A new double tax treaty (DTT) between Bulgaria and Switzerland into force as of 1 January 2014

16 December 2013

In brief

A new double tax treaty (DTT) between Bulgaria and Switzerland was ratified by the parliaments of both countries and will enter into force as of 1 January 2014. New rules on exchange of information and lower tax rates are introduced.

New rules on exchange of information – some practical aspects

Unlike the previous DTT, the new one contains specific provisions establishing new rules and procedures regarding the exchange of information between the two countries. Its scope includes any kind of information which relates to tax obligations, even regarding taxes which are not explicitly covered by the DTT. Moreover, information which is considered to be confidential under the domestic legislation of the countries, such as information held by banks, other financial institutions or under fiduciary agreement, can be provided upon request of the authorities of the other country. Once received, the information may be disclosed in administrative or court proceedings aimed at establishing or assessing tax duties as well as proving tax fraud.

As a result, the competent authorities, including prosecution, will be able to request and receive information which can be used as evidence in administrative or court proceedings against a taxpayer and they will be able to carry out administrative or even penal measures based on the information received.

However, such a request for information should be regarded as a last resort, which means that authorities will first need to have exhausted all the measures under the domestic laws and procedures for obtaining the necessary information before submitting a request for information from the other country under the DTT.

It is advisable that individuals and companies, which may be subject to Bulgarian tax legislation, consider contacting professional tax advisors and discuss the possibility that their Swiss data (which has been considered secret and confidential so far) be disclosed to the Bulgarian tax and law enforcement authorities and the respective consequences therefrom.

Despite the lack of specific rules for voluntary self-disclosure in Bulgaria, there are some practical approaches which may be followed in order to achieve transparency of income and mitigation of possible penal consequences in case of a tax evasion.

PwC Bulgaria would be glad to discuss specific client cases and provide assistance in that respect.

Taxes on dividends

The withholding tax on dividends is reduced from 15% to 10%. Tax exemptions are available for dividend distribution between entities which hold at least 10% of the capital of the distributing entity for a period of at least one year prior to the distribution. Dividends paid to the national bank or pension schemes are also exempt from withholding tax.

Taxes on interest

The withholding tax on interest is reduced from 10% to 5%. Interest payments between affiliated companies in case of a company holding at least 10% of the capital of another or a third company owning at least 10% of the capital of both companies for at least one year prior to the payment of interest are exempt from withholding tax.

Retroactive refund of withholding tax paid on dividends and interest will be possible as soon as the one-year holding period requirement is met.
No exemption will be allowed in case of income received by a conduit company.

Other provisions

Capital gains from transfer of shares deriving more than 50% of their value from immovable property will be taxed in the country where the property is located. The above rule is not applicable to shares acquired on a stock exchange in either of the countries or any other stock exchange as may be agreed between the two countries.

The presence required for creating a permanent establishment for a construction project is extended from 9 to 12 months.

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

PricewaterhouseCoopers Bulgaria EOOD
9-11 Maria Louisa Blvd., fl. 8
1000 Sofia
Tel.: +359 2 91 003
www.pwc.com/bg

Irina Tsvetkova
Country Managing Partner for Bulgaria
Tax and Legal Services Leader
irina.tsvetkova@bg.pwc.com

Paul Tobin
Partner
Tax Services
paul.tobin@bg.pwc.com

Mina Kapsazova
Manager
Tax Services
mina.kapsazova@bg.pwc.com