

The Cyprus Non-Resident Company

April 2012

Introduction

Until 1 January 2003, tax residency was an easy matter to satisfy in Cyprus. This is because until 31 December 2002 incorporation in Cyprus *per se* meant that a company was resident in Cyprus for tax purposes. This has been changed by the Income Tax Law of 2002 which came into effect on 1 January 2003 and which introduced the term "resident" to the vocabulary of Cyprus tax law. According to the Income Tax Law 2002

"resident of the Republic", when applied to an individual means an individual who stays in the Republic for a period or periods exceeding 183 days in the year of assessment and when applied to a company means a company whose management and control is exercised in the Republic and "non resident" or "resident outside the Republic" shall be construed accordingly.

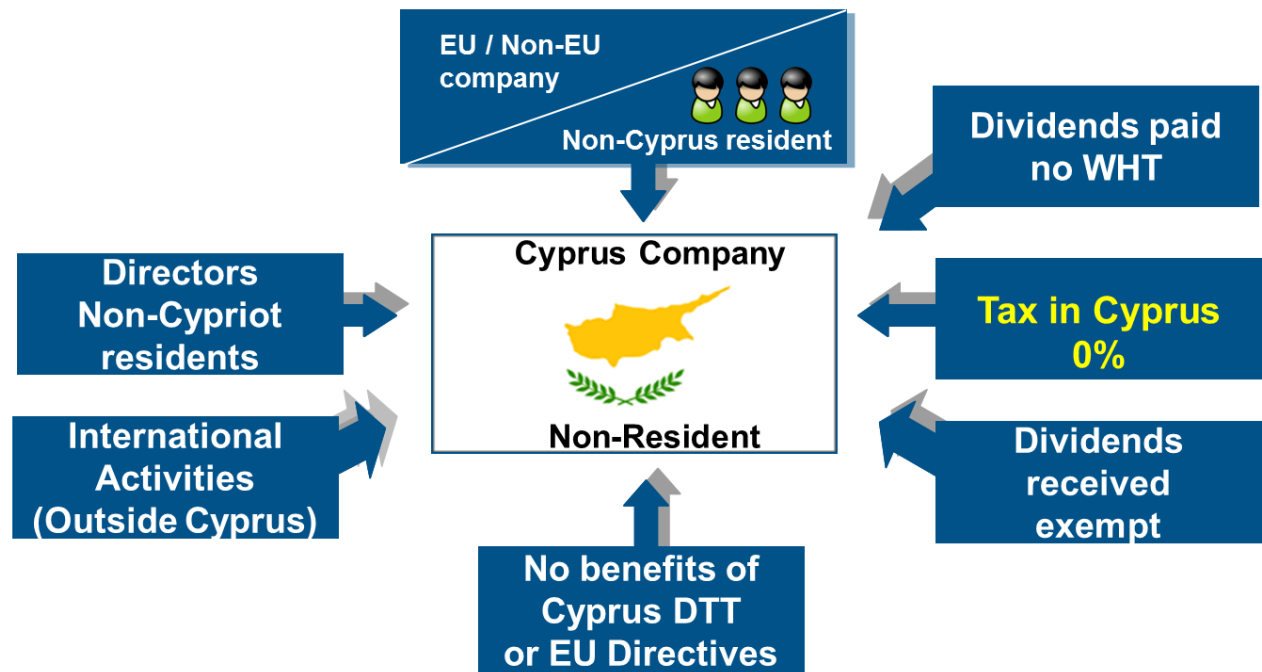
Under the Law resident persons will be charged to tax on the income accrued or arising from sources both within and outside Cyprus and non resident persons will be charged to tax only on Cyprus source income.

This means that a company will be taxed if it is deemed to be resident in Cyprus; a company will be deemed to be resident if it is managed and controlled in Cyprus (incorporation *per se* is no longer sufficient to establish residence); and a company not managed and controlled in Cyprus will be non resident for tax purposes and not liable to tax in Cyprus.

This is the first time it is possible to incorporate a Cyprus company which will be non resident in Cyprus for tax purposes, a company which for all intents and purposes has the same corporate documentation as any Cyprus-incorporated company but is effectively used as a BVI vehicle. It is important to note that these zero-tax Cyprus vehicles cannot access Cyprus' treaty network and professional advice should be taken to avoid the possibility of establishing tax residence of this Cyprus company in another, higher-tax jurisdiction.

This type of vehicle is usually used when one wants to have an EU based / incorporated company for commercial purposes without local taxes and where access to benefits of double tax treaties or relevant EU directives is not required.

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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.