

Cyprus: A most attractive Intellectual Property regime

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Cyprus strengthens IP tax regime

Cyprus has a revised Intellectual Property ("IP") tax regime, which continues to provide for an 80% tax exemption on qualifying IP related profit. This, together with other related elements, constitutes the island as one of the most attractive and preferred IP locations in the EU and worldwide.

Why Cyprus

- Established international financial center.
- EU Member State with access to EU Directives.
- On the white list of OECD.
- Tax system approved and compliant by EU and OECD.
- Stable and attractive tax regime.
- Excellent double tax treaties with certain non-EU countries (e.g. Russia, Ukraine, India, South Africa).
- Elimination or significant reduction of foreign withholding tax on receipt of royalties from other countries. This is achieved through access to benefits of double tax treaties or EU Directives.
- High standard of professional services.
- No exchange controls restricting the movement of capital.

Cyprus IP tax regime

With effect from 1 July 2016, the Cyprus IP regime was revised in order to align it with the provisions of Action 5 of the OECD's BEPS project. The revised IP regime provides for a modified 'nexus approach', 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 own qualifying expenses contributing to that income. Transitional arrangements apply up to 30 June 2021, with a view to protect owners of IP assets that have already qualified under the previous IP regime.

In brief, under the revised IP regime, an amount equal to 80% of the qualifying profits earned from qualifying intangible assets is allowed as a tax deductible expense. This has the potential of bringing the effective tax rate on qualifying IP profits to as low as 2.5%.

The definition of 'qualifying intangible assets' refers to assets acquired, developed or exploited by a person in furtherance of his business and includes patents, computer software, as well as other non-obvious, useful and novel intangible assets; but specifically excludes business names, brands, trademarks, image rights and other intellectual property rights used for the marketing of products and services.

Expenditure for the acquisition or development of IP is amortized by 20% per annum (i.e. 5-year straight line depreciation for tax purposes). In case of non-qualifying intangible assets (either under the revised regime or under the transitional arrangements), such costs can be amortized over asset's useful life in accordance with accepted accounting principles, with a maximum period of 20 years.

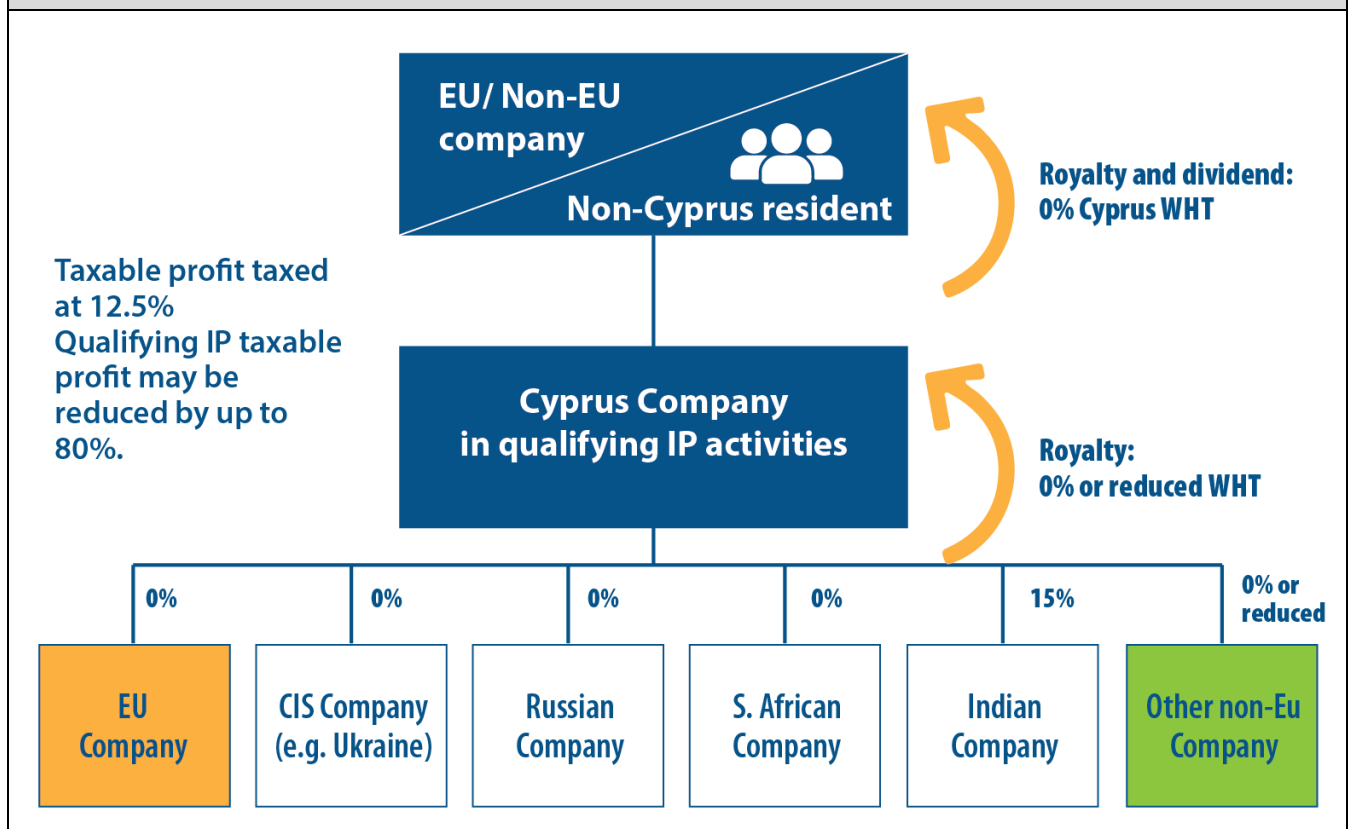
More technical details about the Cyprus IP tax regime can be found in [Information Sheet 132](#).

Other Cyprus tax aspects

Notwithstanding the applicability of the Cyprus IP tax regime, the following tax related aspects also apply:

- Where a company is involved in back-to-back licensing arrangements (i.e. where an IP is licensed to the Cyprus company and in turn the Cyprus company sublicenses it), arm's length spreads should be used for tax purposes.
- The expenses of a Cyprus company are tax deductible to the extent that they are incurred wholly and exclusively for the production of the company's own income.
- Notional interest expense may be available where business activities are financed through own funds introduced in the share capital of the company (Notional Interest Deduction on new equity).
- Availability of foreign tax credit (deduction) for foreign tax suffered (e.g. foreign withholding tax) against Cyprus tax resulting from the same income.
- No Cyprus withholding tax on payments of royalties abroad unless the royalty is used in Cyprus.
- No Cyprus withholding tax on dividend distributions or liquidation payments to non-Cyprus residents.
- Disposing the shares of a Cyprus company attracts no taxation in Cyprus (provided it holds no immovable property in Cyprus).
- Profit of foreign branch (e.g. acting as the IP owner) is tax exempt in Cyprus under conditions.

How it works



Other points

- The IPs involved may be registered in Cyprus or abroad.
- Cyprus legal system has been fully harmonized with EU IP directives and regulations.
- Major related IP International Treaties and Protocols have been ratified.
- Cyprus company is relatively easy to set up and cost efficient to maintain.
- No thin capitalisation rules (i.e. the Cyprus company can be financed in any combination of debt and equity).
- Cyprus Company can also act very tax efficiently as a holding company of Cyprus and foreign subsidiaries, as holding companies are tax exempt.
- Transactions between related parties shall, for tax purposes, be made at arm's length.
- Depending on the jurisdictions involved, relevant substance may be needed at the level of the Cyprus company in order to satisfy substance requirements of foreign jurisdictions that grant treaty or EU Directive benefits.

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 in this respect. Please do not hesitate to contact us.