

Cyprus

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1 Tax Treaties and Residence

1.1 How many income tax treaties are currently in force in your jurisdiction?

There are currently 64 bilateral double tax agreements, out of which 62 treaties have been ratified and entered into force. The treaties with the USSR, the Socialist Federal Republic of Yugoslavia and the Czechoslovak Socialist Republic are still in force with regards to some of their former constituent states. It is noted that Cyprus is considered to have one of the most attractive tax treaties with certain non-EU countries like Russia, Ukraine, India and South Africa.

1.2 Do they generally follow the OECD Model Convention or another model?

Cyprus treaties have always followed the OECD Model Convention. Older treaties are continuously being updated to come in line with the latest OECD treaty model and guidelines.

1.3 Do treaties have to be incorporated into domestic law before they take effect?

Yes, treaties must first be incorporated into domestic law by way of ratification. In any case, it is noted that in accordance with the Cyprus domestic legislation, there is no withholding tax on payments of dividend, interest or royalty (provided the related rights are used outside Cyprus) towards non-Cyprus residents (individuals or companies).

1.4 Do they generally incorporate anti-treaty shopping rules (or “limitation on benefits” articles)?

Generally, no. Nevertheless, certain treaties do contain limitation of benefits articles; specifically, the treaties with Belgium, Canada, the Czech Republic, France, Germany, the Russian Federation, the United Kingdom and the United States.

1.5 Are treaties overridden by any rules of domestic law (whether existing when the treaty takes effect or introduced subsequently)?

No. Treaties take precedence over domestic law.

1.6 What is the test in domestic law for determining the residence of a company?

The residence of the company is determined by the place where the management and control is situated/exercised from.

The term “management and control” is not specifically defined in the legislation, but, in practice, it generally follows OECD guidelines in relation to the “effective” place of management and control.

2 Transaction Taxes

2.1 Are there any documentary taxes in your jurisdiction?

Stamp duty is imposed on documents (contracts, written agreements) relating to assets located in Cyprus and/or things or matters taking place in Cyprus. Stamp duty is imposed on the value of the agreement at rates between 0.15% and 0.20%, with the first €5,000 document value being exempt, and with a maximum cap of €20,000 stamp duty per stampable agreement.

The person legally liable to pay stamp duty is the purchaser. The due date for payment is within 30 days from the day of signing the agreement. Penalties are imposed for late payment, but the non-stamping of a stampable document does not render invalid the legal/commercial validity of the document.

2.2 Do you have Value Added Tax (or a similar tax)? If so, at what rate or rates?

Cyprus VAT follows and complies with the EU VAT Directive.

VAT is imposed on the provision of goods and services in Cyprus, as well as on the acquisition of goods from the European Union and the importation of goods into Cyprus. Taxable persons charge VAT on their taxable supplies (output tax) and are charged VAT on goods and services they receive (input VAT).

The standard VAT rate is 19%. Certain supplies are subject to the reduced rates of 5% or 9%, some are zero-rated, and some are exempt. Generally, if the value of annual taxable supplies exceeds or is expected to exceed €15,600, registration is compulsory. The option of voluntary registration exists in case of taxable supplies below €15,600.

VAT returns are submitted quarterly, and payment of VAT must be made by the tenth day of the second month following the month in which the tax period ends.

2.3 Is VAT (or any similar tax) charged on all transactions or are there any relevant exclusions?

Certain supplies are zero-rated, for instance the exportation of goods, the supply/chartering/hiring/repair/maintenance of sea-going vessels and of aircraft, the supply of services to meet the direct needs of sea-going vessels and aircraft, and the transportation of passengers from Cyprus to other countries and *vice versa*.

Further, certain supplies are exempt from the scope of VAT, for instance the leasing of immovable property (under conditions; see below), most banking, financial and insurance services, most hospitals, medical and dental care services, certain cultural, educational and sports activities, etc.

The difference between zero-rated and exempt supplies is that businesses making exempt supplies are not entitled to recover the VAT charged on the purchases, expenses or imports.

As of 13 November 2017, the leasing or rental of immovable property to a taxable person for the purpose of carrying out taxable business activities is subject to VAT at the standard rate of 19%, with the exception of buildings used for residential purposes. Moreover, as of 2 January 2018, the sale of undeveloped building land by a person, intended for the erection of one or more fixed structures, is subject to VAT at the standard rate of 19%, when the supply is carried out as part of that person's economic activities.

2.4 Is it always fully recoverable by all businesses? If not, what are the relevant restrictions?

Generally, yes. It should be noted that input VAT cannot be recovered in the following cases:

- Acquisitions used for making exempt supplies.
- Purchase, import or hire of saloon cars.
- Entertainment expenses (except for staff entertainment).
- Housing expenses of directors.

2.5 Does your jurisdiction permit VAT grouping and, if so, is it “establishment only” VAT grouping, such as that applied by Sweden in the *Skandia* case?

VAT grouping is possible, on an optional basis. The wording of Article 32 of the VAT Law was amended during 2012 to include the exact wording of Article 11 of the EU VAT Directive. Certain criteria need to be met, to prove the existence of a group for VAT grouping purposes.

2.6 Are there any other transaction taxes payable by companies?

No transaction taxes are payable by companies.

2.7 Are there any other indirect taxes of which we should be aware?

No other indirect taxes.

3 Cross-border Payments

3.1 Is any withholding tax imposed on dividends paid by a locally resident company to a non-resident?

Outbound dividends paid by a Cypriot resident company towards

non-residents (individuals or companies) are not subject to withholding tax in Cyprus. This is a specific provision contained within the domestic legislation.

3.2 Would there be any withholding tax on royalties paid by a local company to a non-resident?

Royalties paid by a local company to a non-resident are exempt from withholding tax, provided that the royalties are earned on rights that are used outside Cyprus. If the rights are used within Cyprus, tax is withheld at 10%, except on cinematographic rights, where the rate is 5%.

3.3 Would there be any withholding tax on interest paid by a local company to a non-resident?

Outbound interest paid by a Cypriot resident company to a non-resident is not subject to withholding tax in Cyprus.

3.4 Would relief for interest so paid be restricted by reference to “thin capitalisation” rules?

This is not applicable, as Cyprus does not have thin capitalisation rules.

3.5 If so, is there a “safe harbour” by reference to which tax relief is assured?

This is not applicable.

3.6 Would any such rules extend to debt advanced by a third party but guaranteed by a parent company?

This is not applicable.

3.7 Are there any other restrictions on tax relief for interest payments by a local company to a non-resident?

Interest expense incurred by a Cypriot company, whether payable to a resident or a non-resident, is tax deductible to the extent that it is incurred for income-generating purposes.

If the interest expense relates to the acquisition of non-business assets which do not produce taxable income, then such interest expense is restricted for tax purposes accordingly. There is a specific exception where such interest can be tax allowable if it relates to the acquisition of shares in a 100% subsidiary whose assets are used for business purposes.

In cases of related-party financing/loans, the transaction (e.g. interest charged) must be made on an arm's-length basis. Otherwise, the Cyprus tax authorities reserve the right to impose tax adjustments in order to reflect the deviation from the arm's-length principle. Usually, this is done in the form of notional interest and/or disallowance of certain related interest expense.

3.8 Is there any withholding tax on property rental payments made to non-residents?

Outbound rental payments made by a Cypriot resident company to a non-resident are not subject to withholding tax in Cyprus. However, Cyprus sourced rental income is taxable in Cyprus accordingly.

3.9 Does your jurisdiction have transfer pricing rules?

Article 33 of the Cyprus Income Tax Law provides that transactions between related parties need to be carried out at arm's-length terms and conditions.

In addition, the Ministry of Finance has issued an interpretative Circular in June 2017, providing guidance on the tax treatment of intra-group back-to-back financing arrangements. In brief, such arrangements should comply with the arm's-length principle, and should be supported by an appropriate transfer pricing study. Simplification measures are provided for companies which carry out a purely intermediary activity (i.e. granting loans to related parties which are refinanced by loans from related entities).

4 Tax on Business Operations: General

4.1 What is the headline rate of tax on corporate profits?

Tax on corporate profits is charged at a uniform rate of 12.5%.

However, the effective Cyprus tax may be much lower or even zero due to certain tax exemptions. Refer to question 4.3 below.

4.2 Is the tax base accounting profit subject to adjustments, or something else?

Adjustments may be imposed on the tax base accounting profit.

4.3 If the tax base is accounting profit subject to adjustments, what are the main adjustments?

Incomes

Certain types of income are exempt from Corporation Tax, such as:

- Dividend income, subject to easy-to-meet conditions (unless claimed as tax deductible by the foreign paying company – e.g. in the case of certain hybrid instruments).
- Profit from sale of shares and other qualifying “titles” (e.g. options, debentures, bonds).
- Interest not arising from the ordinary activities or closely related to the ordinary activities of the company – e.g. bank deposit interest (although such interest is subject to Special Defence Contribution (SDC) at a rate of 30%).
- Profits from an overseas Permanent Establishment (PE) (under conditions, and subject to clawback rules).
- Foreign exchange gains, with the exception of gains from trading in foreign currencies and related derivatives.
- Double tax relief by way of credit is unilaterally allowable, whereby foreign tax can be deducted from Cyprus tax resulting from the same income.

Expenses

Any expenses which have not been incurred wholly and exclusively for the production of (taxable) income are disallowed for the purpose of calculating a company's taxable profit.

Interest expense incurred for acquisition of non-business assets (which do not generate taxable income) is restricted for tax purposes – with the exception of the acquiring of a 100% subsidiary (under conditions).

A notional interest deduction (NID) in the form of a notional expense is allowed annually on new equity introduced in the business as of 1 January 2015. This is calculated by applying on the new equity a

reference rate based on the interest rate of the 10-year government bond of the country in which the new equity is invested, or the equivalent Cyprus bond rate (whichever is the highest), increased by 3%. Benefit is restricted to 80% of the taxable profit before the deduction of the NID. Anti-avoidance provisions apply.

For companies falling within the new intellectual property (IP) regime, 80% of the qualifying profit earned from qualifying assets is allowed as a tax-deductible expense (refer to question 10.4 for more details).

Expenses of private motor vehicles (saloon cars) are not allowed, irrespective of whether the motor vehicles are used in the business or not.

Business entertainment expenses are restricted if in excess of 1% of turnover, or if they are in excess of €17,086 (whichever is the lowest).

4.4 Are there any tax grouping rules? Do these allow for relief in your jurisdiction for losses of overseas subsidiaries?

Companies which belong to the same “group” for tax purposes may utilise group loss relief. The tax loss of one company (the “surrendering company”) for a particular tax year can be claimed by another company of the group (the “claimant company”) and set off against the taxable profits of that company for that particular year. Tax losses brought forward from previous years are not taken into account for group relief purposes.

Two companies are deemed to be part of a group for loss relief purposes if one is a 75% subsidiary of the other, or if both are 75% subsidiaries of a third company, either directly or indirectly.

As of 2015, an entity which is tax resident in another EU Member State is also eligible to surrender tax losses to a Cypriot group company, provided that the surrendering EU company has exhausted all available means for set-off or carry forward of its losses in its own state of tax residence or in another Member State where an intermediary holding company is located.

Group loss relief is allowed when both the surrendering company and the claimant company are part of the same group for the whole year of the assessment. In case of a newly incorporated company during the year of assessment, such a company is considered to be part of the group for the whole year of the assessment.

4.5 Do tax losses survive a change of ownership?

Yes, and can be carried forward and utilised against the taxable profits of the next five years, except for the following cases:

- a) within any three-year period there is a change in the ownership of the shares of the company and a substantial change in the nature of the business of the company; or
- b) at any time since the scale of the company's activities has diminished or has become negligible and before any substantial reactivation of the business there is a change in the ownership of the company's shares.

If any of the above two cases applies, then no loss which has been incurred before the change in the ownership of the shares of the company shall be carried forward in the years subsequent to such change.

4.6 Is tax imposed at a different rate upon distributed, as opposed to retained, profits?

To the extent that the ultimate beneficial owner is non-resident or

Cyprus resident but non-domiciled for Cyprus tax purposes, then there is no tax on actually distributed dividends and the below-stated deemed dividend distribution provisions do not apply.

Actual dividends distributed to Cyprus resident and domiciled individuals are subject to 17% Cyprus tax (SDC). This tax is paid at source when the dividend is paid by a Cyprus company and in cases where it is paid by a foreign company then the physical shareholder has the obligation to declare the dividend and account for the relevant tax.

At the same time, to the extent that the ultimate beneficial owner of a Cyprus resident company is a Cyprus tax resident individual and domiciled in Cyprus for tax purposes, a Cypriot company with Cyprus resident beneficial shareholders (company or individual) is deemed to have distributed 70% of its after-tax profits, in the form of dividends to its shareholders, within two years from the end of the year of assessment, reduced by any relevant actual dividend payments made during this period. Such deemed dividend is subject to the same aforementioned 17% defence tax.

Anti-avoidance provisions apply.

4.7 Are companies subject to any significant taxes not covered elsewhere in this chapter – e.g. tax on the occupation of property?

SDC is imposed on passive interest income, (e.g. interest income from bank deposit accounts) at a rate of 30%. SDC also applies on rental income at an effective rate of 2.25% (rental income is also subject to Corporation Tax at 12.5%).

5 Capital Gains

5.1 Is there a special set of rules for taxing capital gains and losses?

Capital Gains Tax (CGT) is imposed on gains from disposal of immovable property situated in Cyprus, at a rate of 20%, after indexation allowance. However, in case of companies whose primary activity is real estate, gains from disposal of immovable property are treated as normal business profits and are subject to Corporation Tax at 12.5%.

CGT is also imposed on the gains from disposal of shares in companies which hold immovable property in Cyprus.

In addition, as of 17 December 2015, CGT is also imposed on the disposal of shares in companies which hold, directly or indirectly, shares in companies which have own immovable property in Cyprus and at least 50% of the market value of their shares emanates from the market value of that immovable property.

Notwithstanding the above, in case of immovable property that has been acquired between 16 July 2015 and 31 December 2016, the gain from the subsequent sale of such property shall be exempt from the imposition of CGT.

5.2 Is there a participation exemption for capital gains?

The gains from the disposal of shares are specifically tax-exempt, except in the case where the company whose shares are being disposed owns immovable property situated in Cyprus (certain exceptions apply, e.g. in the case of a publicly listed company) – also refer to question 5.1 above.

5.3 Is there any special relief for reinvestment?

No, there is no special relief for reinvestment.

5.4 Does your jurisdiction impose withholding tax on the proceeds of selling a direct or indirect interest in local assets/shares?

No, there is no such withholding tax.

6 Local Branch or Subsidiary?

6.1 What taxes (e.g. capital duty) would be imposed upon the formation of a subsidiary?

Upon registration of a Cypriot company, a fixed amount of €105 is payable, irrespective of the amount of share capital.

In addition, capital duty of 0.6% is imposed on the authorised share capital, but only on the nominal value (not on the premium).

In case the shares are issued at a premium, a fixed duty of €20 is also payable.

6.2 Is there a difference between the taxation of a local subsidiary and a local branch of a non-resident company (for example, a branch profits tax)?

In principle, there is no difference. They would be taxed in the same manner.

6.3 How would the taxable profits of a local branch be determined in its jurisdiction?

In Cyprus, the local branch of a foreign company will be taxed in the same manner as if it were a company. In the jurisdiction of the foreign company, one would need to look at the applicable relevant provisions and in most cases any resulting Cyprus tax could be available (e.g. if provided by the relevant double tax treaty) for double tax relief in that foreign jurisdiction.

6.4 Would a branch benefit from double tax relief in its jurisdiction?

Yes, if so provided by the double tax treaty between Cyprus and that particular jurisdiction.

6.5 Would any withholding tax or other similar tax be imposed as the result of a remittance of profits by the branch?

There is no such withholding tax.

7 Overseas Profits

7.1 Does your jurisdiction tax profits earned in overseas branches?

Profits of a Cypriot tax resident company which derive from a PE situated outside Cyprus are exempt from tax in Cyprus, provided that either of the following two conditions is met:

- a) the PE directly or indirectly engages less than 50% in activities which lead to investment income; or
- b) the foreign tax burden on the income of the PE is not substantially lower than the tax burden in Cyprus (in practice, an effective tax rate of at least 6.25% is deemed to satisfy this condition).

The exemption of PE profits is subject to clawback rules, i.e. if deductions for tax losses of the PE have been allowed in previous years, then an amount of profits equal to the tax losses so allowed shall be included in the chargeable income.

7.2 Is tax imposed on the receipt of dividends by a local company from a non-resident company?

Dividend income received by a Cyprus tax resident company from a foreign subsidiary is exempt from Corporation Tax. It is also exempt from SDC if either of the following two conditions apply:

- a) the foreign company paying the dividend directly or indirectly engages less than 50% in activities which lead to investment income; or
- b) the foreign tax burden on the income of the foreign entity is not substantially lower than the tax burden in Cyprus (in practice, an effective tax rate of at least 6.25% is deemed to satisfy this condition).

If neither of the above conditions is met, dividend income received by the Cypriot entity is subject to SDC at 17%.

7.3 Does your jurisdiction have “controlled foreign company” rules and, if so, when do these apply?

There are no “controlled foreign company” rules in Cyprus.

8 Taxation of Commercial Real Estate

8.1 Are non-residents taxed on the disposal of commercial real estate in your jurisdiction?

Yes. CGT at 20% is charged on profits from the disposal of real estate, whether commercial or not – refer to question 5.1 above.

8.2 Does your jurisdiction impose tax on the transfer of an indirect interest in commercial real estate in your jurisdiction?

Yes. The gains from disposal of shares in companies which hold immovable property in Cyprus is subject to CGT. Please refer to question 5.1 for more details.

8.3 Does your jurisdiction have a special tax regime for Real Estate Investment Trusts (REITs) or their equivalent?

The Cypriot tax legislation does provide for REITs, but there is no differentiation in the relevant Cyprus tax treatment.

9 Anti-avoidance and Compliance

9.1 Does your jurisdiction have a general anti-avoidance or anti-abuse rule?

According to Section 33 of the Assessments and Collections Law,

the Commissioner reserves the right to disregard any non-genuine or fictitious transactions whose sole purpose is the reduction of the tax base, and to impose tax on the correct amount of taxable income, usually in the form of relevant tax adjustments.

9.2 Is there a requirement to make special disclosure of avoidance schemes?

There is no such requirement.

9.3 Does your jurisdiction have rules which target not only taxpayers engaging in tax avoidance but also anyone who promotes, enables or facilitates the tax avoidance?

This is indirectly covered in the Anti-Money Laundering Law, under “predicate offences”.

9.4 Does your jurisdiction encourage “co-operative compliance” and, if so, does this provide procedural benefits only or result in a reduction of tax?

This is not applicable in Cyprus.

10 BEPS and Tax Competition

10.1 Has your jurisdiction introduced any legislation in response to the OECD’s project targeting Base Erosion and Profit Shifting (BEPS)?

In late 2016, Cyprus signed and became part of the Multilateral Competent Authority Agreement on Country-by-Country Reporting (CBCR), and the Ministry of Finance issued a relevant Decree shortly afterwards. The Decree is in accordance with Action 13 of the Base Erosion and Profit Shifting (BEPS) project, and introduces a mandatory CBCR requirement for multinational groups generating consolidated annual turnover in excess of €750 million.

On 7 June 2017, Cyprus signed the Multilateral Convention to implement measures to prevent BEPS, in line with Action 15 of the BEPS project. Once the Convention is ratified, a principal purpose test will be incorporated into Cyprus’ double tax treaties, where treaty benefits will be denied in cases where transactions of arrangements are effected with the principal purpose in mind being to obtain treaty benefits.

The Income Tax Law was amended in October 2016 in order to align the current Cyprus IP tax legislation with the provisions of Action 5 of the OECD’s BEPS project. The revised IP regime complies with the guidance prescribed in Action 5 regarding following a nexus approach, i.e. the existence of a direct link between the qualifying income and qualifying expenses contributing to that income.

Cyprus has signed the Multilateral Competent Authority Agreement on the Automatic Exchange of Financial Account Information (MCAA), as one of the early adopters.

10.2 Does your jurisdiction intend to adopt any legislation to tackle BEPS which goes beyond what is recommended in the OECD’s BEPS reports?

Cyprus follows the recommendations of the OECD, as per the BEPS Action Plan.

10.3 Does your jurisdiction support public Country-by-Country Reporting (CBCR)?

Cyprus has adopted and issued the relevant Decree in relation to CBCR, in accordance with the relevant EU Directive.

10.4 Does your jurisdiction maintain any preferential tax regimes such as a patent box?

Cyprus has an IP box regime, which has been amended during 2016, in order to be in line with the recommendations of Action 5 of the BEPS Action Plan.

Grandfathering provisions exist up to June 2021 for IP assets that have already qualified under the previous IP box regime.

In brief, an amount equal to 80% of the qualifying profits earned from qualifying intangible assets is allowed as a tax-deductible expense. A modified nexus approach is followed, whereby for an intangible asset to qualify for the benefits of the regime, there needs to be a direct link between the qualifying income and the taxpayer's own qualifying expenses contributing to that income.

11 Taxing the Digital Economy

11.1 Has your jurisdiction taken any unilateral action to tax digital activities or to expand the tax base to capture digital presence?

No such action, noting that income resulting from digital activities is, in principle, taxed as income of a revenue nature, unless it falls under a specifically aforementioned exempt category.

11.2 Does your jurisdiction support the European Commission's interim proposal for a digital services tax?

Without any official position yet, Cyprus generally supports and follows any proposals which aim at addressing BEPS issues, such as the taxing of the digital economy.



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Petros is a regular contributor of technical articles to local and foreign industry publications, and has been a frequent speaker at various conferences and seminars in Cyprus and abroad.



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In his current position, Marios is involved in providing tax consultancy services to a wide array of clients, as well as undertaking tax planning and tax structuring projects.



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