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Cyprus

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Important new developments

As part of the overall effort to continuously improve and simplify the Cyprus tax system, as well as to remain a highly compliant and attractive jurisdiction, new laws/provisions have been introduced in 2015, 2016 and 2017 as follows:

- Introduction of non-doms: a new amendment to the Special Defence Contribution (SDC) law introduces the concept of 'non-domiciled' persons for tax purposes. SDC tax for resident individuals mainly applies on dividends and interest which are specifically exempt from income tax but may be subject to SDC tax. With this new amendment, persons not domiciled in Cyprus will no longer be subject to this SDC tax after they become Cyprus tax residents.
- Property related: gain on a future sale of a Cyprus-situated property (land or buildings) will be completely exempt from the 20 per cent capital gains tax (CGT) if such property was purchased between the date the law came into effect and 31 December 2016.
- Notional interest deduction on new equity introduced as from 1 January 2015. Specifically, companies will be entitled to a notional interest tax deduction on 'new equity'. New equity means funds or in-kind payments introduced into the share capital of the company after 1 January 2015 and which have actually been paid and used for the operations of the company. This interest will be calculated based on the effective interest earned on the ten-year government bond yield of the country in which the new equity is invested, plus 3 per cent, with the minimum rate being the equivalent ten-year bond yield of Cyprus plus 3 per cent. This notional expense deduction will be tax deductible to the extent that it relates to business assets and cannot exceed 80 per cent of the taxable income of the company for the year.
- Dividends earned by Cypriot resident entities have been exempt from corporation tax. Notwithstanding this, with effect from 1 January 2016 the exemption does not apply to the extent that such dividends are tax deductible at the level of the dividend-paying company (e.g. in the case of hybrid instruments).
- Foreign individuals taking up employment in Cyprus are eligible to claim 50 per cent of income from employment exercised in Cyprus, in cases where the income exceeds EUR100,000; otherwise, they can claim 20 per cent up to a maximum of EUR8,550. As per the amended law, the 50 per cent exemption is extended from five years to ten years, and the 20 per cent exemption is extended from three years to five years (with the latter exemption to be abolished after year 2020).
- Any foreign exchange differences (whether realised or unrealised) will be treated as tax neutral, with the exception of gains/losses from trading in currencies and currency derivatives.
- Tax losses may now be surrendered to a Cyprus-resident company by a group company resident in another EU Member State, provided that such a company has exhausted all means of utilising the said tax losses in its country of residency or the EU Member State of any intermediary company. Moreover, the interposition of non-Cyprus tax-resident companies will now be ignored for group relief purposes, provided that such companies are tax resident in an EU Member State, or in a state with which Cyprus has a double-tax treaty or an exchange of information agreement in place.
- A 5 per cent withholding tax will be levied on the gross income derived by non-resident persons as consideration for services related to the oil and gas industry.
- The definition of the term 'Republic of Cyprus' has been more explicitly defined, so as to include any areas outside its territorial waters, including its contiguous zone, the exclusive economic zone (EEZ) and the continental shelf. Moreover, the definition of 'permanent establishment' has been amended and now includes offshore activities relating to the extraction, exploration or exploitation of natural resources, as well as the installation of pipelines and other installations on the seabed. These amendments were deemed necessary, given the hydrocarbon activities in the Republic's EEZ.
- Company reorganisations will be eligible to qualify as tax neutral, provided that the Commissioner is satisfied that such reorganisations have substantial economic or commercial purposes.
- A fee of EUR 1,000 (payable to the Cyprus Tax Department) is imposed for the issuing of advance tax rulings, and EUR 2,000 for requests to expedite the issue of the ruling (in such cases where the ruling is expected to be issued within21 working days). The fees apply for ruling requests submitted as from 16 May 2016.
- New IP regime: The Income Tax Law has been amended in order to align the current Cyprus Intellectual Property (IP) tax regime with the provisions of Action 5 of the OECD's Base Erosion and Profit Shifting (BEPS) project, which requires the existence of material activity and the clear interconnection between the rights that create the income and the activity that contributes to that income. The amendments apply retroactively, as from 1 July 2016. The revised legislation includes certain transitional provisions for IP assets that have already qualified under the previous IP box regime. In such cases, taxpayers will continue to benefit from the previous IP regime for a maximum of five years, after which date the new IP tax regime shall apply. In essence, both the transitional and the new Cyprus IP box regime offer a tax benefit of up to 80 per cent on qualifying IP profit, by way of notional expense deduction.
- Transfer pricing rules introduced: The Cyprus Tax Department has abolished, as from 1 July 2017, the practice of accepting pre-agreed minimum profit margins of 0.125 per cent - 0.35 per cent on intra-group and related party financing arrangements that were in the form of back-to-back loans. Going

forward, companies carrying out intra-group financing transactions (IGFTs) are required to determine whether the remuneration arising from such transactions complies with the arm's length principle. For each IGFT, an appropriate transfer pricing study needs to be carried out in order to determine whether the transaction is comparable to similar transactions between independent parties. The transfer pricing rules apply as from 1 July 2017, both for future and for existing IGFTs, with no grandfathering provisions for existing transactions. The driving force behind this decision is the intention to align the Cyprus tax treatment of such arrangements with Action Points 8 – 10 (transfer pricing) of the OECD BEPS Action Plan.

- A number of tax treaties have been signed, with some of them having also been ratified, as follows:

Contracting state	Date of signature	Date of ratification
Guernsey	15 July 2014	4 March 2015
Switzerland	25 July 2014	15 October 2015
Kingdom of Bahrain	9 March 2015	26 April 2016
Georgia	13 May 2015	4 January 2016
Iran	4 August 2015	5 March 2017
Ethiopia	30 December 2015	Not yet ratified
Latvia	24 May 2016	27 October 2016
Jersey	11 July 2016	17 February 2017
India (revised treaty)	18 November 2016	14 December 2016
Barbados	3 May 2017	Not yet ratified
Luxembourg	8 May 2017	Not yet ratified

- The negotiations on the revised double-taxation agreement (DTA) with India were successfully completed on 29 June 2016, with agreement having been reached on all pending issues. This has paved the way for the removal of Cyprus from India's 'Notified Jurisdictional Areas' list, with retrospective effect as from 1 November 2013. The revised DTA provides for the taxation at source of capital gains from the disposal of shares. Investments undertaken prior to 1 April 2017 are grandfathered, in the sense that taxation of disposal of such shares at any future date remains with the contracting state of residence of the seller.
- The Republic of Cyprus and the US government concluded an inter-governmental agreement (IGA) on 2 December 2014 for improving international tax compliance, and for implementing the Foreign Account Tax Compliance Act (FATCA). Towards this effect, the Minister of Finance issued a decree on 28 August 2015, through which the Agreement will be implemented. The decree clarifies the due-diligence procedures which need to be established and maintained by Cypriot financial institutions for the identification and reporting of any US-reportable accounts. It also provides definitions of 'controlling persons' and 'reportable accounts', the appropriate documentation that should be obtained for opening new accounts, as well as other obligations of Cypriot financial institutions under the agreement.
- On 1 November 2016, Cyprus signed and became part of the Multilateral Competent Authority Agreement (MCAA) on Country-by-Country Reporting (CBCR). Following that, on 30 December 2016, the Cyprus Ministry of Finance issued a Decree pursuant to Article 6(16) of the Assessment and Collection of Taxes Law on CBCR. This was replaced by a revised Decree, issued on 26 May 2017. The Decree is in accordance with Action 13 of the OECD Base Erosion and Profit Shifting (BEPS) and related EU Directive requiring all EU Member States to implement such CBCR in their domestic legislation.
- The Ministry of Finance announced on 29 December 2016 that an agreement has been reached between the Russian and Cyprus authorities for the postponement of the application of the Protocol amending Article 13 'Gains from Alienation of Property' of the Double Tax Agreement (DTA) between Cyprus and the Russian Federation. The Protocol, which was signed on 7 October 2010, provided for the amendment of Article 13 of the DTA so that, as of 1 January 2017, gains derived by a resident of a contracting state from the alienation of shares or similar rights deriving more than 50 per cent of their value from immovable property situated in the other Contracting State may be taxed in that other state. A supplementary Protocol is currently being finalised, through which the application of the revised provisions of Article 13 of the DTA will be deferred, until similar provisions are introduced in other bilateral DTAs between the Russian Federation and other European countries.

Legal system

Being a British colony until its independence in 1960, Cyprus' legal system is primarily based on the English legal system and the principles of common law and equity, with some civil law influences. Following Cyprus' accession to the European Union, European Law has supremacy over the Cypriot constitution and national laws.

INHERITANCE AND SUCCESSION

Succession

Succession in Cyprus follows the principle of universal succession. Pursuant to Section 3 of the Wills and Succession Law , Cap 195, on the death of a person, his estate passes as a whole, to one or several other persons.

Cap 195 restricts Cypriot domiciled testators from freely disposing their property by will, with a substantial part of a deceased estate (the statutory portion) being reserved for close relatives who survive the deceased. These restrictions do not apply to persons born, or whose father was born, in the UK or Commonwealth countries.

Key legislation:

- The Wills and Succession Law; Cap 195
  Administration of Estates Law; Cap 189
- The probates (Re-sealing) Law; Cap 192

Family law and defined inheritance rules

YES ☐ NO☐

Family law is based upon contemporary Greek law and since 1989 has been administered by civil courts.

The testamentary freedom of a person domiciled in Cyprus is restricted to the disposable portion of the estate, which can be disposed of as the testator wishes. The statutory portion of the estate of a person cannot be disposed by will as it is reserved for the widow, children and close relatives of the deceased. The disposable portion of the estate is determined as follows:

- If the deceased is survived by a spouse and child; or spouse and descendant of a child; or child or descendant of a child alone, the disposable portion should not exceed one quarter of the net estate;
- If the deceased is survived by a spouse or father or mother but no child or descendant of a child, the disposable portion should not exceed half of the net estate;
- If the deceased is survived by none of the above, he can dispose of the whole of his estate.

The statutory portion is paid according to the rules of intestacy. Persons entitled to succeed the estate of the deceased are divided into four classes:

- First Class: legitimate children and descendants of children;
- Second Class: parents and siblings;
- Third Class: ancestors of the deceased nearest in degree of kindred surviving the deceased;
- Fourth Class: nearest relatives up to the sixth degree of kindred surviving the deceased.

Note that the surviving spouse is entitled to a share in the statutory portion and in the undisposed portion of the estate prior to distribution as above, determined according to the nature of other surviving relatives as follows: The estate of a deceased with no spouse, children or relatives up to the sixth degree of kindred becomes property of the state.

The deceased left a child or descendant of a child	Equal to the share of each child
The deceased has left none of the above but an ancestor or descendant of an ancestor up to the third degree of kindred	One half of the statutory and undisposed portion
The deceased has left none of the above but an ancestor or descendant of an ancestor of the fourth degree of kindred	Three fourths of the statutory and undisposed portion
None of the above	Entire net estate

For those without testamentary freedom (see above) the estate reserves for family members:

- One-half where a person predeceases a spouse or parent but has no issue.
- Three-quarters where a person predeceases his issue.

Probate process
The registrars of the supreme and district courts are responsible for receiving and examining all applications for grants or probates.

Mental capacity
A disabled person is a person not under disability but who has received certification, by two qualified physicians, of their incapacity to manage their own affairs by reason of intellectual disability resulting from sickness or old age.

A person is considered as being mentally ill if so declared pursuant to the provisions of the Mental Health Law .

ESTATE PLANNING

Use of trusts in estate planning
Cyprus is a signatory of the Hague Convention on Private International Law . Although a signatory of the Hague Convention on the Law Applicable to Trusts and on their Recognition, 1 July 1985, Cyprus has not yet ratified the treaty. Cypriot courts would take the convention into account when considering trust matters of private international law.

Primarily, trusts are confined, in practice, to international persons or non-residents. The Cyprus International Trust (CIT) is the most common arrangement for international structures. The International Trust Law (ITL) was comprehensively amended during 2012. The principle amendments were as follows:

- A settlor may now be a resident of Cyprus but not in the calendar year prior to setting up the CIT.
- The beneficiary is, likewise, not a resident of Cyprus during the calendar year preceding the year of the creation of the trust (charitable institutions being an exception).
- The definition of residence follows the statutory residence tests used for tax purposes.
- The rules against perpetuities and remoteness of vesting may be dispensed with.
- A settlor may reserve to himself wide powers as enforcer or protector.
- Trustees' powers of investment may be those of an absolute owner opening up the previously proscribed possibility of purchasing immovable property situated in Cyprus.
- Income, gains and profits of a CIT deriving from non-Cyprus sources are exempted from income tax, capital gains tax, special contribution or any other taxes in Cyprus provided that the beneficiaries are non-Cyprus residents.
- With effect from September 2013, further to deletion of section 15 of the International Trusts Law 1992 (as amended in 2012) CITs are no longer exempt from the requirement of registration. All trusts established, construed and governed by the laws of Cyprus should be registered with one of the three competent authorities pursuant to section 25A.(1) of the Fiduciaries Law , as amended in 2013.

CITs are valuable tools in estate planning. Through the use of a CIT:

- an individual can safeguard persons who are minors, mentally handicapped or who can not be trusted with the management of one's estate, are well provided for, even on the death of the individual;
- testamentary freedom of an individual (the testator) may be retained, and forced heirship provisions may be circumvented to enable a person, who would otherwise be excluded from inheritance, to inherit from the testator;
- assets of an individual may be transferred to such a trust and thus be separated from the individual's personal assets, whether for asset protection or other reasons.

For tax purposes, CITs are tax transparent. As such, to the extent that the beneficiaries are non-Cyprus residents and there is no Cyprus sourced income at the level of the trust, then there is no Cyprus taxation. Following the introduction of the non-domiciled persons for tax purposes, even in the case where the trust earns dividend or interest, there shall again be no Cyprus tax in case of beneficiaries who are resident but non-domiciled in Cyprus.

Use of foundations in estate planning
Cyprus Law does not incorporate specific legislation on foundations, however certain foundation-like entities may be established under different pieces of legislation. These include:

- Companies limited by guarantee governed by the Companies Law, Cap 113;
- Societies and Associations governed by the Societies and Associations Law 57/72 ;
- Charitable trusts governed by the Charities Law , Cap 41.

There are initiatives for introducing foundations in the near future.

Types of entities
Limited liability company (Ltd)
This is the most commonly used business vehicle. It is a private limited company with a maximum of 50 shareholders who can be either natural or legal persons. They are generally run by the company directors.

Limited liability companies are registered with the Office of the Registrar of Companies and the following are required for their incorporation:

- Name and address for the company
- At least one director (legal or physical person)
- At least one shareholder (legal or physical person)
- A secretary (legal or physical person)
- Share capital (no statutory minimum)
- Memorandum and Articles of Association

Public limited company (PLC)
Public limited companies are required to have a minimum of seven shareholders, share capital of at least EUR25,630 and generally freely transferable shares.

Partnerships
Partnerships may take the form of limited liability partnerships or general partnerships. All partners of general partnerships are liable for the partnerships debts and obligations jointly. Limited partnerships are formed by one or more general partners, liable for all debts and obligations of the partnership and one or more limited liability partners, whose liability is limited to their fixed contribution on formation of the partnership.On registration of partnerships with the Office of the Registrar of Companies the following are required:

- Name of partnership;
- General nature of the business;
- Place of business;
- Name (and previous names if and where applicable), address, nationality, occupation and classification (including amount contributed in case of limited partners) of the partners;
- Duration (if applicable) and date of commencement of business (registration application must be made within 30 days of commencement of business);
- Other business/trade names used to carry on business.

Cyprus International Trusts (CIT)
CITs are mainly used for wealth protection, and succession and estate planning, and their popularity in international tax structures is high. A CIT is a trust where:

- The settlor is not a resident of Cyprus in the calendar year preceding the year of creation of the trust.
- The beneficiary is not a resident of Cyprus in the calendar year preceding the year of creation of the trust (with the exception of charitable institutions).
- A minimum of one trustee is resident in Cyprus.

Income and gains of a CIT derived from sources outside Cyprus are exempt from Cyprus taxes provided the beneficiaries are non-Cyprus residents.

TAXATION

Income tax system
Basis of taxation: a natural or legal person resident in Cyprus for tax purposes is subject to Cyprus tax on their worldwide income. Non-Cyprus resident persons are subject to Cyprus tax only on Cyprus-source income.

Residence: an individual who spends more than 183 days in Cyprus in any calendar year is considered to be tax resident of Cyprus for that year. As from 14 July 2017 onwards, an individual who does not remain in any other state for one or more periods exceeding 183 days in total during any given tax year, and who is not a tax resident in any other state for that year, shall be considered for Cyprus tax purposes to be a tax resident of Cyprus for the year in question if he resides in Cyprus for at least 60 days during the tax year, subject to certain conditions being cumulatively met. A company is tax resident if it is managed and controlled in Cyprus.

Personal income tax rates for 2016

CHARGEABLE INCOME (EUR)	TAX RATE (%)	ACCUMULATED TAX (EUR)
0-19,500	Nil	Nil
19,501-28,000	20	1,700
28,001-36,300	25	3,775
36,301-60,000	30	10,885
Over 60,000	35	

Certain types of income are exempt from personal income tax but are subject to Special Defence Contribution (SDC) tax (see next column). These include dividends and interest.

Corporate income tax rates

Cyprus applies a flat 12.5 per cent corporate income tax. Expenses wholly and exclusively incurred for the production of taxable income are tax deductible. Certain types of income are wholly or partially exempt from income tax. Specifically, dividends (subject to anti-avoidance rules), gains from the sale of shares, passive interest, qualifying shipping income and profit from a qualifying foreign permanent establishment are completely exempt from Cyprus corporate income tax. Qualifying IP profit is entitled to an 80 per cent tax exemption.

Notional Interest Deduction

Companies resident in Cyprus (as well as non-resident entities with a permanent establishment in Cyprus) that carry out business activities are entitled to claim Notional Interest Deduction (NID) against their taxable income, in cases where this income is generated through new equity (issued and fully paid up) introduced on or after 1 January 2015. The new equity can be in the form of funds, as well as in-kind payments.

This notional deduction is calculated by applying a 'reference interest rate' on new equity introduced in the company and used to carry out its activities. The reference rate is equal to the yield of the ten-year government bond of the country in which the new equity is invested, increased by 3 per cent, subject to a minimum rate equal to the yield of the ten-year Cyprus government bond, increased by 3 per cent.

The maximum amount of NID that can be claimed is restricted to 80 per cent of the taxable profit, as calculated before the deduction. This, coupled with the 12.5 per cent corporate tax rate, and depending on the level of capitalisation, provides the opportunity for a reduction of the effective tax rate to as low as 2.5 per cent.

Special Defence Contribution tax

SDC applies on certain types of income for both individuals and companies that are tax resident in Cyprus. In the case of individuals, as from 2015, SDC applies only if the person is also Cyprus domiciled for Cyprus tax purposes. This means that foreign persons who become Cyprus tax residents but are Cyprus non-domiciled will no longer be subject to SDC. A foreign person is considered to be domiciled in Cyprus if he has been a tax resident of Cyprus for at least 17 out of 20 years preceding each tax year.

Income that is subject to the SDC are:

- Dividends received by individuals: 17 per cent on the gross dividend income
- Dividends received by companies: only applies on dividends received by foreign companies. Unless such foreign dividend meets easy conditions that can exempt it, there is a 17 per cent SDC on the gross dividend income.
- Passive interest (i.e. bank deposit interest): 30 per cent on the gross interest income
- Rents: 3 per cent on 75 per cent of the gross rental income

Double tax relief whereby foreign tax is credited against related resulting Cyprus income tax and SDC is unilaterally available.

Capital gains tax

Capital gains tax (CGT) of 20 per cent is charged on the realisation of gains from the sale or otherwise disposal of immovable property situated in Cyprus and on gains from the disposal of shares in a private (non-listed) company owning immovable property situated in Cyprus. Gains from the sale of shares (other than as indicated above) are exempt from tax.

Gains from a future disposal of immovable property situated in Cyprus will be completely exempted from CGT, if such property was purchased between the date the law came into effect (16 July 2015) and 31 December 2016.

Non-residents taxable on Cyprus-source income, including:

- income from a permanent establishment in Cyprus (exemptions apply);
- income from an office or salaried services exercised in Cyprus;
- pensions deriving from past employment exercised in Cyprus and annuities borne by a Cyprus resident, except pensions paid by, or out of funds created by, the Government of Cyprus or a local authority;
- rental in Cyprus;
- royalties in Cyprus;
- trading goodwill in Cyprus.

Withholding tax rate (non-treaty)

Dividends

- Paid to non-residents: zero.
- Paid to a resident company: zero.
- Paid to a resident domiciled individual: 17 per cent (SDC).
- Paid to a resident non-domiciled individual: zero

Interest

- Paid to non-residents: zero.
- Paid to residents (companies and individuals): 30 per cent (SDC applicable on passive interest).
- Paid to resident non-domiciled individuals: zero

Royalties

- Paid to non-residents for the use of rights outside Cyprus: zero.
- Paid to non-residents for the use of rights in Cyprus: 5 per cent on film royalties and 10 per cent on other royalties unless reduced under the provisions of a tax treaty or the EU Interest & Royalties Directive.
- Paid to non-residents for services regarding offshore drilling activities: 5 per cent.
- Paid to a resident company: zero.

Withholding tax rate (treaty)

Treaty rates for inbound and outbound dividend, interest and royalty payments generally range from 0-15 per cent.

Taxation at death

None. There is no inheritance tax in Cyprus.

Other taxes

- Value added tax
- Stamp duty
- Immovable property tax (abolished from 2017)
- Social security
- Transfer fees (immovable property).

Tax treaties

Total 59: Armenia, Austria, Bahrain, Barbados (subject to ratification), Belarus, Belgium, Bosnia & Herzegovina, Bulgaria, Canada, China, Czech Republic, Denmark, Egypt, Estonia, Ethiopia (subject to ratification), Finland, France, Georgia, Germany, Greece, Guernsey, Hungary, Iceland, India, Iran, Republic of Ireland, Italy, Jersey, Kuwait, Latvia, Lebanon, Lithuania, Luxembourg (subject to ratification), Malta, Mauritius, Moldova, Montenegro, Norway, Poland, Portugal, Qatar, Romania, Russia, San Marino, Serbia, Seychelles, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Syria, Thailand, Ukraine, United Arab Emirates, United Kingdom and United States.

Tax information exchange agreements

None but relevant provisions exist in concluded double tax treaties. In July 2014, Cyprus signed the Convention on Mutual Administrative Assistance in Tax Matters and its Protocol.

RESIDENCE AND DOMICILE

Special rules on becoming resident

Cyprus, being an EU Member State, applies different rules on becoming resident for EU and third-country nationals. For third-country nationals, specific schemes are available for citizenship, naturalisation and permanent residency. Being a resident of Cyprus does not necessarily imply Cyprus tax residency (see 'Income tax system' above for tax residency conditions). In general, residence permits are issued by the Immigration Department.

Special rules on ceasing residence

If a tax resident of Cyprus, such a person will apply to the Commissioner of Income Taxes for a tax clearance certificate.

Domicile concept for gifts and inheritance
Domicile is a determining factor on the application of Cyprus' succession law.

Taxation of holdings by non-residents on
- Gifts: potentially only applicable to immovable property situated in Cyprus.
- Death: none.

Reporting/auditing requirements
YES ■ NO ☐
All Cyprus companies and branches are required to file audited financial statements with the Commissioner of Income Taxes and Companies House annually (small companies may be exempt in narrow circumstances).

OTHER RELEVANT INFORMATION

Asset protection laws
YES ■ NO ☐
The Cyprus International Trust protects assets from creditor claims in certain circumstances.

Foreign currency restrictions
YES ☐ NO ■

Foreign ownership restrictions
YES ☐ NO ■

AML/due diligence and other requirements and regulatory procedures for advisors
- To establish a trust: identify all major parties, including trustees, settlor, principal beneficiaries, protector (if any) and verify their identity and address and other persons exercising ultimate effective control over the trust;
- For incorporation of a company: identify all persons exercising control over the company whether these ultimately have a controlling ownership interest in the company or not.
- To open a bank account: the identity and address of the named account holder(s) will be verified.

All practitioners of fiduciary services come under the law to prevent money laundering and the financing of terrorism. Each firm must provide training for members of staff in order that any suspicious transaction would be reported to a firm's designated officer. Each firm must advise the relevant authority from time to time of the designated officer who is responsible for reporting suspicious transactions.

Key resources for further information
WEBSITES
Companies House:
http://companieshousecyprus.com/
Ministry of Finance:
www.mof.gov.cy

More details
The latest updates to this report are available at www.step.org/jr-cyprus

Cyprus is part of the STEP Europe region.
For details on the Europe Regional Committee please see page 309.