

Actions speak louder than words...or do they?

By Marios Yenagrites, Senior Tax Consultant
Email: marios.yenagrites@totalserve.eu

While recently attending a business conference overseas, one of the speakers made reference to tax heavens, and among the jurisdictions mentioned was Cyprus.

I naturally considered it my duty to set the record straight. Right after the presentation I approached the speaker (let's call him Mr. Martin, who is a founding partner and an international tax specialist in one of the largest accounting firms in his country) and told him that I might have misunderstood the real-time translation but I thought I heard him say that Cyprus is a 'tax heaven'. Mr. Martin corrected me and said that Cyprus is only 'considered' to be a tax heaven.

Well, that's a real comfort! As long as Cyprus is not really a tax heaven but is only 'considered' as one, then no big deal, right?

I then had a short and courteous discussion with Mr. Martin, laying down the reasons why Cyprus is definitely not a tax heaven. I am not sure I managed to convince him.

By looking at things objectively for a minute, Cyprus is a preferred jurisdiction for the use of companies engaged in international activities, including the setting up of fully functional offices, regional branches or even headquarters in the island. The main reasons for doing so are the attractive tax and legal regime, wide double tax treaty network and access to relevant EU Directives, strategic geographical location, high-quality of professional services and infrastructure as well as a comparative cost advantage when compared to other EU competitive jurisdictions.

Generally speaking, things used to be easier in the past in terms of promoting and establishing international corporate structures. Nowadays it is becoming increasingly difficult not only to attract foreign investors but also to retain existing ones.

Why is that? Countries are becoming a lot more sensitive when it comes to protecting their tax base. And for good reason too. The recent international financial crisis and the local budget deficits have placed significant strain on the finances of countries. As such, foreign jurisdictions, which are 'considered' as tax heavens and are perceived to be eroding their tax base often become a prime target for attack.

Cyprus has exerted considerable effort in recent times to safeguard its position as a preferred international business centre. Certainly, it has played ball and ensured compliance with every major international or EU initiative for combating tax evasion and aggressive tax practices. Many of the recommendations of the OECD's Base Erosion and Profit Shifting (BEPS) Action Plan have been adopted through the incorporation in the local legislation of the EU Council's Anti-Tax Avoidance Directive (ATAD). Controlled foreign company (CFC) rules, interest limitation rules and a general anti-abuse rule (GAAR) have already been passed into law, with hybrid mismatches rules and exit taxation provisions expected during the year.

Transparency is also high on the international agenda, and Cyprus is taking all necessary action to follow suit. The Cyprus legislation has been amended to incorporate automatic exchange of financial account information by adopting the Foreign Account Tax Compliance Act (FATCA), the Common Reporting Standard (CRS) and the EU Directive on Administrative Cooperation (the DAC).

Furthermore, the recommendations of the BEPS Action Plan 12 (Mandatory Disclosure Rules), aiming to tackle aggressive tax planning strategies, are expected to be transposed into law by the end of 2019 through the adoption of the mandatory automatic exchange of information regarding cross-border tax arrangements (known as DAC6).

At the same time, the Cyprus banking sector has undergone a major turnaround when it comes to the on-boarding of new and keeping of existing clients, as well as continuous transaction monitoring at the highest compliance standards.

Another key issue for international tax structuring is **substance**. The main purpose of the BEPS Action Plan is to *'ensure that profits are taxed where economic activity takes place and value is created'*. Having appropriate levels of economic substance is of paramount importance for a company to be able to demonstrate that activities and decision-making are actually taking place in the jurisdiction in which the company is set up and said to operate from. Cyprus is well equipped to enable a company to create any appropriate level of substance, such as suitable offices, capable local directors, experienced and educated local staff performing operational and strategic decision-making, so as to prove that the company's 'mind and management' are indeed located in Cyprus. Furthermore, Cyprus has also put in place exceptionally attractive provisions to entice foreign key management or skilled staff to be relocated to the island at the local business set-up.

From the above, it should be obvious that Cyprus has taken considerable action and steps to strengthen its position as a credible international business centre. And as we all know, actions speak louder than words, right? Well, then why does Mr. Martin 'consider' Cyprus to be a tax heaven? And believe me, Mr. Martin is not alone in his opinion.

Is it because we need to demonstrate that we are doing more? Maybe. Have Cyprus' past practices left an inherent negative stigma? Most probably so. Surely we cannot let our guard down. We are heading in the right direction, and we should keep doing so. But in my personal opinion, the heart of the problem lies elsewhere.

Actions may speak louder, but they need to be **accompanied** by words. As professionals in the forefront of things, all of us should not miss an opportunity to present what Cyprus has been doing about full compliance. Not just through organizing forums and giving presentations, but also through having a good-natured and candid discussion with Mr. Martin and all the Mr. Martins of the world. We might not be able to change their minds every time, but at least we can make a lasting impression and make them think twice before light-heartedly classifying Cyprus as a tax heaven.

Cyprus' position as a serious and credible international business centre should be preserved and enhanced, and it should be presented as such at every possible opportunity. It is up to all of us professionals to rise up to the challenge. Let us all take action and spread the word!