

## Cyprus Tax Resident Companies and the Management and Control Test

September 2008

In accordance with the Cyprus income tax legislation, a company is considered to be tax resident in Cyprus if it is managed and controlled in Cyprus.

Even though there is no specific definition in the income tax law or in any other Cyprus law as to what constitutes "management and control", it is understood that the definition per the OECD model convention in relation to "place of effective management" is the one to be followed by the Cyprus tax authorities.

Therefore, as a minimum management and control is considered to be exercised where the Board of directors meets and takes decisions. In order to facilitate this, it is suggested that all directors (or at least the majority) are Cyprus residents.

In relation to the issuance of Cyprus tax residency certificates, the current practice of the Cyprus tax authorities is to issue such residency certificates provided the directors of the company sign and submit a declaration confirming that the company is managed and controlled from Cyprus.

The Cyprus tax residency of a company claiming to be tax resident in Cyprus is not expected to be challenged by the Cyprus tax authorities on their own initiative.

It could however be the case that a foreign tax jurisdiction challenges the tax residency of a Cyprus company. In such a case the Cyprus company would need to demonstrate to such foreign jurisdiction that the company is indeed tax resident in Cyprus. Thus, the issue of what the foreign tax jurisdiction would require, would need to be addressed from the perspective of the relevant country that may be challenging for residence (always in conjunction with the relevant provisions of the applicable double tax agreement between the two countries).

Obviously a company's activities may range from having a fully-fledged office in Cyprus to certain minimum activities, namely:

- (i) All board meetings must be held in Cyprus
- (ii) Board of Directors decisions to take place in Cyprus

***Totalserve Management Ltd can offer you a more customized analysis on the Cyprus tax residency issue customized to your specific needs and challenges.***

### NOTES:

The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained. Totalserve Management Ltd will be glad to assist you in this respect. Please do not hesitate to contact us.