



CHANGES TO TAX LEGISLATION

On 10 December 2015 the Cyprus Parliament has passed a number of amendments to the “Income Tax Law”, the “Capital Gains Tax Law” and the “Assessment and Collection of Taxes Law”. On 17 December 2015 these changes in legislation were published in the Official Gazette of the Republic.

INCOME TAX LAW

Tax Neutrality of FX Gains/Losses

As of 1 January 2015, the tax treatment of any realized or unrealized gains or losses resulting from foreign exchange (FX) differences will be neutral, i.e. FX gains will not be taxable and FX losses will not be deductible regardless of their nature (revenue or capital).

The one exception to the above rule is FX gains/losses arising from trading in foreign currencies (including foreign currency derivatives). For such companies, an option is now available to make an irrevocable election to be subject to tax on a realized basis. If such an election is made, then any unrealized gains/losses will be taxable/tax deductible in the tax year they are realized.

Changes to taxation of individuals taking up employment in Cyprus

The taxation framework provided to expatriates taking up employment in Cyprus has been amended as follows:

- 1) The exemption period of 3 years for the 20% income tax exemption (up to maximum of €8,550) has been extended to 5 years provided that the employment started during or after 2012 and will be gradually phased out by 2020, after which it will be abolished.
- 2) The exemption period of 5 years for the 50% income tax exemption (for individuals earning more than €100,000 per year) has been extended to 10 years commencing from the year of employment. For individuals commencing employment from 1 January 2015, new anti-abuse rules apply, in that the exemption will not be available to individuals that were Cyprus tax residents for a period of 3 out of 5 years preceding the year of employment, and to individuals that were Cyprus tax residents in the year preceding the year of commencing their employment.
- 3) The 50% tax exemption will be granted in any year in which the individuals annual employment income exceeds €100,000 regardless if in a tax year during the 10 year period, the employment income may fall below the €100,000 threshold, provided that the annual employment income exceeds €100,000 during the first year of employment and the Tax Commissioner is satisfied that the income variations were not intended to take advantage of the 50% tax exemption.
- 4) An individual cannot claim both exemptions simultaneously.



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Amendments to the transfer pricing adjustments on related party transactions

As from 1 January 2015, in those cases where the Cyprus Tax Department in applying the arm's length principle, makes upward adjustments in the taxable profit of a Cyprus tax resident company (or a Permanent establishment of a non-Cyprus resident company), then a corresponding downward adjustment should be made to the taxable profit of the other Cyprus tax resident company involved in the transaction.

Group Relief of Taxable Losses

Up to now the group loss relief provisions were applicable only between Cypriot tax resident companies.

As of 1 January 2015, losses may be surrendered to a Cyprus tax resident company by an EU resident company, provided that such company has exhausted all possibilities available for using the losses in its respective country of tax residency or in another EU country where an intermediary holding company may be based.

Taxation of Dividends

Currently dividend income is unconditionally exempt from income tax. In order for the Cyprus Income Tax law to be harmonized with the amended EU Parent-Subsidiary Directive, as from 1 January 2016, where a Cyprus resident company (or a Permanent establishment of a non-Cyprus resident company) receives dividends from another company, the income tax exemption shall not apply to the extent that such dividends are tax deductible in the jurisdiction of the dividend paying company. If the dividend is subject to Income tax as per the above provision, then it will not be subject to Special Defence Contribution.

Furthermore, in case the dividend income is subject to income tax, as described above, the tax authorities may deny the availability of underlying tax relief for the foreign underlying tax paid, in case an arrangement has been put in place for the purpose of obtaining a tax benefit without any valid commercial reasons which reflect economic reality.

Restriction of losses arising from Intellectual Property (IP) activities

In accordance with Cyprus IP regime, only 20% of the net profit from exploitation/sale of qualifying IP assets is taxable.

The law is amended with retroactive effect as from 1 January 2012, so that in case the IP activities are loss making, only 20% of the resulting tax losses can be set-off and carried forward in accordance with the relevant provisions of the law.



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It is further clarified that any Notional Interest Deduction (NID) which is attributed to a qualifying IP will be treated as a direct expense for the purpose of calculating the 80% deemed deduction.

Anti-avoidance provisions for reorganizations

As from 1 January 2016, the tax authorities may not exempt from tax any profits arising from a reorganization where they consider that the reorganization does not have substantial economic or commercial purpose and is mainly implemented in order to avoid/postpone/reduce the payment of tax.

Furthermore, the tax authorities may request supporting evidence deemed necessary to establish the purpose of the reorganization and may also impose conditions in relation to the number of the shares that will be issued as a result of the reorganization or the number of years for which the issued shares must be held by the recipient (maximum 3 years).

CAPITAL GAINS TAX LAW

Capital Gains Tax (CGT) was imposed on capital gains derived from the disposal of immovable property situated in Cyprus and on the disposal of shares of unlisted companies which own immovable property in Cyprus.

The following amendments to CGT law are effective from 17 December 2015:

- 1) CGT is now imposed on the sale of shares of companies which directly/indirectly participate in other companies which hold immovable property situated in Cyprus, provided that at least 50% of the market value of the shares sold is derived from immovable property situated in Cyprus.
- 2) Any profits of a trading nature derived from sale of shares of companies which directly/indirectly own immovable property in Cyprus that are exempt from income tax will now be subject to CGT.
- 3) In the case of disposal of shares of a company which directly/indirectly holds immovable property in Cyprus, the disposal proceeds subject to CGT will be calculated based on the market value of the immovable property held directly/indirectly by the company of which its shares are sold.
- 4) In the case of disposal of immovable property between related parties, where the declared proceeds are lower than the market value of the property, the disposal proceeds subject to CGT will be determined by reference to the market value of the immovable property at the date of the disposal.