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## CHANGES TO TAX LEGISLATION

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On 9 July 2015 the Cyprus Parliament has passed a number of amendments to the “Income Tax Law”, the “Capital Gains Tax Law”, the “Special Contribution for Defense Law” and the “Department of Lands & Surveys (Levy and Duties Law)”. On 16 July 2015 these changes in legislation were published in the Official Gazette of the Republic.

### INCOME TAX LAW

Notional Interest Deduction (NID) on “new” equity has been introduced as from 1 January 2015 which is effectively a tax allowable deduction against the company’s taxable profits. All Cyprus registered companies (residents and not residents but with permanent establishment) are entitled to this NID.

The meaning of “new” equity covers for funds or in-kind payments introduced into the share capital or share premium of the company after 1 January 2015 and which have actually been paid or used in the operations of the company. Any new equity introduced that directly/indirectly emanates from reserves existing as at 31 December 2014 but does not relate to the financing of new assets used in the business is not deemed as new equity.

The rate to be used for the calculation of the NID is the yield of the 10 year government bond of the country in which the new equity is invested plus 3% premium, with the minimum rate being the equivalent of the 10 year Cyprus government bond as at 31 December of the tax year preceding the relevant tax year plus 3% premium.

It should be noted that the interest of the 10 year government bond of Cyprus at 31/12/2014 is 5.02%.

The NID is tax deductible to the extent that it relates to business assets and cannot exceed 80% of the taxable income of the company for the year.

The following anti-abuse measures apply:

- 1) Where new equity is derived directly/indirectly from the new equity of another Cyprus company then the NID on new equity is available only to one of the two respective companies
- 2) Where new equity arises directly/indirectly from loans on which interest expense deduction was claimed, the NID is reduced by the amount of the interest expense deduction claimed
- 3) Where new equity is contributed in the form of assets in kind, the amount of equity used for NID calculation may not exceed the market value of the assets at the date the assets are introduced into the business
- 4) The Tax Commissioner may reject the granting of the NID if in his judgment the following occurred:
  - The company entered into transactions without substantial economic or commercial purpose
  - The new equity emanates from equity that existed prior to 1 January 2015 and is presented as new equity through actions with related parties



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### **SPECIAL CONTRIBUTION FOR DEFENSE LAW**

In accordance with Income Tax Law, Cyprus tax residency for individuals is determined by the number of days each person spends in Cyprus on each calendar year (183 days rule).

The new term of “**domicile**” has been introduced into the Law which now holds that defense tax is applicable on Cyprus tax resident persons who are also domiciled in Cyprus. This effectively means that individuals who are Cyprus tax residents but are not domiciled in Cyprus will not be subject to defense tax on dividend, interest and rental income.

An individual is considered as domiciled in Cyprus by way of:

- Domicile of origin: based on the provisions of the Wills and Succession Law (i.e. domicile of the father at the time of birth)
- Domicile of choice: the individual has acquired and maintains a domicile of choice based on the provisions of the Wills and Succession Law (i.e. individual permanently lives and intends to live in Cyprus)

An individual who has Cyprus as domicile of origin is not considered as domiciled in Cyprus in the following cases:

- the individual has acquired and maintains a domicile of choice outside Cyprus based on the provisions of the Wills and Succession Law, provided that he has not been tax resident in Cyprus according to Income Tax Law for any period of at least 20 consecutive years prior to the relevant tax year, or
- the individual has not been tax resident in Cyprus according to Income Tax Law for at least 20 consecutive years immediately prior to the entry into force of the provisions of this Law

It is further provided (regardless of the domicile of origin) that an individual who is Cyprus tax resident according to Income Tax Law for at least 17 out of the last 20 years prior to the relevant tax year, will be deemed to be domiciled in Cyprus.

In the case where any person domiciled in Cyprus transfers assets to a relative not domiciled in Cyprus (up to the third degree of kindred), the Tax Commissioner may impose defense tax on income arising from those assets if in his judgment the main purpose of the transfer was the avoidance of defense tax.

In the case where an actual dividend was received by a company which is not directly and fully owned by natural person(s), who are Cyprus tax residents and domiciled individuals, and the Tax Commissioner considers that the interposition of the dividend receiving company as the shareholder of the dividend paying company does not serve any substantial commercial or economic purpose but is primarily intended to reduce, eliminate or postpone the payment of defense tax, the Tax Commissioner may deem that the dividend is paid to the person(s) who directly or indirectly control the dividend receiving company and require the payment of the relevant defense tax on the dividend either from the company receiving the dividend or from the person(s) who directly/indirectly control the company.



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### **CAPITAL GAINS TAX LAW**

Gains from the sale of immovable property consisting of land and/or buildings are exempt from Capital Gains Tax, provided that:

1. The immovable property is acquired from the date the amendments of the law come into force (16 July 2015) until 31 December 2016
2. It is acquired through purchase or purchase agreement and not through an exchange or donation at market value from a non-related party
3. It does not apply to sales of immovable property that has been acquired under foreclosure procedures
4. It does not apply to the disposal of shares in companies that own immovable property

### **DEPARTMENT OF LANDS AND SURVEYS (LEVY AND DUTIES) LAW**

For any transfer of immovable property as well as any registration of lease/sublease there will be a reduction of 50% in transfer/registration fees respectively until 31 December 2016. The reduction does not apply to transfers of immovable property that have been acquired under foreclosure procedures