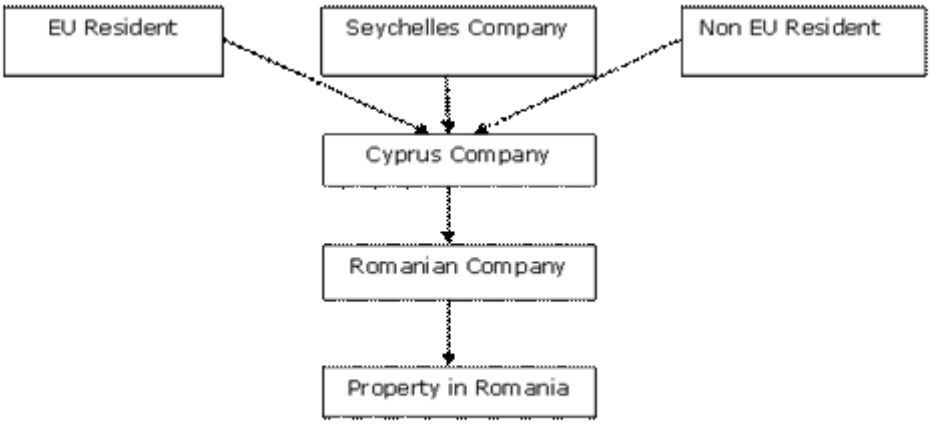
As Cyprus is now part of European Union (EU), Seychelles can access EU markets easily through Cyprus-Seychelles treaty.

While successful implementation of treaty structures is dependent on a wide variety of issues, often relating to matters such as anti-avoidance provisions, controlled foreign company and management and control tests and provisions, transfer pricing, thin capitalisation, participation exemptions and on any changes in tax regulation; a few examples below clearly demonstrate the beneficial applications of the Cyprus-Seychelles DTAA.

1. Investment in Countries where Cyprus has a treaty:

Many large corporations are interested in investing in countries where no double tax agreement exists between the countries. In this case, an intermediary company is established in a jurisdiction with a suitable treaty. For instance, Cyprus has an extensive double tax treaty

network with many Eastern European countries like Romania, and the use of Cypriot companies for inward investment into these countries provides a tax efficient conduit.



2. **Investment in Seychelles:**

The two scenarios below contrasts the investment made into Seychelles directly and through Cyprus treaty and help analyse their respective tax treatment.

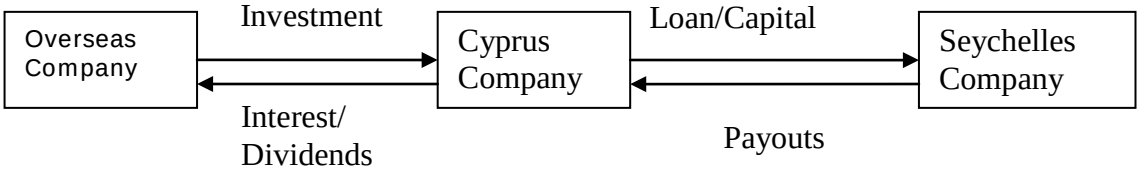
Scenario 1:

When the overseas company directly makes an investment in Seychelles, the withholding tax in Seychelles will be 15% on dividends and 10% on interest on investment made in Seychelles

Scenario 2:

When the investments are made in Seychelles by way of loan or capital through the Cyprus route, the payouts made from Seychelles in form of dividends or interest is tax free due to DTA Treaty with Cyprus and vice versa.

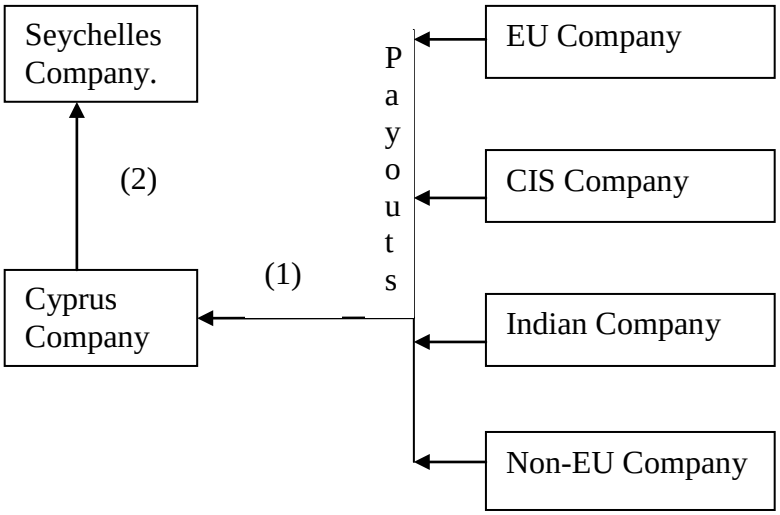
The illustration below shows investment coming into Seychelles from an Overseas Company through Cyprus route in form of Loan or Capital and the payouts received in form of dividend or interest from Seychelles is treated tax free due to DTAA with Cyprus.



3. Dividend or Royalty Exemptions for a Cyprus Company:

A Seychelles company has made investments in countries (India, CIS countries, countries in or out of EU) with whom Cyprus has treaties.

As the illustration below shows payouts (1) in form of dividend and interest received by Cyprus Company will be at 0% or at a reduced rate of tax due to the DTA of Cyprus with that country. And payouts (2) in form of dividends or interests received by Seychelles Company will have 0% withholding of tax as there is no deduction at source in Cyprus on payouts made to a non-resident.



Conclusion:

It is expected that Cyprus-Seychelles collaboration which has flourished through tourism, and of use of Seychelles IBC as a holding company for several Cyprus structures and vice versa till now, will get another dimension through use of the double taxation treaty. Seychelles will hope to access the EU as well as CIS markets through the Cyprus treaty.

The possibilities for collaboration will increase further with the recent launch of Mutual Funds in Seychelles. The Cyprus companies can incorporate mutual funds in Seychelles for investments to and from EU and CIS countries, as well as to reach out to countries like in South-East Asia where Seychelles has favourable double taxation treaties.