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# The Legal 500 Country Comparative Guides

## Cyprus TAX

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This country-specific Q&A provides an overview of tax laws and regulations applicable in Cyprus.

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# CYPRUS TAX



## 1. How often is tax law amended and what are the processes for such amendments?

Apart from implementation of EU directives, amendments to the Cyprus tax laws are generally “infrequent”. It follows that taxpayers can undertake transactions with a high degree of assurance that the tax environment they anticipated at the time of a transaction will continue to apply. There is generally advance consultation with stakeholders over a period of several months before new legislation is enacted. However, the international tax landscape is changing rapidly and Cyprus can be expected to keep up to date with international as well as OECD standards.

## 2. What are the principal procedural obligations of a taxpayer, that is, the maintenance of records over what period and how regularly must it file a return or accounts?

For income tax purposes, books and records and supporting documentation must be retained for six years after the end of the tax year to which they relate. Taxpayers are required to submit returns of income for income tax purposes once a year. If the taxpayer is a company or a self-employed individual with gross income above a certain threshold (currently at EUR 70,000), then it should keep books and records in accordance with generally accepted accounting principles that will be audited in accordance with auditing standards. With regards to the payment of income tax there is a self-assessment system, under which taxpayers must declare an estimated income and profit with the estimated tax charge for the year part-way through the tax year. The declaration must be accompanied by payment of half the estimated liability. The balance of the estimated liability is payable by the end of the tax year. This amount can always be revised should this be deemed necessary. The final tax return is submitted after the end of the tax year, together with a payment of any final balance which may be due.

See the answer to question 5 for details of due dates.

Employers are also required to submit returns of employees’ pay and tax deducted under PAYE one month after the salary payment.

Special Defence Contribution, commonly known as SDC tax, should be paid only by companies that are Cyprus tax residents and individuals who are domiciled in the Republic. SDC tax is payable on rents, passive interest income, and dividends. Subject to certain exemptions, companies making such payments must deduct SDC tax at source and account for it to the Tax Department. In the case where a taxpayer receives rents, interest, or dividends from which SDC tax has not been deducted, they must submit semi-annual returns together with a payment of the amount due. All returns and payments in respect of income tax, SDC tax and PAYE must be made online.

See the answer to question 13 for details of SDC.

Taxpayers must submit and pay any capital gains as they arise. However, Capital Gains Tax (“CGT”) only applies to gains from disposals of properties that are situated in the Republic, and after utilizing the available deductions, this is generally not an issue that affects most taxpayers.

There is a separate tax system for qualifying businesses engaged in international shipping, which is outlined in the answer to question 17.

## 3. Who are the key regulatory authorities? How easy is it to deal with them and how long does it take to resolve standard issues?

The Tax Department is the key regulatory authority. It resides within the Ministry of Finance and was formed in 2014 by combining the Inland Revenue Department, which administers direct taxation, and the VAT Service, which deals with indirect taxation.

Like many other governmental departments in Cyprus, routine procedures, such as the final agreement of tax returns and the issuing of assessments, can take some time, depending on the complexity of the matter in issue. Nevertheless, the department responds efficiently and constructively to inquiries. Following the rapid changes to the Tax System in 2014, substantial changes in the way the authorities deal with inquiries were introduced. For instance, advance tax rulings are available and taxpayers may, on payment of the prescribed fee (currently at EUR 2,000), request an expedited ruling, guaranteeing a response within 21 working days provided all the necessary information is supplied.

#### **4. Are tax disputes capable of adjudication by a court, tribunal or body independent of the tax authority, and how long should a taxpayer expect such proceedings to take?**

Decisions of the tax authorities can be challenged by submitting an appeal to the Tax Tribunal, which is an independent body, or to the Administrative Court. The Tax Tribunal is required to reach a conclusion within a year of receiving an application, however, there are no set time limits for the Courts to adhere to. A decision of the Administrative Court and the Tax Tribunal may be the subject of an appeal to the Supreme Court.

Cyprus approved the minimum actions as prescribed by the Multilateral Convention To Implement Tax Treaty Related Measures To Prevent Base Erosion And Profit Shifting (“BEPS”) (“MLI”) and specifically Action 14 (Making Dispute Resolution Mechanisms More Effective) among others. Cyprus has covered all of its existing double tax treaties (with the exception of existing treaties that have already bilaterally agreed to the minimum actions).

Action 14 relates to a commitment by countries to implement a minimum standard to ensure that they resolve treaty-related disputes in a timely, effective, and efficient manner. Approving the integration of Action 14 ensures that Cyprus complies with minimum standards for making dispute resolution mechanisms more effective.

In addition, the MLI introduces a mandatory binding arbitration (Articles 18 – 26) procedure. A party to the MLI who chooses to apply this procedure with respect to its Covered Tax Agreements (“CTA”s) must notify the “Depository” accordingly. This procedure shall apply in relation to two contracting jurisdictions with respect to a CTA only where both contracting jurisdictions have made such a notification.

Where Articles 18-26 are not adopted, treaty parties are reliant on the mutual agreement procedure (“MAP”) article in tax conventions.

#### **5. Are there set dates for payment of tax, provisionally or in arrears, and what happens with amounts of tax in dispute with the regulatory authority?**

The tax year in Cyprus for individuals and companies is the calendar year.

Both individuals and companies must submit a provisional estimate of income, profits and tax payable for the year by 31 July of the tax year, together with a remittance of half the estimated tax payable. The estimates may be revised at any time before 31 December of the tax year and the balance of the estimated tax payable must be paid by then.

This differs for companies and individuals who are obliged to provide audited financial statements. They are required to pay the balance to tax due by 01 August following the end of the tax year. Currently a penalty of 10% is imposed if the tax paid under the provisional assessment is less than 75% of the finalized tax charge of the year. Their final tax return must be submitted by March 31 of the next year (i.e., within 15 months after the end of the year in question).

Self-employed individuals, who are exempt from the requirement to provide audited financial statements, are required to submit their final tax return for the year, with a remittance for any tax payable, by 31 July following the end of the tax year. Tax returns must be submitted electronically via the official TAXISNET system.

It is important that employers submit an employer’s return each year; the deadline generally being the last calendar day of February in the year following the tax year, which is extended to May 31 if filing is done electronically.

The due date for submitting the final employee annual return is July 31 in the year following the tax year.

#### **6. Is taxpayer data recognised as highly confidential and adequately safeguarded against disclosure to third parties, including other parts of the Government? Is it a signatory (or does it propose to become a signatory) to the Common Reporting Standard? And/or does it**

## **maintain (or intend to maintain) a public Register of beneficial ownership?**

While complying fully with all information exchange standards, Cyprus takes taxpayer confidentiality very seriously. The Assessment and Collection of Taxes Law contains strong safeguards against inappropriate disclosure of taxpayer information and requires requests for disclosure to conform with strict requirements, ruling out so-called fishing expeditions.

As an EU member, Cyprus is bound by the Directive 2014/107/EU on mandatory automatic exchange of information in the field of taxation. It is also a signatory to the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information. As per Article 29 of the OECD Model Tax Treaty, information can be exchanged in three different ways: (i) via request, (ii) automatically, and/or (iii) spontaneously. Cyprus implemented the Common Reporting Standard (“CRS”) from the beginning of 2016 and as of 2017 it has started exchanging information. It exchanges information both automatically, thus systematically and periodically transmitting tax information, and spontaneously, thus transmitting information presumed to be of interest.

It is broadly known that Directive 2018/822/EU amending Directive 2011/16/EU aims at increasing transparency to tackle aggressive tax planning by strengthening the rules on mandatory automatic exchange of information. The Cyprus Tax Department has published guidance regarding automatic exchange of financial account information and other information relating to the CRS. The “Guidance Notes on Automatic Exchange of Financial Account Information” published on the department’s website provides detailed and comprehensive guidance on the application of international agreements as well as Cyprus’ legislation on the automatic exchange of financial account information between the Republic and other tax jurisdictions.

On 18 March 2021, the Cyprus Parliament approved the draft bill of the Law of Administrative Cooperation in the Field of Taxation (Law 205(I)/2012) implementing Directive 2018/822/EU (“DAC6”). This said bill was fully enacted into local Cyprus law on 31 March 2021.

DAC6 requires EU-based intermediaries or taxpayers to disclose certain cross-border arrangements that were implemented on or after 25 June 2018 to their local tax authority, who must then share the information with the tax authorities of all other EU Member States.

On 26 February 2021, the Cyprus Tax Authority, in

response to difficulties arising from COVID-19, issued a directive wherein it was announced that there will be no imposition of administrative fines for overdue submission of DAC6 information that should be submitted until 30 June 2021. This date was further extended until 30 September 2021 via an announcement made on 3 June 2021 for certain cases.

In respect of combating money laundering, the financing of terrorist activity, and tax evasion, the 4th AML Directive obliged all EU member states to introduce a central register of the beneficial or true owners of companies, trusts, and other legal arrangements. Additionally, on 19 June 2018, the European Council issued the 5th AML Directive, revising the provisions of the 4th AML Directive to allow for public access to the said registers.

The 5th AML Directive was transposed into Cyprus legislation through an amendment to the Prevention and Suppression of Money Laundering Activities Law of 2007 (N.188 (i)/2007) on 23 February 2021 through law N.13(I)/2021.

On 12 March 2021, the Registrar of Companies and the Official Receiver (“RoC”) issued a directive (Κ.Δ.Π. 112/2021) providing guidance on the provisions of the abovementioned law in regard to the companies and other legal entities register (the “Guidance Manual”), and on 18 June 2021, the Cyprus Securities and Exchange Commission (“CySec”) also issued a directive (Κ.Δ.Π. 257/2021) providing guidance on the trusts and similar legal arrangements register (the “CYTRUST Directive”).

## **7. What are the tests for residence of the main business structures (including transparent entities)?**

Individuals are automatically tax resident if they are physically present in Cyprus for more than 183 days in the tax year. Effective from 1 January 2017, if during the tax year concerned, an individual maintains a permanent establishment (“PE”) in Cyprus, undertakes any business or employment in Cyprus, which continues until the end of the tax year, and is present in Cyprus for at least 60 days, then they may also become Cyprus tax residents. All three conditions must be satisfied, and additionally, the individual concerned must not be a tax resident of any other country as well as not be physically present in any other country for more than 183 days of the tax year in question.

For companies, residence is based on the locus of effective management and control. Mere registration in

Cyprus is not sufficient to establish residence: the key decisions which are necessary for the conduct of the business of the company must be made in Cyprus. The Tax Department's application form for the issuance of a Tax Residency Certificate gives an indication of what are the criteria that the Tax Department considers, such as the location where the directors' and shareholders' meetings are held, where the directors are residents, and where minutes as well as statutory and other records are kept. However, in accordance with the Cyprus Government Budget for 2021, it is expected that in 2021, Cyprus will also be including the "incorporation" test as a further decisive factor.

### **8. Have you found the policing of cross border transactions within an international group to be a target of the tax authorities' attention and in what ways?**

Most companies in Cyprus operate internationally and it has been our experience that the Cyprus tax authorities do not target such companies in terms of policing cross border transactions.

### **9. Is there a CFC or Thin Cap regime? Is there a transfer pricing regime and is it possible to obtain an advance pricing agreement?**

As a result of the Anti-Tax Avoidance Directive (ATAD) Cyprus introduced CFC rules as from 01 January 2019, applying retrospectively.

- a. A CFC is defined as an entity or a PE whose income is not taxable or exempt in Cyprus if the following two conditions are met:
- b. in the case of a non-Cypriot tax resident entity, a Cypriot tax resident company alone, or together with its associated enterprises, holds a direct or indirect participation of more than 50% in such an entity; and

the company or PE is low-taxed (i.e. the income tax it pays is lower than 50% of the Cypriot corporate income tax that it would have paid by applying the provisions of the Cyprus Income Tax Law ("ITL").

Cyprus has opted for Model B since it gives states the ability to 'carve out' CFCs via the thresholds provided by ATAD. 'Carving out' would apply to entities that (i) have accounting profits of less than EUR 750,000 and non-trading income of less than EUR 75,000, or (ii) have accounting profits of more than 10% of operating costs.

Effective from 1 January 2019, Cyprus follows the provisions of the ATAD in respect of thin capitalization rules.

A limitation on the possibility of deducting interest has been set at 30% of taxable income before interest, taxes, depreciation, and amortization.

Taxable Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA) is defined as the total of net taxable income calculated in accordance with Cypriot income tax laws increased by any 'excess' borrowing costs.

The restriction does not apply to amounts falling below EUR 3 million per taxpayer. The restriction does not also apply to companies that do not form part of the group and do not have a related business (defined as participation of at least 25% in the share capital or participation of at least 25% in the profits).

Further, the law also excludes financial undertakings from the scope of the interest limitation rules (i.e. credit institutions, investment firms, alternative investment fund managers (AIFMs), and management companies of undertakings for collective investment in transferable securities (UCITS)).

In terms of transfer pricing, pursuant to Article 33 of the ITL, the tax authorities can adjust taxable profits if they consider that they have been affected by transactions between related parties undertaken other than on an arm's length basis. There is currently no detailed guidance on how this provision is to be applied in practice.

As from July 2017, transfer pricing rules do apply to intra-group financing arrangements. Cyprus does not currently contain a list of permissible pricing methods but has incorporated a general requirement based on the use of the arm's length standard and requires that all documentation support said standard.

The interpretive circular issued by the Tax Department on implementation of the rules closely follows the OECD Transfer Pricing Guidelines. It is widely expected that formal transfer pricing rules will shortly be introduced for all other transactions. In addition, Cyprus is expected to introduce a requirement of transfer pricing files (master and local files).

The Tax Rulings Division of the Tax Department will, on application by or on behalf of a taxpayer, issue advance tax rulings regarding actual transactions (for brevity this should be understood as including a series of transactions) relating to tax years for which the due date for filing a tax return has not yet passed as well as

transactions proposed to be undertaken by existing or new entities. Rulings will only be binding with regard to the taxpayers specifically mentioned in the ruling request, and only to the extent that the facts and circumstances presented in the ruling request continue to be applicable as well as provided that there is no subsequent change in the tax law which renders the ruling inapplicable. The Tax Rulings Division will express an opinion on the applicable tax treatment of the hypothetical transaction or scenario presented to it and will not be responsible for verifying the facts presented by the applicant.

There is nothing in the wording of the circular regarding tax rulings that would prevent a ruling being applied for proposed transfer prices. It should nevertheless be noted that transfer pricing rules are very much a work in progress in Cyprus and the Tax Department is likely to adopt a very cautious approach to initial applications.

**10. Is there a general anti-avoidance rule (GAAR) and, if so, in your experience, how would you describe its application by the tax authority? Eg is the enforcement of the GAAR commonly litigated, is it raised by tax authorities in negotiations only etc?**

Cyprus has never applied withholding tax and, consequently, the amendments included in the Parent Subsidiary Directive ("PSD") did not have a direct impact in Cyprus.

In relation to GAARs, Cyprus has already incorporated the anti-avoidance provisions of the PSD GAAR into domestic law (effective as from 1 January 2016). It gave the tax authorities the power to disregard artificial or fictitious transactions and to withhold the corporate tax exemption on dividends received by companies in Cyprus from elsewhere in the EU if the dividend is treated as a tax-deductible expense in the accounts of the company paying it (so-called "hybrid mismatches"); such dividends will instead be taxed as normal business income at 12.5%.

On 05 April 2019, the House of Representatives approved legislation implementing the EU Anti-tax Avoidance Directive (2016/1164/EC) in Cyprus with the aim of improving the resilience of the internal market against cross-border tax avoidance practices.

The provisions relating to interest deductibility, controlled foreign company (CFC) rules and the general anti-abuse rules (GAARs) came into effect on 1 January 2019.

Transactions that are not carried out for valid commercial reasons will give rise to tax liability, which will be calculated in accordance with the ITL. Cyprus already incorporates within its tax legislation numerous anti-abuse rules. It is expected that relevant articles within the legislation will be amended and enhanced to provide greater and specific powers to the Tax Department to disregard non-genuine arrangements, which have no valid commercial reason that reflect economic reality. Notably, the GAAR will apply only to corporate transactions.

On the 22 January 2020, the MLI along with the positions of Cyprus and an explanatory statement, were published in the Official Gazette of the Republic. Cyprus approved the minimum actions as prescribed by the MLI to include Action 7 (Treaty Abuse).

Article 7 contains a general anti-abuse rule based on the principal purpose of transactions or arrangements (PPT). It also contains an option to supplement the PPT with a simplified limitation on benefits (LOB) provision. Most signatories to the MLI, including Cyprus, have opted for the PPT clause only. Cyprus has not made any notification as regards the adoption of the LOB provision.

The PPT effectively acts to deny treaty benefits if it is determined that the main reason of an arrangement or transaction was to obtain the treaty benefit. Persons to whom a treaty benefit is denied under the PPT may still be able to claim a treaty benefit, if, they can establish that obtaining the benefit would be in line with the object and purpose of a specific treaty provision (objective test).

Cyprus has chosen to apply Article 7(4) of the MLI in cases where the competent authority determines that such benefits would have been granted in the absence of the transaction or arrangement.

It should be noted that, as of yet, there are no relevant court decisions in Cyprus in the context of the PSD GAAR.

**11. Have any of the OECD BEPs recommendations been implemented or are any planned to be implemented and if so, which ones?**

For many years Cyprus tax policy has been based on offering an internationally competitive tax environment that is fully compliant with international best practice and the highest standards of transparency and fairness. In line with this commitment, Cyprus revised its intellectual box regime in 2016 to comply with the

modified nexus approach put forward by the OECD. The OECD BEPS Action Plan focuses on 15 key areas to ensure that profits are taxed where value is created, dealing with issues relating to the coherence of tax rules, substance of business arrangements and transactions as well as the transparency of information disclosed to the tax authorities by the taxpayers.

Cyprus is also one of the initial 68 signatories to the MLI. New and updated double tax agreements are aligned with the latest OECD standards. In 2017 new transfer pricing rules were introduced for financing transactions involving connected parties in line with the relevant BEPS actions.

On 5 April 2019, the House of Representatives approved legislation implementing ATAD in Cyprus with the aim of improving the internal market's ability to deal with cross-border tax avoidance practices.

ATAD contains five legally binding anti-abuse measures, which all Member States must apply. The measures are the following:

- introduction of controlled foreign company (CFC) rules (Action 3);
- the switch-over rule (Action 2);
- introduction of exit taxes;
- interest limitation (Action 4); and
- introduction of the general anti-abuse rule (GAAR) (Action 6).

The provisions relating to interest deductibility rules, CFCs and GAAR, as included in ATAD, entered into force on 1 January 2019. On 3 July 2020, the remaining two amendments for full implementation of ATAD were published in the Official Gazette of the Republic: the first concerns the introduction of an exit tax regime (ATAD I), which applies retroactively from 1 January 2020; and the second is related to hybrid mismatches (ATAD II), which focuses on Action 2, and also applies retroactively from 1 January 2021. The so-called reverse hybrid mismatches rules will apply from 1 January 2022.

## **12. In your view, how has BEPS impacted on the government's tax policies?**

The policy of successive Cyprus governments over the years has been to provide a competitive tax environment that is fully compliant with international best practice. Cyprus has always been an early complier with OECD and other international initiatives. We expect that policy to continue.

## **13. Does the tax system broadly follow the recognised OECD Model? Does it have taxation of; a) business profits, b) employment income and pensions, c) VAT (or other indirect tax), d) savings income and royalties, e) income from land, f) capital gains, g) stamp and/or capital duties. If so, what are the current rates and are they flat or graduated?**

The Cyprus tax system is fully compliant with OECD and EU norms. As regards the various categories of income:

- a. Business profits. Business profits of companies, adjusted for various disallowances and exemptions, are subject to tax at 12.5%. Notional interest deduction can reduce the tax to 2,5% if certain criteria apply. The intellectual property box regime gives greatly reduced rates of tax on income and gains from qualifying assets.
- b. Employment income and pensions. For individuals, the first EUR 19,500 of annual taxable income (which includes business profits, income from employment and pensions) net of allowable deductions is free of tax; the next EUR 8,500 is subject to tax at 20%; the next EUR 8,300 at 25%; the next EUR 23,700 at 30% and any amount above EUR 60,000 at 35%. Exemptions are available on earnings from employment in the initial years of residence. For each tax year, there is a 50% deduction available to expatriates who earn employment income more than EUR 100,000 annually or a 20% deduction available to expatriates earning below EUR 100,000. Additionally, the first EUR 19,500 per year of Cyprus-source widow's or widower's pension is free of tax and tax is payable on the balance at 20%. The first EUR 3,420 per year of foreign source pension income is free of tax and tax is payable on the balance at 5%. The taxpayer may opt from year to year to be taxed on the standard basis if this would be beneficial for them.
- c. VAT. The standard rate of VAT is 19%. Reduced rates of 5% and 9% apply to certain suppliers
- d. Savings interest and royalties. Passive interest and dividends received by individuals who are both resident and domiciled in Cyprus are subject to SDC tax at rates of 30% and 17% respectively. Individuals who are resident but not domiciled in Cyprus are exempt from SDC tax on interest and dividends. Passive

- interest received by Cyprus-resident companies is subject to SDC tax at 30%. Dividends received by Cyprus-resident companies from another Cyprus-resident company (and those received from overseas – see 23 below) are not subject to income tax or SDC tax. Royalties are treated as trading income.
- e. Income from land. Rent is treated as trading income for income tax purposes after deducting capital allowances and any other attributable expenses to the income such as interest expense for the acquisition of the asset. A further 20% allowance is given on the gross rent received by individuals. Rent received by companies, and by individuals who are both resident and domiciled in Cyprus, are subject to SDC tax at an effective rate of 2.25%.
- f. Capital Gains. The only gains subject to CGT are gains on disposal of immovable property that is located in Cyprus and on disposal of shares in unlisted companies to the extent that those shares directly or indirectly derive their value from immovable property located in Cyprus. All other gains are exempt.
- g. Stamp duty is payable on contracts relating to property or business in Cyprus. For transactions with a consideration up to EUR 5,000, no stamp duty is payable; for transactions with a consideration between EUR 5,000 and EUR 170,000, stamp duty is EUR 1.50 for every EUR 1,000, and for transactions with a consideration in excess of EUR 170,000, stamp duty is EUR 2 for every EUR 1,000. The maximum stamp duty payable on a contract is capped at EUR 20,000. As of 18 December 2018 the obligation to pay capital duty of 0.6% of the authorized capital or on any subsequent increase on in the share capital, has been abolished. Instead, a notional interest deduction against profits for corporate income tax purposes is available for new capital introduced into Cyprus companies and PEs. This can reduce the tax liability of the Cyprus company by up to 80%.
- h. Inheritance tax is not applicable
- i. GHS contribution. The healthcare system in Cyprus changed with the introduction of the publicly funded General Health Service (“GHS”) in 2019. GHS is a full-coverage healthcare program for all citizens of Cyprus. This new system promises to give people a choice between the services of any doctor or other healthcare professional in the private or public sector in return for a compulsory contribution to the GHS. The contribution rates vary according to the contributor and are currently set as follows:
- |  |       |
|--|-------|
|  | 2.65% |
|  | 2.90% |
|  | 4.00% |
|  | 2.65% |
|  | 2.65% |
|  | 2.90% |
|  | 2.65% |
|  | 4.70% |
- 14. Is the charge to business tax levied on, broadly, the revenue profits of a business as computed according to the principles of commercial accountancy?**
- The charge to tax is based on profits computed according to International Financial Reporting Standards, adjusted to reflect exempt income and disallowable expenditure according to the ITL.
- 15. Are different vehicles for carrying on business, such as companies, partnerships, trusts, etc, recognised as taxable entities? What entities are transparent for tax purposes and why are they used?**
- While Cyprus recognises a wide range of business structures, including all of the above, only natural and legal persons (individuals, companies and their branches and PEs as well as foundations) are treated as taxable entities. Partnerships and trusts are treated as transparent for tax purposes and the income is assessed on the partners and the beneficiaries, respectively. Funds are also tax transparent.
- 16. Is liability to business taxation based upon a concepts of fiscal residence or registration? Is so what are the tests?**
- Liability to Cyprus tax (and eligibility for benefits under double tax agreements) is based on residence. Mere registration is not sufficient.
- See the answer to question 7 for the tests applicable to residence.



## 17. Are there any special taxation regimes, such as enterprise zones or favourable tax regimes for financial services or co-ordination centres, etc?

### *Tonnage Tax*

The Merchant Shipping (Fees and Taxing Provisions) Law of 2010, commonly known as the Tonnage Tax Law, provides shipowners, ship managers and charters that qualify under the said law in relation to qualifying ships (as defined in the law) engaged in qualifying shipping activities (as defined in the law) the possibility to be taxed on the basis of the tonnage of the vessel (not all gains nor all activities can fall within the tonnage tax system). It should be noted that following the Government's negotiations with the EU, the tonnage tax system of Cyprus has been prolonged until 31 December 2029, giving effect to the Decision of the European Commission dated 16 December 2019 to prolong the Cyprus tonnage tax system and to approve it as being in line with the relevant EU policy and community guidelines on state aid to maritime transport.

### *Film and audio-visual production industry*

In September 2017, the Cyprus government approved an initiative to encourage the development of the film and audio-visual production industry in Cyprus by means of grants, tax incentives, and other assistance.

Law 139(I) of 2018, which took effect on 11 December 2018, amends the ITL to provide tax exemption of income from production of films and audio-visual media in accordance with the government's programme.

The amending law adds a new sub-paragraph to Article 8 of the ITL providing up to 50% exemption from tax of income derived from production of films, series and other relevant audio-visual programmes as described in the government programme. The deduction is limited to 35% of the eligible costs approved by the competent authority implementing the programme. Any restriction on the exemption resulting from the limitation to 35% of costs can be recovered over the next five years. No exemption is available if the taxpayer has received a grant under the programme.

In addition, small enterprises as defined in Article 17 of Regulation (EU) 651/2014 may claim an annual deduction of 20% of the cost of cinematographic infrastructure and technological equipment providing it is used in Cyprus for at least five years. Medium-sized enterprises may claim an annual deduction of 10% of such costs.

## 18. Are there any particular tax regimes applicable to intellectual property, such as patent box?

In May 2012, Cyprus introduced a package of incentives and tax exemptions relating to investment in intellectual property rights, commonly known as an IP box. This combines the lowest rate of tax (effectively less than 2.5%) with the widest range of qualifying assets and the fewest restrictions compared to other countries' IP boxes.

Following the adoption of the modified nexus approach under Action 5 of the G20/OECD BEPS project the IP box regime applies to a more limited range of assets than previously. New arrangements for intellectual property assets have been developed as from 01 July 2016.

As a result, qualifying assets are restricted to patents, software and other IP assets that are legally protected. Intellectual property rights used to market products and services, such as business names, brands, trademarks and image rights, do not fall within the definition of qualifying assets.

Relief is geared to the cost incurred by the taxpayer in developing the intellectual property through its research and development activities. Costs of purchase of intangible assets, interest, costs relating to the acquisition or construction of immovable property and amounts paid, or payable directly or indirectly, to a related person are excluded from the definition of qualifying expenditure.

Unlike under the original scheme, 80% of the "qualifying profit" rather than a general 80% on "accounting profit" is granted as an additional deduction.

Nevertheless, the IP Box Regime continues to provide considerable tax savings, and companies that joined the scheme before June 2016 can look forward to benefiting from substantial savings until mid-2021.

## 19. Is fiscal consolidation employed or a recognition of groups of corporates for tax purposes and are there any jurisdictional limitations on what can constitute a group for tax purposes? Is a group contribution system employed or how can losses be relieved across group companies otherwise?

Trading losses incurred by one member of a group of companies may be offset against trading profits of

another group company by way of group relief, provided that the losses and profits accrued in the same year of assessment and both companies were members of the same group for the whole of the tax year concerned.

A subsidiary that is formed during a tax year (as opposed to an existing company that is acquired) is treated as being a member of the group for the whole tax year. Two companies are deemed to be members of a group if one is the 75% subsidiary of the other or both are 75% subsidiaries of a third company. A '75% subsidiary' means holding at least 75% of the voting shares with beneficial entitlement to at least 75% of the income and 75% of the assets on liquidation.

Until 2015, group loss relief was available only for losses incurred by Cyprus tax resident companies. In order to align the loss relief provisions with the decision of the European Court of Justice in the Marks & Spencer case<sup>1</sup>, the law was amended in 2015 so that a subsidiary company, which is tax resident in another EU member state, can surrender its taxable losses to another group member company that is tax resident in Cyprus, provided the subsidiary has exhausted all means of surrendering or carrying forward the losses in its member state of residence, or, to any intermediate holding company.

The amount of taxable losses that may be surrendered is calculated on the basis of the Cyprus tax laws. Similarly, subsidiaries residing in countries with which Cyprus has a double tax agreement or, an agreement to exchange tax information with, may also surrender losses in the same way.

1 - Judgement: C-446/03, Marks & Spencer

## 20. Are there any withholding taxes?

There are no withholding taxes on dividends or interest paid to non-residents. Royalties, or similar payments, to a non-resident for intellectual or industrial property rights are liable to withholding tax only if they are for the use of the rights within Cyprus: no tax need be withheld if the rights are used exclusively outside Cyprus. The rate of withholding tax for use of general intellectual or industrial property rights within Cyprus is 10%; royalty payments made to non-residents in respect of films shown in Cyprus are subject to withholding tax at 5% of the gross amount. In either case, the payment is subject to relief under any applicable double taxation treaty. It is, however, expected that Cyprus will introduce by the end of the year 2021 withholding tax on dividends, interest, and royalty payments to countries in Annex I of the EU list of non-cooperative jurisdictions on tax matters.

## 21. Are there any recognised environmental taxes payable by businesses?

There are no explicit environmental taxes applicable for businesses at present, however, plans for a carbon tax among other are being discussed.

## 22. Is dividend income received from resident and/or non-resident companies exempt from tax? If not how is it taxed?

There are two tests that require examination.

Test 1: Corporation tax at 12.5% if the foreign dividend is of a hybrid nature

Dividends earned by a Cyprus tax resident company are indeed generally exempt from Cyprus corporate tax with the exception of hybrids as summarized below.

With the introduction of anti-hybrid rules, dividends earned by Cyprus tax resident companies from foreign sources are subject to corporation tax at 12.5% if the dividend earned carries hybrid characteristics - i.e. a mismatch between the definition of income earned (dividend) and the item paid (interest). Assuming that all foreign dividends are non-hybrids then they are exempt from Cyprus corporate tax.

Test 2: SDC at 17%

Assuming the dividend is of a non-hybrid nature, then one must examine whether such dividends are taxable under SDC at 17%. Such taxability would apply if BOTH of the below applied:

- A. the foreign paying out entity pays tax at a rate lower than 6.25%; AND
- B. the foreign entity (directly and indirectly) carried out passive (non-business) activities.

## 23. If you were advising an international group seeking to re-locate activities from the UK as a result of Brexit, what are the advantages and disadvantages offered by your jurisdiction?

Cyprus provides an ideal base for businesses from all over the world wishing to establish a base in the EU. It is strategically located at the crossroads of three continents, it has a well-developed business infrastructure as well as a business-friendly low-tax regime with a wide network of double taxation

agreements. It also offers a high quality of life, low operating costs, and substantial tax exemptions (including a 50 per cent income tax exemption for the first 10 years of residence for expatriates earning above EUR 100,000 per year).

There are further advantages for businesses relocating from the UK, which stem from the fact that Cyprus used

to be a British colony. A significant part of the whole legal, financial, and administrative infrastructure is very similar to that in the UK. Cyprus law is based on UK Common Law and many existing laws have their origins in English Law as amended by EU Law. Furthermore, this is coupled with the fact that English is very widely spoken and is the lingua franca of business.

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