

# Tax and Investment Facts

A Glimpse at Taxation and  
Investment in Cyprus

2019



# WTS Cyprus

## Cyprus

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# 1 Ways of Doing Business / Legal Forms of Companies

The Republic of Cyprus is a member of the eurozone and a Member State of the European Union. Cypriot corporate statutes are based on English company legislation and the legal system is modelled on English common law. Cypriot legislation, including employment law, is fully aligned and compliant with European Union legislation. European Union Directives are fully implemented into local legislation and European Union Regulations have a direct effect and are directly applied in Cyprus.

The main types of business entity in Cyprus are:

- Cypriot company
- Branch of a foreign company
- Partnership
- Sole proprietor
- Cyprus International Trust
- Alternative Investment Fund

It is important to note that companies providing services other than banking, financial/investment advisory, professional or medical, can commence their business without obtaining any licences or permissions beforehand.

## Cypriot company

Companies registered in the Republic of Cyprus are governed by the Companies Law, Cap 113, which is modelled on the English Companies Act of 1948. Any amendments made throughout the years in the Cyprus Companies Law were mainly made to harmonise the Companies Law of the Republic with EU standards.

The Companies Law, Cap 113, provides for the following 3 types of company incorporated in Cyprus:

- Companies limited by shares  
This is the most widely used among international investors.  
A Limited Liability Company by shares, as defined in the Cyprus

Company Law, Chapter 113, is 'a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on shares respectively held by them'. The liability of the shareholders is limited to the nominal value of the shares they have taken up or in case the shares issued at a premium, to their nominal value. In a company limited by shares the members contribute to the capital of the company and the liability owed by the members is to the company and not to the company's creditors.

A company limited by shares can be a Private or a Public Company.

A private company as defined by the Cyprus Company Law, Chapter 113, is a company which by its articles restricts the right for the transfer of its shares, limits the number of its members to fifty, and prohibits any invitation to the public to subscribe any shares or debentures of the company. Private companies have no minimum number of members, therefore a single shareholder can set up a private company. Also, there is no minimum share capital requirement under the Cyprus Company Law, Chapter 113.

A public company as defined in the Cyprus Company Law, Chapter 113, has the means of a company that is not a private company. A public company limited by shares can also be listed on stock exchanges.

Companies limited by shares are legally bound to submit audited financial statements and income tax returns to the Registrar of Companies and local tax authorities on an annual basis.

- Companies limited by guarantee  
Owners guarantee to pay a predetermined sum in the event the company is wound up. Therefore, the members of the company do not have to pay anything unless the company is

wound up and the amount is limited to the sum agreed in the memorandum. In such companies, which usually have the status of a charity or a not-for-profit organisation, no shares are issued as the members do not contribute to the capital of the company.

### **Branches and commercial representation offices of foreign legal entities**

A company incorporated outside Cyprus may establish a branch or representative office and conduct business in Cyprus provided that, within one month of the date of such establishment, it registers itself as an overseas company with the Cyprus Company Registrar.

A branch is an organisational unit of a foreign entity and has no legal substance; it acts as a business vehicle for the foreign entity facilitating the performance of its international activities. The foreign company must always provide the assets needed to operate the branch and settle its debts. The foreign entity and the branch bear joint and several unlimited liability for debts incurred in the course of the branch's activities.

A branch is required to file financial accounts, Directors' reports and Auditors reports to the Registrar of Companies for every financial year. This is a legal requirement that applies for any other company registered in Cyprus, except for the exempt private companies as described above.

Depending on the activities of the foreign company, permission from the Central Bank may be required if the company is to carry out regulated activities through its Cyprus branch, such as banking, insurance, investment, etc. This does not apply for standard commercial transactions.

The representative office cannot conduct any commercial activities, but foreign business-people can benefit from many other activities carried out through this type of business representation.

## Partnerships

According to the Partnership Law, Cyprus partnerships may only exist if there is a relation between the persons conducting the business activities for the purpose of generating a profit. Partnerships in Cyprus must be registered with the Registrar of Partnerships within one month of formation, providing their name, purpose and place of business.

Partnerships are not required to file accounts or be audited, and regardless whether they have share capital or not, they are not considered legal entities with a separate legal personality.

There are two types of partnership in Cyprus:

- **General Partnerships**  
Partnerships that have between 2 and 20 members, all of whom bear joint liability for any debts and obligations occurring during their terms as partners. A partner can also be a company with limited liability or another partnership.
- **Limited Partnerships**  
Consist of one or more persons called general partners/managers, and one or more limited partners. General partners/managers are fully liable for all debts and obligations occurring during their terms, whilst limited partners bear no liability beyond their own contribution. Moreover, limited partners are not actively involved in managing the business and have no binding powers vis-à-vis the firm. Like general partnerships, limited liability companies may also be partners in a limited partnership.

## Sole Proprietorship

This is the simplest way of forming a business in Cyprus, where an individual owns and runs a business on his/her own account with or without employees. The owner is personally liable for all the debts and obligations of the business. Taxation is based on personal income. A Cypriot sole trader is subject to the same

regulations as the partnership, with the exception that he or she cannot have partners or any other members in the company. EU citizens do not require a work or residence permit to trade in Cyprus under this category.

### **Cyprus International Trusts (CITs)**

Trusts are an alternative way of doing business where the asset owner, the settlor, nominates a group of persons, the trustees, to be in control of the assets (e.g. property, shares, cash, etc.), for the benefit of the beneficiaries (i.e. the individual or group of individuals for whom a trust is created). As a general rule, every person who can acquire and dispose of property is able to create a trust (certain exceptions apply).

The main legal framework governing trusts in Cyprus is the Trustees Law of Cyprus (Cap 193) and the International Trusts Law of Cyprus (Law 69(I) of 1992 as amended by Law 20(I)/2012).

CITs are widely employed in what may be called "family situations", but also in commercial and business transactions, and are a vehicle for charitable and other purposes. The settlor and the beneficiaries should not be Cyprus tax residents during the year prior to the creation of the trust. A CIT may last for an indefinite period and its income may be accumulated without any limitations (e.g. no time limitation for the distribution of income to beneficiaries).

The settlor has the right to reserve many powers, including the powers to revoke or amend the trust, to instruct the trustee, to appoint and remove trustees, the protector or the enforcer, to change the law regulating the CIT or the place of its administration and other things.

### **Alternative Investment Funds (AIFs)**

AIFs are governed by the Alternative Investment Funds Law 131(I)/2014 ("AIF Law") and the Alternative Investment Fund Managers Law 56(I)/2013 ("AIFM Law").

AIFs are subject to authorisation from the Cyprus Securities and Exchange Commission prior to commencing their operations. Assessing the application normally takes 3 months from the submission of the mandatory requirements, which includes, amongst others, the prospectus of the AIF, information on the persons conducting the business of the AIF, its organisational structure, the declaration by the external manager and the depository, if appointed, etc.

The legislation provides for two types of AIF, namely, AIFs without limitations on the number of investors and AIFs with a limited number of persons (i.e. up to 75 investors). Different requirements/restrictions apply depending on the type of AIF. Some of them are analysed further below.

→ **Alternative Investment Funds (AIFs)**

AIFs with an unlimited number of persons can be in the form of a common fund (CF), a variable capital investment company (VCIC), a fixed capital investment company (FCIC) and a limited partnership with or without legal responsibility (LP). Depending on the legal structure of the AIF, investors have different types of liability, however, such liability is always limited to money invested in the fund (e.g. the amount invested in the form of shares for VCIC or FCIC, participation interest in LP, the amount contributed in the form of units for CF).

AIFs with an unlimited number of persons are intended for professional/well-informed investors as well as for retail investors. AIFs are subject to a minimum capital requirement of EUR 125,000, unless they are established as self-managed AIFs, which results in a minimum capital requirement of EUR 300,000. Externally managed AIFs (i.e. AIFs managed by Alternative Investment Fund Managers) are not subject to minimum capital requirements. Certain conditions relating to the asset portfolio of the AIF apply on determining whether

an AIF will be managed internally by its Board of Directors (i.e. in the case of an AIF in the form of a VCIC or FCIC) or externally by an Alternative Investment Fund Manager.

There is a mandatory requirement for the appointment of a local depository if the AIF is internally or externally managed with the AIFM Law provisions, compared to an AIF established outside the scope of the AIFM Law, which can appoint a depository operating in another EU member state or third country (subject to conditions) or even waive such requirement if its total assets are not eligible for custody (e.g. real estate or private equity).

→ Alternative Investment Funds with limited number of persons (AIFLNPs)

AIFNPs can be structured in the form of (i) VCIC or FCIC or (ii) LP, however, they cannot take the form of a common fund. Unlike AIFs, AIFNPs have a prescribed limit of 75 investors and are intended only for professional/well-informed investors. AIFNPs are not subject to a minimum capital requirement and are prohibited from being listed and traded on a stock market.

AIFNPs can be managed either internally or externally by an Alternative Investment Fund Manager (in a similar manner as described above for AIFs). In relation to the mandatory requirement for the appointment of a local depository, such requirement may be waived in the case of AIFNPs where

- » their total assets do not exceed EUR 5 million,
- » investors are limited to 5 in total or
- » total assets are not subject to custody.

### 2.1 Applicable Taxes / Tax Rates

Cyprus levies tax on the basis of the taxpayer's tax residency. A company which is tax resident in the Republic is taxed on income accruing or arising from sources both within and outside the Republic. A company not tax resident in the Republic is taxed on income accruing or derived from a business carried out through a permanent establishment (PE) in Cyprus and on certain income arising from sources in the Republic.

#### Corporation tax

The standard corporation tax rate in Cyprus is 12.5%.

The Cyprus Income Tax Law provides for a number of exemptions for many and varied types of income, profit and gain. The following sources of income are exempt from corporate taxation:

- Dividend income, excluding, from 1 January 2016, dividends which are tax deductible for the paying company
- Interest income, excluding interest income arising in the ordinary course of the business or closely connected with the ordinary course of business
- Foreign Exchange (FX) gains with the exception of FX gains arising from trading in foreign currencies and related derivatives
- Gains arising from the disposal of securities (i.e. shares, bonds, etc.)
- Gains arising from a qualifying reorganisation
- Profits from a permanent establishment maintained outside the Republic (subject to certain conditions)
- Rent from preserved building

## Special Contribution for Defence (SDC)

The Special Contribution for Defence is applicable only for dividend income, 'passive' interest income and rental income earned by tax-resident companies in Cyprus. The following tax rates apply for companies:

	<b>Tax rates</b>
Dividend income from Cyprus tax-resident companies	Zero <sup>(1)</sup>
Dividend income from non-Cyprus tax-resident companies	Zero <sup>(2)</sup>
Interest income from ordinary activities or closely related to ordinary activities of the business ("active")	Zero <sup>(3)</sup>
Other interest income ("passive")	30% <sup>(4)</sup>
Gross rental income (reduced by 25%)	3% <sup>(5)</sup>

### Notes:

- <sup>(1)</sup> Dividends received by a Cyprus tax-resident company from other Cyprus tax-resident companies are exempt, subject to certain anti-avoidance provisions (refer to Section 2.2.2. Taxation of Dividends).
- <sup>(2)</sup> This exemption does not apply if the conditions below are met:
- » more than 50% of the paying company's activities result directly or indirectly in investment income; and
  - » the foreign tax is significantly lower than the tax burden in Cyprus. The tax authorities have clarified through a circular that "significantly lower" means an effective tax rate of less than 6.25% on the profit distributed.

When the exemption does not apply, the dividend income received from non-Cyprus tax-resident companies is subject to the Special Contribution for Defence at the rate of 17%.

Also, from 1 January 2016 the exemption does not apply for dividends received from non-Cyprus tax-resident companies which are tax deductible for the paying companies. In such cases, dividends are subject to corporation tax (at the standard rate of 12.5%) and not the Special Contribution for Defence.

- <sup>(3)</sup> "Active" interest income is included in the computation of taxable income for corporation tax purposes and is subject to corporation tax at 12.5%.
- <sup>(4)</sup> The Special Contribution for Defence rate on interest income of 30% is effective for interest received or credited from 29 April 2013 onwards.
- <sup>(5)</sup> Rental income is also subject to corporation tax (at the standard rate of 12.5%).

## 2.2 Resident Companies

A company is a Cyprus tax resident if it is managed and controlled in Cyprus. Foreign taxes paid can be credited against the Cypriot corporation tax liability.

### 2.2.1 Computation of Taxable Income

Taxable income is based on the accounting profit as per the audited financial statements of the company prepared in accordance with the International Financial Reporting Standards (IFRSs).

In calculating taxable income, all expenses incurred wholly and exclusively for the production of taxable income (supported with documentary evidence) are deductible for corporate tax purposes, including, amongst others:

- Interest expense financing the acquisition of 100% shareholdings in subsidiaries that directly or indirectly own assets used in the business is treated as tax deductible, provided that the acquisition was made after 1 January 2012. A restricted amount of interest expense is allowed to the extent the subsidiary (directly or indirectly) owns assets not used in the business.
- Equity introduced to a company as from 1 January 2015 (new equity) in the form of paid-up share capital or a share premium may be eligible for an annual notional interest deduction (NID). For more details see Section 2.2.8. Incentives.
- The 'new' Cyprus intellectual property (IP) box provides for an 80% deduction on qualifying profits from qualifying IPs, calculated using the modified nexus fraction. Qualifying profits comprise royalty income, embedded income and other qualifying income derived from qualifying intangible assets, as defined by the 'new' Cyprus IP box. For more details see Section 2.2.8. Incentives below.
- 80% deduction of the net profit arising from royalty income, embedded income and other qualifying income derived from qualifying intangible assets designated under the 'old' Cyprus IP box. For more details see Section 2.2.8. Incentives.
- Annual tax amortisation over the useful economic life of a qualifying IP, with a maximum period of 20 years,
- Donations to approved charities (subject to the availability of the relevant receipts).
- Employer's contributions to social insurance, national health system and approved funds on employees' salaries.
- Employer's contributions to
  - » medical fund for employees (capped at 1% on employee's remuneration) and
  - » provident/pension fund for employees (capped at 10% on employee's remuneration).

- Any expenditure incurred for the maintenance of a building in respect of which there is a Preservation Order in force (up to EUR 700, EUR 1,100 or EUR 1,200 per square metre, depending on the size of the building).
- Entertainment expenses for business purposes (deductible up to 1% of the gross income of the business or EUR 17,086, whichever is lower).
- Specific trading provisions/write-offs for doubtful and bad debts (subject to conditions).

In a similar manner, any expenses not incurred wholly and exclusively for the production of taxable income are not deductible in calculating taxable income. Non-deductible expenses include, amongst others:

- Expenses not incurred wholly and exclusively for the generation of income, including, amongst others, taxes, penalties, fines, etc.
- Expenses relating to private motor vehicles, irrespective of whether they are incurred wholly and exclusively for the production of taxable income or not.
- Interest applicable to the cost of acquiring a private motor vehicle, irrespective of its use, and to the cost of acquiring any other asset not used in the business. The whole amount of the interest expense for 7 years from the date of acquisition of the asset is restricted. The restriction is lifted after 7 years from the date of acquisition of the relevant asset.
- General trading provisions/write-offs for doubtful and bad debts.

## 2.2.2 Taxation of Dividends

Dividends received from a Cyprus tax-resident company or a non-Cyprus tax-resident company are exempt from corporation tax, however, the taxability of dividends received from abroad is also subject to anti-hybrid rules as explained in Note 2 in Section 2.1. Applicable Taxes/Tax Rates.

The dividend income of a Cyprus tax-resident company from another Cyprus tax-resident company is exempt from the SDC, excluding dividends paid indirectly between the Cyprus companies which are declared/paid after 4 years from the end of the year in which the profits from which they are declared/paid were generated. Dividends paid from income derived directly or indirectly from such dividends on which the SDC was previously imposed are exempt from the SDC.

Dividend income from non-Cyprus tax-resident companies is also exempt from the SDC, subject to the provisions described in Note 2 of Section 2.1. Applicable Taxes/Tax Rates. When dividends from abroad are not exempt from the SDC, the gross amount of dividend income (i.e. without deducting any foreign withholding tax paid on such dividends) is subject to the SDC at the applicable rates.

### **Deemed dividend distribution**

Tax-resident companies in Cyprus are deemed to distribute 70% of their accounting profits (as adjusted for SDC purposes and net of corporation tax, SDC on company incomes, capital gains tax and unrelieved foreign taxes) as a dividend, two years from the end of the tax year in which the profits were generated.

The amount of the deemed dividend distribution is reduced by the actual dividend already paid during the year the profits were generated and the two following years.

On the remaining net amount (if any) of the deemed dividend, the SDC at 17% is imposed to the extent that the ultimate direct/indirect shareholders of the company are individuals who are both Cyprus tax residents (and domiciled in Cyprus from 16 July 2015). Prior to 16 July 2015, the imposition applied to the extent the ultimate direct/indirect shareholders of the company were Cyprus tax-resident individuals.

If actual dividends are paid after the lapse of the 2-year period, the SDC at 17% is only imposed on any excess dividend paid that was not previously subject to the deemed dividend distribution.

### 2.2.3 Capital Gains and Losses (including Capital Gains and Losses from Sales of Shares)

Capital Gains Tax (CGT) is imposed (when the transaction/disposal is not subject to income tax) at the rate of 20% on:

- gains from the disposal of immovable property situated in the Republic,
- gains from the disposal of shares of companies not listed on a recognised stock exchange which directly own immovable property situated in the Republic, and
- gains from the disposal of shares of companies not listed on a recognised stock exchange which indirectly own immovable property situated in the Republic and at least 50% of the market value of the said shares derived from such immovable property.

Disposals for CGT purposes include the sale, exchange of properties, gifted property, waiver/abandonment of use or enjoyment of rights, cancellation of lease agreement, compensation received upon cancellation of disposals of property, granting of right to purchase.

The following disposals of immovable property are not subject to CGT:

- transfer on contemplation of death
- gifts between spouses, parents and children and relatives up to 3<sup>rd</sup> degree of kindred
- gift to a company whose shareholders are members of the donor's family and continue to be members of the family for a period of 5 years from the date of the gift
- gift of property made from a family company to any of its shareholders, provided that such property was initially acquired by the company by way of a gift. The property must be kept by the shareholder (the donee) for at least 3 years.
- gifts to charitable organisations, the Government and to political parties
- exchanges/disposals under the Agricultural Land (Consolidation) Laws
- transfer of property under a Reorganisation Scheme
- expropriations
- exchange of properties, to the extent that the gain made on the exchange has been used to acquire the new property. Any gain that is not taxable is deducted from the cost of the new property, i.e. the payment of tax is deferred until the disposal of the new property.
- Subject to conditions, land as well as land with buildings, acquired at market value (excluding exchanges, donations and foreclosures) from unrelated parties in the period 16 July 2015 up to 31 December 2016 will be exempt from CGT upon their future disposal.

In computing the capital gain from the disposal of property, the following are deducted from the sale proceeds:

- the value of the immovable property as at 1 January 1980 or cost if the date of acquisition is later, as adjusted for inflation;

- the cost of any additions after 1 January 1980 or the date of acquisition if later, as adjusted for inflation;
- other expenses that relate to the acquisition and disposal of immovable property are also deducted from the gain, subject to certain conditions (e.g. interest costs on related loans, transfer fees, legal expenses).

In the case of the disposal of company shares, the gain is calculated exclusively on the basis of the gain relating to immovable property situated in Cyprus. The value of the immovable property will be its market value at the time the shares were disposed of.

In addition, certain disposals are totally exempt from CGT based on their nature (e.g. gifts from parents to children or between spouses).

Also, as described in Section 2.1. Applicable Taxes/Tax Rates, gains arising from the disposal of securities (including shares) are unconditionally exempt from corporate income tax. In a similar manner, losses arising from the disposal of shares are not tax deductible for income tax purposes.

"Securities" are defined as shares, bonds, debentures, founders' shares and other securities of companies or other legal persons incorporated in Cyprus or abroad and options thereon. According to Circulars issued by the Cyprus Tax Authority, the term includes, inter alia, futures/forwards on securities, short positions on securities, swaps on securities, depositary receipts on securities, repos on securities, units in open or close CISs, international collective investment schemes (ICISs), undertakings for collective investment in transferable securities (UCITS), investment trusts and funds, mutual funds, real estate investment trusts (REITs), and units in stock exchange indices on securities. The circulars also clarify specific types of participation in foreign entities which are considered securities.

## 2.2.4 Depreciation / Capital Allowances

Annual wear and tear allowances are calculated as a percentage on the cost of acquisition of the asset used in the business, and are deductible from taxable income.

<b>Fixed assets</b>	<b>%</b>
Plant and machinery <sup>(1)</sup>	10
Furniture and fittings	10
Industrial carpets	10
Boreholes	10
Machinery and tools used in an agricultural business	15
<b>Buildings <sup>(2)</sup></b>	<b>%</b>
Commercial buildings	3
Industrial, agricultural and hotel buildings <sup>(3) (4)</sup>	4
Flats	3
Metallic greenhouse structures	10
Wooden greenhouse structures	33 1/3
<b>Vehicles and Means of Transportation <sup>(1)</sup></b>	<b>%</b>
Commercial motor vehicles	20
Motor cycles	20
Excavators, tractors, bulldozers, self-propelled loaders and drums for petrol companies	25
Armoured motor vehicles (e.g. used by Security Services)	20
Specialised machinery for the laying of railroads (e.g. locomotive engines, ballast wagons, container wagons and container sleeper wagons)	20
New airplanes	8
New helicopters	8
Sailing vessels	4.5
Motor yachts	6
Steamers, tugs and fishing boats	6
Ship motor launches	12.5

<b>Vehicles and Means of Transportation (continued) <sup>(1)</sup></b>	<b>%</b>
New cargo vessels	8
New passenger vessels	6
Used cargo/passenger vessels	Over their useful lives
<b>Other <sup>(1)</sup></b>	<b>%</b>
Televisions and videos	10
Computer hardware and operating systems	20
Application software	33 1/3
Expenditure on application software less than EUR 1,709, is written off in the year of acquisition	
Wind power generators	10
Photovoltaic systems	10
Tools in general	33 1/3
Videotapes property of video clubs	50

Notes:

- (1) Plant and machinery, vehicles (excluding private motor vehicles) and other assets acquired during the tax years 2012 - 2018 (inclusive) are eligible for accelerated tax depreciation at the rate of 20% per annum (excluding assets which are already eligible for a higher annual rate of tax depreciation)
- (2) The rates stated for buildings are for new buildings. Rates are amended in the case of used buildings.
- (3) In the case of industrial and hotel buildings which are acquired during the tax years 2012-2018 (inclusive), accelerated tax depreciation at the rate of 7% per annum applies.
- (4) Buildings for agricultural and livestock production acquired during the tax years 2017-2018 (inclusive) are eligible for accelerated tax depreciation at the rate of 7% per annum.

## 2.2.5 Loss Carry Over (including Potential Loss of Tax Loss Carry Forward in case of Restructuring)

The tax loss incurred during a tax year and which cannot be set off against other income, is carried forward and set off against the profits of the next 5 years, subject to conditions.

There are certain cases where the tax losses of a company prior to the change in ownership cannot be carried forward. Specifically, if:

- within any 3-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
- at any time since the scale of the company's activities has diminished or become negligible, and before any substantial reactivation of the business, there is a change in ownership of the company's shares.

In cases where a partnership or a sole trader transfers a business into a company, they can carry forward tax losses into the company for future utilisation.

In the case of a qualified reorganisation, the tax losses of the transferring company may be carried forward to the receiving company, subject to the general provisions of the Cyprus Income Tax Law in relation to the eligibility of the tax losses brought forward.

### Group relief

Current year tax losses may be surrendered by one Cyprus tax-resident group company to another, provided that the companies are Cyprus tax-resident companies of a group.

A group is defined as:

- one Cyprus tax-resident company directly or indirectly holding at least 75% of the voting shares of another Cyprus tax-resident company, or,
- at least 75% (voting shares) of both Cyprus tax-resident companies is held, directly or indirectly, by a third company.

From 1 January 2015:

- a group company which is tax resident in another EU country may also surrender current year tax losses to a Cyprus tax-resident company, provided such company firstly exhausts all possibilities available to utilise its tax losses in its country of residence or in the country of any intermediary EU holding company
- to establish whether two Cyprus tax-resident companies are part of the same tax group for group relief purposes, the interposition of a non-Cyprus tax-resident company does not affect the eligibility for group relief as long as such company is a tax resident of either an EU country or a country with which Cyprus has a tax treaty or an exchange of information agreement (bilateral or multilateral).

## 2.2.6 Group Taxation

There is no group corporate taxation in Cyprus. However, the group relief provisions (as described in Section 2.2.5. Loss Carry Over above) allow, subject to certain conditions, the companies of the same tax group to transfer tax losses from loss-making group companies to profitable group companies.

## 2.2.7 Relief from Double Taxation (Tax Credit / Tax Exemption)

Cyprus tax-resident corporations are subject to tax on their worldwide income. However, income from a foreign PE (as described below in Section 2.3.1. Concept of Permanent Establishment / Doing Business), as well as most dividend and capital gains income from abroad (see Section 2.2.2. Taxation of Dividends and Section 2.2.3. Capital Gains and Losses), may be exempt from taxation in Cyprus.

Where foreign income is taxed in Cyprus, double taxation is avoided through granting tax credits for the foreign taxes, without the need for a Double Tax Treaty to be in place with the foreign jurisdiction. Transitional rules apply in certain cases on the granting of foreign tax credits where a foreign PE was previously exempt from taxation and subsequently a taxpayer elects to be subject to corporate income tax on foreign PE profits.

## 2.2.8 Incentives

Cyprus being a full member of the European Union offers one of the most attractive tax regimes by providing certain tax credits and incentives which can fit any type of business. An overview of the main ones is presented below.

Cyprus can be an ideal jurisdiction for domestic structures as well as for groups having foreign economic activities since it:

- provides tax exemption for certain core types of income for holding companies, i.e. dividends received from abroad (subject to conditions), foreign PE trading profits and profits from the disposal of securities

- does not levy taxes on dividend, interest and royalty payments abroad (unless right is used in Cyprus)
- does not tax capital gains arising from the disposal of shares in foreign companies holding immovable property abroad, subject to the provisions of the relevant Double Tax Treaty (if applicable)
- has an extensive Double Tax Treaties Network (see Section 3 Double Taxation Agreements below)
- has transposed and adopted all EU Directives (e.g. Interest and Royalties Directive, Parent/ Subsidiary Directive, etc.)
- provides unilateral tax relief for foreign tax incurred

### **Notional interest deduction (NID) on corporate equity**

In an effort to enhance the economic robustness of Cyprus, and to help companies remain competitive, Cyprus has introduced an annual Notional Interest Deduction (NID) on equity introduced to a Cyprus tax-resident company after 31 December 2014 ("new equity") in the form of paid-up share capital or a share premium. New equity may be settled in cash or with assets contributed in kind. The NID is also applicable to Cyprus PEs of non-Cyprus tax-resident companies.

The annual NID deduction is calculated as the new equity multiplied by the NID interest rate (capped at 80% of the company's taxable profit derived from the assets financed by the new equity, as calculated prior to the NID deduction). Any NID deduction that is restricted due to the 80% cap cannot be utilised by way of a carry-forward to future tax years or otherwise. A taxpayer may elect not to claim all or part of the available NID for a particular tax year.

The NID interest rate used in the calculation is the yield on 10-year government bonds (as at 31 December of the prior tax year) in the country where the funds are employed in the business of the company, plus a 3% premium (subject to a minimum amount,

which is the yield on the 10-year Cyprus government bond as at the same date, plus a 3% premium). For 2018 the minimum relevant NID interest rate is 4.881% (6.489% for 2017).

Cypriot law provides for specific anti-avoidance provisions as well as a general anti-avoidance provision for transactions lacking commercial purpose, in an effort to prevent abuse of the NID.

### Intellectual property (IP) box

From 1 July 2016, Cyprus introduced a 'new' IP box, which is aligned with the conclusions of the OECD BEPS Action 5 report on the (modified) nexus approach. The 'old' Cyprus IP box was closed on 30 June 2016, however, transitional/grandfathering provisions apply.

### New Cyprus IP box

The new Cyprus IP box provides for notional tax deductible expense equalling 80% of the net qualifying profits from qualifying IPs.

Qualifying IPs are legally or economically owned:

- patents;
- copyrighted software;
- utility models, IP assets granting protection to plants and genetic material, orphan drug designations, extensions of patent protection, and
- other legally protected patent-like IP (subject to conditions).

The above IPs are considered qualified if:

- they have been developed by a Cypriot company in Cyprus, or
- their development was outsourced to an unrelated party, or
- they have been developed by a Cypriot company via a taxable foreign branch.

Marketing-related IP, such as trademarks, brands, image rights and other IP rights used for the marketing of goods and services do not qualify under the 'new' Cyprus IP box.

Qualifying profits, include inter alia:

- royalty income from qualifying IP;
- amounts for the granting of a licence to exploit qualifying IP;
- amounts derived from insurance/compensation in relation to qualifying IP;
- gains on the disposal of qualifying IP (if not of a capital nature, which are not subject to taxation in Cyprus), and
- IP income embedded in sale of products or services, or use of processes directly related to qualifying IP assets.

In calculating the amount of qualifying IP profits entitled to the 80% deduction, a fraction is applied to the above IP profits based on the R&D activity of the taxpayer; the higher the amount of R&D undertaken by the taxpayer during the development of the IP, the higher the R&D fraction (modified nexus fraction).

Tax amortisation on any expenditure of a capital nature for the acquisition or development of IP is introduced with effect from 1 July 2016 and is allocated over the lifetime of the IP, in accordance with accepted accounting principles, with a maximum period of 20 years. Also, the taxpayer has the option to claim the whole tax amortisation or part of it for a particular tax year.

Cyprus IP companies can achieve an effective tax rate up to a minimum of 2.5% on qualifying profits. The actual effective tax rate can be even lower if a company also benefits from NID on qualifying equity.

## Old Cyprus IP box

Under the 'old' Cyprus IP box, Cypriot IP companies benefited from:

- 80% deduction of worldwide royalty income generated from owned IP (net of any direct expenses such as financing cost for the acquisition/development of the IP, tax amortisation and indirect expenses).
- 80% deduction of profit from the disposal of owned IP (net of any direct expense as described above). For losses generated from the disposal of IP, only 20% of such losses was treated as tax deductible.
- Tax deduction for expenses of a capital nature relating to the acquisition/development of the IP, in the year that such expenses were incurred and in the 4 following years on a straight-line basis.

The old Cyprus IP box was closed from 30 June 2016. Under transitional/grandfathering rules, taxpayers with IPs that were already included in the old Cyprus IP box as of 30 June 2016 shall continue to apply the old Cyprus IP box provisions for a further 5 years (i.e. until 30 June 2021) for that IP.

A much shorter transitional/grandfathering period to 31 December 2016 applied in the case of IPs acquired directly or indirectly from related parties during the period 2 January 2016 to 30 June 2016, unless, at the time of acquisition, such IPs were already benefiting from an IP box (including the Cyprus IP box) or were not acquired with the main purpose (or one of the main purposes) being tax avoidance.

## Taxation of Funds

Operating a fund in Cyprus can provide a number of significant advantages, including, amongst others, tax benefits such as:

- no CGT on the gains arising from the disposal or redemption of units in funds unless the fund owns immovable property in Cyprus. However, even if it owns immovable property in Cyprus, no CGT arises if the fund is listed on a recognised stock exchange
- Cyprus stamp duty does not apply on the subscription, redemption, conversion or transfer of a fund's units
- no PE will be deemed to arise in Cyprus in cases of
  - » investment into tax-transparent Cypriot investment funds by non-resident investors, and
  - » management from Cyprus of non-Cypriot investment funds
- the management fee charged for the provision of collective management services to investment funds is exempt from VAT, provided certain conditions are met
- funds in the form of an investment company can take advantage of the wide double tax treaty network of Cyprus

## 2.3 Non-Resident Companies

Income Tax Law of 2002 (in effect since 1 January 2003) introduced the term 'resident' to the vocabulary of Cypriot tax law. According to the Law "... when applied to a company it means a company whose management and control is exercised in the Republic, and "non-resident" or "resident outside the Republic" shall be construed accordingly".

A non-Cyprus tax-resident company is taxed on income accrued or derived from a business activity carried out through a permanent establishment in Cyprus and on certain income arising from sources in Cyprus.

### 2.3.1 Concept of Permanent Establishment / Doing Business

Cyprus Income Tax Law also provides for the determination of a taxable Cyprus PE of a non-Cyprus tax-resident company. These specific legislative provisions are broadly in line with the relevant article of the 2014 OECD model DTT, with the addition of offshore activities relating to the exploration, extraction, or exploitation of the seabed, subsoil, and natural resources, as well as the installation and exploitation of pipelines and other installations on the seabed.

Profits from a PE abroad are exempt from corporate income tax.

The PE exemption is applicable unless the anti-avoidance rules below apply:

- more than 50% of the foreign PE's activities (directly or indirectly) result in investment income, and
- the foreign tax burden on a PE's profit is significantly lower than the tax burden in Cyprus (i.e. an effective tax rate of less than 6.25%).

As from 1 July 2016, taxpayers may irrevocably elect to tax (under income tax) the profits of a foreign PE (and utilise foreign PE losses). In certain cases, transitional rules apply on the granting of foreign tax credits where a foreign PE was previously exempt from taxation and a taxpayer subsequently elects to be subject to corporate income tax on foreign PE profits.

Losses from an exempt foreign PE are eligible to be offset with other profits of the Cypriot company in Cyprus. Any remaining/unutilised PE tax loss may only be carried forward for future offsetting against the same Cypriot company's income for subsequent years (subject to the general provisions on losses carried

forward, as described in Section 2.2.5. Loss Carry Over). Losses of a foreign PE can also be surrendered to other group companies (under normal conditions for group relief).

It is important to note that any PE tax losses deducted in previous years against taxable income are recaptured (i.e. become taxable up to the amount of losses previously allowed) when the PE returns to profit.

### 2.3.2 Withholding Taxes

Cyprus does not levy a Withholding Tax (WHT) on dividends, interests and royalties paid to the non-residents of Cyprus, except in the case of royalties earned on rights used within Cyprus, which are subject to WHT of 10% (5% in the case of cinematographic films). This Cypriot WHT on royalties for rights used within Cyprus may be reduced or even eliminated by reference to the provisions of the relevant Double Tax Treaty (if applicable) or by the EU Interest and Royalty Directive as transposed into Cyprus tax legislation.

Cyprus, however, levies WHT on the following types of income:

- 10% WHT on technical services performed by non-residents in Cyprus. No such WHT is levied if such services are performed via a Cyprus PE or between 'associated' companies as defined by the EU Interest and Royalty Directive.
- 10% WHT on the gross income/receipts derived from the exercise in Cyprus by a non-resident individual of any profession or vocation and the remuneration of non-resident public entertainers (e.g. theatrical, musical, football clubs or other athletic programmes).
- 5% WHT is levied on gross income derived within Cyprus by non-residents with no local PE for services regarding the

exploration, extraction or exploitation of the continental shelf, as well as the establishment and use of pipelines and other installations on the ground, on the seabed, and on the surface of the sea.

In the table below (and the accompanying notes), we illustrate the applicable Cyprus WHT rates outbound for dividend, interest and royalty payments.

Recipient	WHT			
	Dividends <sup>(1)</sup>	Interest <sup>(1)</sup>	Royalty rights not used within Cyprus	Royalty rights used within Cyprus
<b>Non-treaty</b>	0	0	0	5/10 <sup>(2)</sup>
<b>Treaty:</b>				
Armenia	0	0	0	5
Austria	0	0	0	0
Bahrain	0	0	0	0
Barbados <sup>(13)</sup>	0	0	0	0
Belarus	0	0	0	5
Belgium	0	0	0	0
Bosnia <sup>(7)</sup>	0	0	0	5/10 <sup>(5)</sup>
Bulgaria	0	0	0	5/10 <sup>(5)</sup>
Canada	0	0	0	0/5/10 <sup>(4, 5)</sup>
China	0	0	0	5/10 <sup>(5)</sup>
Czech Rep.	0	0	0	0/10 <sup>(11)</sup>
Denmark	0	0	0	0
Egypt	0	0	0	5/10 <sup>(5)</sup>
Estonia	0	0	0	0
Ethiopia <sup>(14)</sup>	0	0	0	5
Finland	0	0	0	0
France	0	0	0	0/5 <sup>(3)</sup>
Georgia	0	0	0	0
Germany	0	0	0	0

Recipient	WHT			
	Dividends <sup>(1)</sup>	Interest <sup>(1)</sup>	Royalty rights not used within Cyprus	Royalty rights used within Cyprus
Greece	0	0	0	0/5 <sup>(5)</sup>
Guernsey	0	0	0	0
Hungary	0	0	0	0
Iceland	0	0	0	5
India	0	0	0	5/10 <sup>(5)</sup>
Iran <sup>(13)</sup>	0	0	0	5/6 <sup>(5)</sup>
Ireland	0	0	0	0/5 <sup>(5)</sup>
Italy	0	0	0	0
Jersey <sup>(13)</sup>	0	0	0	0
Kuwait	0	0	0	5
Latvia	0	0	0	0/5 <sup>(12)</sup>
Lebanon	0	0	0	0
Lithuania	0	0	0	5
Luxembourg <sup>(16)</sup>	0	0	0	0
Malta	0	0	0	5/10 <sup>(5)</sup>
Mauritius <sup>(16)</sup>	0	0	0	0
Moldova	0	0	0	5
Montenegro <sup>(7)</sup>	0	0	0	5/10 <sup>(5)</sup>
Norway	0	0	0	0
Poland	0	0	0	5
Portugal	0	0	0	5/10 <sup>(5)</sup>
Qatar	0	0	0	5
Romania	0	0	0	0/5 <sup>(10)</sup>
Russia	0	0	0	0
San Marino <sup>(16)</sup>	0	0	0	0
Serbia <sup>(7)</sup>	0	0	0	5/10 <sup>(5)</sup>
Seychelles	0	0	0	5
Singapore	0	0	0	5/10 <sup>(5)</sup>

Recipient	WHT			
	Dividends <sup>(1)</sup>	Interest <sup>(1)</sup>	Royalty rights not used within Cyprus	Royalty rights used within Cyprus
Slovak Republic <sup>(9)</sup>	0	0	0	0/5 <sup>(10)</sup>
Slovenia	0	0	0	5
South Africa	0	0	0	0
Spain	0	0	0	0
Sweden	0	0	0	0
Switzerland	0	0	0	0
Syria	0	0	0	5/10 <sup>(5)</sup>
Thailand	0	0	0	5/10 <sup>(6)</sup>
Ukraine	0	0	0	5/10 <sup>(8)</sup>
United Arab Emirates	0	0	0	0
United Kingdom <sup>(15)</sup>	0	0	0	0

Notes:

- <sup>(1)</sup> Under Cypriot legislation, there is no WHT on dividends and interest paid to non-residents of Cyprus. Furthermore, there is no WHT either on royalties paid to non-residents of Cyprus for rights not used within Cyprus.
- <sup>(2)</sup> Royalties earned on rights used within Cyprus are subject to WHT of 10% (except royalties relating to cinematographic films, where the WHT rate is 5%).
- <sup>(3)</sup> A WHT rate of 5% is applicable on cinematographic films, including films and videotape for television.
- <sup>(4)</sup> 0% on literary, dramatic, musical or artistic work (excluding motion picture films and works on film or videotape for use in connection with television).

- <sup>(5)</sup> The WHT rate of 5% is applicable on cinematographic film royalties.
- <sup>(6)</sup> 5% WHT applies for any copyright of literary, dramatic, musical, artistic or scientific work.
- <sup>(7)</sup> Bosnia, Montenegro and Serbia apply the Yugoslavia/Cyprus treaty.
- <sup>(8)</sup> A 5% WHT rate will be levied on payment of royalties in respect of any copyright of scientific work, any patent, trademark, secret formula, process, or information concerning industrial, commercial, or scientific experience and cinematographic films.
- <sup>(9)</sup> The Cyprus-Czechoslovakia treaty applies for the Slovak Republic.
- <sup>(10)</sup> 5% WHT rate applies for patents, trademarks, designs or models, plans, secret formulas or processes, or any industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific equipment, or for information concerning industrial, commercial, or scientific experience.
- <sup>(11)</sup> 10% WHT rate applies for patents, trademarks, designs or models, plans, secret formulas or processes, computer software or industrial, commercial, or scientific equipment, or for information concerning industrial commercial or scientific experience.
- <sup>(12)</sup> 0% WHT rate applies if the payer is a company that is resident in Cyprus and the beneficial owner of the income is a company (other than partnership) that is a resident in Latvia. 5% WHT rate applies for all other cases.
- <sup>(13)</sup> The treaty is effective as of 1 January 2018.
- <sup>(14)</sup> The treaty is effective as of 1 January 2018 for Cyprus.
- <sup>(15)</sup> The treaty is effective as of 1 January 2019 for Cyprus.
- <sup>(16)</sup> The treaty/amendments to the treaty is/are effective as of 1 January 2019.

### 2.3.3 Capital Gains

In line with the provisions of the CGT Law described in Section 2.2.3. Capital Gains and Losses, if a non-Cyprus tax-resident company realises capital gains upon the sale of immovable property situated in Cyprus or upon the disposal of shares in a company which (i) directly owns immovable property situated in Cyprus or (ii) indirectly owns immovable property in Cyprus and more than 50% of the market value of its shares is derived from immovable property in Cyprus, then 20% CGT will be imposed on such capital gains.

## 2.4 Tax Compliance

### Tax filing

In Cyprus, the tax year is the calendar year. Business organisations are required to prepare audited accounts based on generally accepted auditing standards and submit tax returns every calendar year based on these accounts.

Companies should be registered online and submit their annual tax returns electronically. In accordance with the provisions of the Assessment and Collection of Taxes Law, a company's tax return must be filed electronically no later than 31 March of the year following the year of assessment. An immediate penalty is imposed in the event of late filing.

### Tax assessment and payment

Corporate tax is collected through a self-assessment system.

Cypriot tax-resident companies pay provisional tax on estimated taxable profits during the year of assessment. Payment is made in two equal instalments on 31 July and 31 December. The final tax liability, based on the actual taxable profits of a company, is again paid through a self-assessment system on or before 1 August of the year following the year of assessment. An additional tax of 10% is imposed on the final tax due (which equals the final tax less the provisional tax paid), if the estimated chargeable income declared for provisional tax purposes is less than 75% of the actual final taxable profit of the company for the year.

### 3 Double Taxation Agreements

Cyprus has entered-into more than 64 double tax treaties to date.

Andorra	Hungary	Qatar
Armenia	Iceland	Romania
Austria	India	Russia
Azerbaijan***	Iran	San Marino *****
Barbados	Ireland	Saudi Arabia
Belarus	Italy	Serbia*
Belgium	Jersey	Seychelles
Bosnia*	Kingdom of Bahrain	Singapore
Bulgaria	Kuwait	Slovakia**
Canada	Kyrgyzstan***	Slovenia
China	Latvia	South Africa
Czech Republic	Lebanon	Spain
Denmark	Lithuania	Sweden
Egypt	Luxembourg *****	Swiss Confederation
Estonia	Malta	Syria
Ethiopia	Mauritius *****	Thailand
Finland	Moldova	The States of Guernsey
France	Montenegro*	Ukraine ***
Georgia	Norway	United Arab Emirates
Germany	Poland	United Kingdom *****
Greece	Portugal	USA
		Uzbekistan***

#### Notes:

- \* Serbia, Montenegro and Bosnia apply the Yugoslavia/Cyprus treaty
- \*\* The Cyprus-Czechoslovakia treaty applies for the Slovak Republic.
- \*\*\* The treaty between Cyprus and the Union of Soviet Socialist Republics is still in force.
- \*\*\*\* The treaty is effective from 1 January 2019 for Cyprus.
- \*\*\*\*\* The treaty/amendments to the treaty is/are effective from 1 January 2019.

### Overview

Transfer pricing principles have to be taken into account and documentation has to be prepared for transactions between related parties to support that they have been carried out under purely commercial terms (i.e. at arm's length).

On 30 June 2017 the Cyprus Tax Authorities issued a circular (the 'Circular') providing guidance for the tax treatment of intra-group financing transactions. The Circular (effective from 1 July 2017) closely follows the application of the arm's length principle of the OECD Transfer Pricing (TP) Guidelines. It applies for all relevant existing and future intra-group financing transactions, with no grandfathering provisions to be provided for existing intra-group financing transactions.

The Circular tackles the tax treatment of Cyprus tax-resident entities and permanent establishments situated in Cyprus that engage in intra-group financing transactions (the activity of granting loans or cash advances to related companies that are or should be remunerated by interest and are financed by financial means and instruments, such as debentures, private loans, cash advances and bank loans).

The Circular requires the carrying out of a comparability analysis to describe the relevant transaction and determine the applicable arm's length remuneration. Of particular note in the comparability analysis are the requirements for:

- sufficient equity for the taxpayer to be able to assume and manage the risks emanating from the transaction and bear the financial consequences if such risks materialise;
- adequate substance in Cyprus to control the risks and exercise the decision-making capabilities to enter into such risk-bearing transactions and to monitor the risks. To justify such control of risks, the taxpayer must have an actual presence in Cyprus and

the qualified personnel to perform the functions relating to the initiation of the financing and the loan management.

Once the transaction has been accurately delineated then the arm's length remuneration is determined by identifying comparable transactions observed in the open market at the time of undertaking the transactions and considering the remuneration that would have been agreed on the open market (with relevant comparability adjustments, where required).

Under certain conditions taxpayers carrying out purely intermediary intra-group financing activity may opt for a Simplification Measure (resulting in a minimum 2% after-tax return on assets). Use of the Simplification Measure is subject to the exchange of information rules set under the EU Directive on Administrative Cooperation.

### **Reporting requirements**

The Circular prescribes the required content of a TP report and that such reports should be prepared by a TP expert and submitted to the Cyprus Tax Authorities by a licensed company auditor, who is required to carry out an assurance control confirming its quality. No TP analysis is required for the Simplification Measure. However, deviating from the minimum return of 2% is only accepted in exceptional cases and provided that it is justified by an appropriate TP analysis.

### Country-by-Country (CbC) reporting

On 26 May 2017, the Cypriot Minister of Finance issued a Decree (replacing a Decree issued on 30 December 2016) introducing mandatory CbC reporting requirements for multinational enterprise groups generating consolidated annual turnover exceeding EUR 750 million ("MNE groups").

MNE groups with an ultimate Cyprus tax-resident parent are required to file a CbC report on an annual basis, which includes specific financial data covering income, taxes and other key measures of economic activity by territory. Under certain conditions, a CbC reporting requirement may also apply for Cyprus tax-resident entities belonging to an MNE group.

As per the Decree, Cyprus tax-resident constituent entities of an MNE group should notify the Cyprus Tax Authorities as to whether they are the reporting entity, and if they are not, provide details of the MNE group's reporting entity. For the 2018 financial year the deadline for the notification of the CbC report was 31 December 2018 (15 January 2018 for 2017).

The Cyprus Tax Authorities will apply the automatic exchange of information mechanism to exchange CbC reports filed by MNE groups in Cyprus. The reports will be exchanged with the tax authorities of the other EU Member States in which the MNE group operates, and all other jurisdictions that have signed the Multilateral Competent Authority Agreement on the exchange of CbC reports (MCAA).

## 5 Anti-avoidance Measures

On 14 November 2017, the Cyprus Tax Authorities launched a public consultation on the transposition into local legislation of the two EU Directives on Anti-tax Avoidance (ATAD I & II). The draft legislation introduces, amongst others, limitations on interest deductibility, the concept of the Controlled Foreign Company (CFC), and the General Anti-Abuse Rule (GAAR).

In particular, the consultation document reflects the following effective dates for the proposals:

- Interest Expense Limitation Rules, Controlled Foreign Company Rule (CFC Rule) and General Anti-Abuse Rule (GAAR): effective from 1 January 2019;
- Exit Taxation Rule provisions: effective from 1 January 2020;
- Hybrid mismatch rules effective from 1 January 2020 (except for certain reverse-hybrid mismatch provisions: 1 January 2022).

The endorsement of the above provisions into local legislation would indeed affect businesses in Cyprus. However, due to the more robust and competitive Transfer Pricing regime developed in Cyprus during the last years, the impact of ATAD anti-abuse rules on Cypriot structures is expected to be reduced.

### 5.1 General Anti-Abuse Rule (GAAR)

The main target is to capture any non-genuine arrangements (or a series of such arrangements) which lack commercial rationale and do not reflect economic reality, and whose sole, main or one of the main purposes is obtaining a tax advantage that defeats the object or purpose of the applicable tax law. It is expected that this rule will apply only to wholly artificial arrangements as set out in the EU tax framework.

The general anti-abuse rule is expected to affect all types of structure in Cyprus, including financing, holding, IP, and supply chain/trading structures. However, since Cyprus tax legislation already contains general anti-avoidance provisions, the amending provisions are not expected to affect Cyprus taxpayers to a significant degree.

## 5.2 Thin Capitalisation Rules

There are no thin capitalisation provisions in the Cyprus tax law.

## 5.3 Controlled Foreign Company Rule (CFC Rule)

A CFC is defined as an exempt overseas permanent establishment or a foreign company in which a Cyprus tax-resident company has, directly or indirectly, alone or with associates, a more than 50% interest in share capital, voting rights or profit distributions, and whose corporate tax burden is less than half of what it would be under the Cypriot tax system.

Under the proposed bill, specific income categories, including interest, royalties and dividends receivable by the CFC are to be included as current income and taxed in accordance with the Cyprus rules, unless of course the CFC is in an EU or EEA country and engaged in substantive economic activity. The distributed profits of the CFC or the proceeds from the disposal of the CFC which have already been taxed in Cyprus under the CFC rule, shall not constitute taxable income for the Cyprus tax-resident company. In addition, any tax paid by the CFC in respect of the income subject to tax in Cyprus is allowed as a credit against the tax paid in Cyprus, subject to the provisions of the Income Tax Law and the provisions of any relevant Double Tax Treaty in force.

## 5.4 Other

### Exit taxation rule

To prevent tax base erosion, exit taxation rules provide that a taxpayer shall be subject to tax at an amount equal to the market value of the transferred assets, at the exit time of the assets, less their value for tax purposes in the following cases:

- Cyprus tax-resident company transfers assets to its PE located in another EU Member State or a third country;
- Cyprus PE transfers assets to its Head Office or another PE located in another EU Member State or a third country;
- Cyprus tax-resident company transfers its tax residency to another EU Member State or a third country;
- Cyprus PE transfers its business to another EU Member State or a third country.

The taxpayer may pay the exit tax in instalments over 5 years, but deferring exit taxation payments may be discontinued under certain circumstances. It is expected that the rule may be limited in scope and shall apply only to assets that are otherwise subject to Cypriot income tax.

### Interest limitation rule

Although the Cyprus tax system has certain interest limitations, Cyprus will need to align with ATAD interest limitations from 1 January 2019. Specifically, the tax deductibility of 'exceeding borrowing cost' (defined as the difference between the tax deductible interest expense and the taxable interest income and other economically equivalent taxable income generated) shall be restricted to (i) the actual amount of 'exceeding borrowing cost' and (ii) the 30% of EBITDA (taxable income/earnings before interest, tax, and wear & tear allowances) whichever is lower.

In accordance with the "Equity escape" provision, a company which forms part of a consolidated group for financial accounting purposes shall be allowed to tax deduct its exceeding borrowing cost in full if its Equity/Total Assets ratio is equal to or higher than the respective group ratio (i.e. if it's not lower than the group's ratio by more than 2% points).

To apply the interest limitation rule (also including the "equity escape" provision), a Cyprus group (as defined according to the group loss relief provisions of the Income Tax Law, including PE in Cyprus as well), shall be treated as a single taxpayer. The benefit arising from the full deduction of the Cyprus Group's exceeding borrowing cost or the burden arising from the tax deduction restriction shall be apportioned between each company within the group, on an apportionment basis to be determined by a Tax Circular.

Exceeding borrowing cost which cannot be deducted in the tax year as well as any unused interest capacity may be carried forward for 5 years, subject to conditions.

The interest limitation rule does not apply to:

- financial undertakings;
- "standalone" entities (on a worldwide basis, those that are not members of a group/have no associates/have no permanent establishments);
- "exceeding borrowing cost" in relation to loans which were concluded before 17 June 2016 but not in relation to any subsequent amendments to the loans,
- EUR 3 million safe-harbour threshold, and
- loans used to fund certain long-term public infrastructure projects.

### Hybrid mismatch rules

Hybrid mismatches exploit differences between tax systems to achieve double non taxation, i.e. double deduction, deduction without inclusion, and non-taxation without inclusion. The proposed rules are expected to apply to cases that result in:

- a double deduction (i.e. deduction for the same payment, expense or loss in the jurisdiction of the payer and the jurisdiction of the payee, or
- a deduction without inclusion (i.e. a payment that is deductible for tax purposes in the payer's jurisdiction but is not included in the taxable income of the receiving taxpayer)

In the case of a mismatch resulting to double deduction, the Member State of the payee shall deny the tax deduction; and if the tax deduction is not denied in the Member State of the investor, it shall be denied in the Member State of the payer. Similarly, with a mismatch resulting in a deduction without inclusion, the deduction should be denied in the Member state of the payer, and if the tax deduction is not denied in the Member State of the payer, an amount equal to said deduction shall be included in the taxable income in the Member State of the payee.

### 6.1 Residency rules

An individual who spends more than 183 days in the Republic of Cyprus is considered tax resident. From 1 January 2017 an individual can also be a tax resident even if they satisfy the "60-day rule".

The "60-day rule" for Cyprus tax residency is satisfied if all of the following conditions are met within the same tax year (i.e. 1 January – 31 December):

- does not spend more than 183 days (on aggregate) in any other country;
- is not a tax resident of any other country;
- spends at least 60 days in the Republic;
- maintains a permanent home in the Republic that is either owned or rented
- conducts business in the Republic and/or is employed in the Republic and/or holds an office of a company which is a tax resident in the Republic at any time during the tax year, provided that such is not terminated during the tax year.

To calculate the days in and out of Cyprus, the following shall apply:

- the day of departure from Cyprus counts as a day of residence outside Cyprus
- the day of arrival in Cyprus counts as a day of residence in Cyprus
- arrival and departure from Cyprus on the same day counts as one day of residence in Cyprus, and
- departure and arrival in Cyprus on the same day counts as one day of residence outside Cyprus.

## 6.2 Income Liable for Tax

### Personal Income Tax

Cyprus levies tax based on residence and source. An individual which is tax resident in the Republic is taxed under personal income tax on income accruing or arising from sources both within and outside the Republic. An individual which is not tax resident in the Republic is only taxed on income accruing or arising from sources within the Republic.

### Special Contribution for Defence (SDC)

The SDC is imposed only on dividend, "passive" interest and rental income earned by individuals who are both tax resident in Cyprus and domiciled in Cyprus<sup>(1)</sup> for the purposes of the SDC. The following tax rates apply for individuals:

	<b>Tax rates</b>
Dividend income from Cyprus tax-resident companies	17% <sup>(2)</sup>
Dividend income from non-Cyprus tax-resident companies	17% <sup>(2)</sup>
Interest income from ordinary activities or closely related to ordinary activities of the business ("active")	Zero <sup>(3)</sup>
Other interest income ("passive")	30% <sup>(2)</sup>
Gross rental income (reduced by 25%)	3% <sup>(4)</sup>

**Notes:**

- (1) From 16 July 2015 individuals are subject to the SDC if they are both tax resident in Cyprus and domiciled in Cyprus. An individual is domiciled in Cyprus for the purposes of the Special Contribution for Defence if (s)he has a domicile of origin in Cyprus as per the Wills and Succession Law (with certain exceptions) or if (s)he has been a tax resident in Cyprus for at least 17 out of the 20 tax years immediately prior to the tax year of assessment. "Domicile of Origin" is acquired at birth and, as a rule, is the same as the domicile of the father at the time of birth, and in exceptional cases of the mother. For those individuals with a "Domicile of Origin" in Cyprus, detailed rules are used to determine the individuals' domicile status for SDC purposes. Anti-avoidance provisions apply.
- (2) The SDC rate on interest income of 30% is effective for interest received or credited from 29 April 2013 onwards. Interest income earned by individuals from Cyprus government savings bonds and development bonds as well as all interest earned by a provident fund is subject to the SDC at the rate of 3% (instead of 30%). In cases where the total income of an individual (including interest) does not exceed EUR 12,000 in a tax year, the rate on interest income is reduced to 3% (instead of 30%).
- (3) "Active" interest income is subject to the personal tax rate.
- (4) Rental income is also subject to the personal tax rate.

Non-tax residents are exempt from the SDC for all their income, whether earned from Cyprus or foreign sources. This exemption also applies to individuals who are tax resident in Cyprus but not domiciled in Cyprus for the purposes of the SDC, subject to anti-abuse provisions.

## 6.3 Exceptions and Allowable Deductions

Various income sources are tax exempt, whilst some personal expenses are allowed as a deduction for tax purposes.

### Exceptions

The following income sources of individuals are exempt from personal income tax.

- The whole amount of dividends and interest, except for interest arising from the ordinary business activities or closely related to the ordinary business activities of an individual. Such dividends and interest ('passive') may be subject to the SDC if the individual is also domiciled in Cyprus for SDC purposes (see Section 6.2. Income liable to tax).
- Foreign Exchange (FX) gains with the exception of FX gains arising from trading in foreign currencies and related derivatives.
- Gains arising from the disposal of securities (i.e. shares, bonds, etc.).
- 50% of the remuneration from any employment in Cyprus of an individual who was not a resident of Cyprus before the commencement of the employment. The exemption applies for a period of 10 years for employment commencing from 1 January 2012 provided that the annual remuneration of the individual exceeds EUR 100,000. For employment commencing from 1 January 2015 the exemption does not apply if said individual was a Cyprus tax resident for 3 (or more) tax years out of the 5 tax years immediately prior to the tax year in which the employment commenced, or in the preceding tax year. In certain cases it is possible to claim exemption where income falls below EUR 100,000 per annum.

- 20% of the remuneration (with a maximum annual amount of EUR 8,550) from any employment in Cyprus of an individual who was not a resident of Cyprus before the commencement of the employment. For employment commencing during or after 2012, the exemption applies for a period of 5 years from the tax year following the year in which the employment commenced, with the last eligible tax year being 2020. This exemption may not be claimed in addition to the 50% exemption for employment income mentioned above.
- The whole amount of the remuneration from rendering salaried services outside the Republic to a non-resident employer or to a permanent establishment outside the Republic of a resident employer for a total period in the year of assessment of more than 90 days.
- Any predetermined lump sum received in the form of a retirement bonus, commutation of pension or compensation for death or injuries.
- A lump sum received from life insurance policies (subject to restrictions).
- Capital sums accruing to individuals from any payments to approved funds (e.g. provident funds).
- Certain types of social grant (e.g. annual grant for blind persons, annual grant for each dependent child of a family resident in Cyprus, etc.) are exempt from personal income tax.
- 20% exemption from personal income tax of the gross rental income for the rental of buildings (i.e. not for land) in lieu of actual expenses for repairs and maintenance, etc.

## Allowable deductions

The following are deductible from income:

- Contribution to trade unions or professional bodies
- Charitable contributions to approved charities (with receipts) are deductible.
- Total life insurance premiums (restricted to 7% of the insured amount)\*,
- Employee contributions to the social insurance fund, individual pension and provident fund contributions (the deductible pension/provident fund contribution is restricted to 10% of remuneration)\*,
- Employee medical fund contributions, including contributions to National Health System medical fund (restricted to 1.5% of remuneration)\*.
- As of 1 January 2017, amounts invested each year (either directly or, in certain cases, indirectly) in approved innovative small/medium-sized enterprises may be claimed as tax deductible for personal income tax purposes. The deduction is capped at 50% of the taxable income calculated prior to claiming this deduction (subject to a maximum deduction of EUR 150,000 per year). Unused deductions can be carried forward and claimed in the following 5 years, subject to the caps mentioned.
- Expenditure incurred for the maintenance of a building in respect of which a Preservation Order is in force (up to EUR 1,200, EUR 1,100 or EUR 700 per square metre (depending on the size of the building)).
- For individuals required to prepare audited financial statements, current year losses and losses of the previous 5 years can be claimed as tax deductible.

Note:

- \* the total of these deductions is subject to an overall maximum deduction of 1/6 of chargeable income.

## 6.4 Tax Rates

Individuals are taxed at progressive rates of income tax from 0% to 35%.

Taxable income (EUR)	Tax rate (%)	Tax (EUR)	Cumulative tax (EUR)
0 – 19,500	Zero	Zero	Zero
19,501 – 28,000	20	1,700	1,700
28,001 – 36,300	25	2,075	3,775
36,301 – 60,000	30	7,110	10,885
60,001 and over	35		

## 6.5 Tax Compliance

### Tax filing and payment

There is a self-assessment system in Cyprus where individuals have to prepare and submit their personal income tax return on a calendar-year basis. Tax returns are submitted in electronic format and submission deadlines vary depending on the individual taxpayer's profile.

For the 2018 tax year and thereafter, the electronic submission deadlines for income tax returns and for settlements via self-assessment on income tax due will be as follows:

- for employees and pensioners: 31 July 2019
- for self-employed individuals, whose annual turnover does not exceed EUR 70,000 and who are not obliged to prepare audited financial statements: 30 September 2019 for electronic submission and 30 June 2019 for self-assessment on income tax due
- for self-employed individuals, whose annual turnover exceeds EUR 70,000: 31 March 2020 for electronic submission and 1 August 2019 for self-assessment on income tax due

There is an obligation to withhold personal income tax on salaries under the pay-as-you-earn (PAYE) system. Also, if a taxpayer has other income not subject to withholding tax (WHT), payments of estimated tax must be paid in two equal instalments on 31 July and 31 December within the same tax year.

## 6.6 Social Insurance Contributions

### For employees

The rate of social insurance contributions is applied to a maximum level of emoluments. The maximum level of emoluments for 2019 (which is the same for 2018, 2017 and 2016) is expected to be EUR 54,396 (EUR 1,046/week, or EUR 4,533/month).

The 7.8% rate applies for both the employer and the employee up to 31 December 2018. From 1 January 2019, the rate increases to 8.3% for both the employee and the employer for the next 5 years. Thereafter, the rate will increase by 0.5% every 5 years until it reaches 10.3% from 1 January 2039.

The employer also makes the following other contributions based on employee's emoluments:

	%
<b>Social cohesion fund</b>	<b>2</b> (calculated on total emoluments, no maximum level)
<b>Redundancy fund</b>	<b>1.2</b> (restricted to maximum emoluments as with social insurance contributions)
<b>Industrial training fund</b>	<b>0.5</b> (restricted to maximum emoluments as with social insurance contributions)
<b>Holiday fund (if not exempt)</b>	<b>8.0</b> (restricted to maximum emoluments as with social insurance contributions)

### For self-employed persons

From 1 January 2019 the contributions of self-employed persons are 15.6% of their income (14.6% for 2014-2018). Thereafter the rate will increase by 1% every 5 years until it reaches 19.6% from 1 January 2039. The amount of the contributions is subject to a lower and an upper limit, which is set annually by the profession or trade of the self-employed person.

### National Health System (NHS)

Contributions to the NHS started on 1 March 2019 and will increase from 1 March 2020 as follows:

Category	Applied on	Applied from 1 March 2019*	Applied from 1 March 2020*
<b>1</b> Employees	Own emoluments	1,70%	2,65%
<b>2</b> Employer	Employees' emoluments	1,85%	2,90%
<b>3</b> Self-employed	Own income	2,55%	4,00%
<b>4</b> Pensioners	Pension	1,70%	2,65%
<b>5</b> Persons holding office **	Officers' remuneration	1,70%	2,65%
<b>6</b> Republic of Cyprus or Natural/Legal person responsible for the remuneration of persons holding an office	Officers' remuneration	1,85%	2,90%
<b>7</b> Persons earning rental, interest, dividend and other income	Rental, interest, dividend income, etc.	1,70%	2,65%
<b>8</b> Republic's Consolidated Fund	Emoluments/pensions of persons (1), (3), (4) and (5)	1,65%	4,70%

Notes:

- \* NHS contributions are capped at annual income of EUR 180,000.
- \*\* Relates to holders of public or local authority offices or other offices, the income from which does not fall within the scope of categories (1), (3), (4), (7).

## 7.1 Value Added Tax / Goods and Services Tax

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

The VAT legislation provides for the following tax rates:

<b>Standard rate</b>	<b>19%</b>	
		<ul style="list-style-type: none"> <li>→ Hotel accommodation;</li> <li>→ Transportation of passengers and their accompanying luggage within Cyprus using urban, intercity and rural taxis and tourist and Intercity buses;</li> </ul>
<b>Reduced rate</b>	<b>9%</b>	<ul style="list-style-type: none"> <li>→ Movement of passengers in inland waters and their accompanying luggage.</li> </ul>
		<ul style="list-style-type: none"> <li>→ Supply of fertilisers, animal feeding products and seeds;</li> <li>→ Books, magazines and newspapers;</li> <li>→ Non-bottled water;</li> <li>→ Liquid gas;</li> <li>→ Supply of foodstuffs;</li> <li>→ Supply of pharmaceutical products and vaccines used for healthcare;</li> </ul>
<b>Reduced rate</b>	<b>5%</b>	<ul style="list-style-type: none"> <li>→ Various goods for use by handicapped persons;</li> <li>→ Ice cream and similar products;</li> <li>→ Road sweeping, garbage collection and recycling;</li> <li>→ Services of authors, composers and artists;</li> <li>→ Funeral services and supplies of coffins.</li> </ul>

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**Zero rate****0%**

- Exports to non-EU countries;
  - Supply modification, repair, maintenance, chartering and hiring of sea-going vessels used to navigate on the open sea and which carry passengers for reward or are used for commercial, industrial and other activities;
  - Supply modification, repair, maintenance, chartering and hiring of aircraft used by airlines for mainly reward purposes or international routes;
  - Supply of services to meet the direct needs of sea-going vessels and aircrafts;
  - Transportation of passengers from Cyprus to a place outside Cyprus and vice versa using a sea-going vessel or aircraft;
  - Supplies of gold to the Central Bank of Cyprus;
  - Commissions received from abroad for import and export of goods.
- 

The VAT legislation exempts the following goods and services from VAT:

- leasing of buildings used for residential purposes
- most banking, financial services and insurance services;
- most hospital, medical and dental care services;
- certain cultural, educational and sports activities;
- supplies of used real buildings;
- postal services provided by the national postal authority;
- lottery tickets, and betting coupons for football and horse racing;
- management services provided to mutual funds.

## VAT Registration

Registration is compulsory for businesses:

- with turnover in excess of EUR 15,600 a year or with expected turnover in excess of EUR 15,600 in a subsequent period of 30 days.
- that make acquisitions of goods from other EU Member States in excess of EUR 10,251.61 during any calendar year and for businesses that offer distant sales in excess of EUR 35,000.
- engaged in the supply of intra-Community services for which the recipient must account for VAT under the reverse charge rules. There is no threshold for registration when supplying intra-Community services.
- carrying out economic activities where they receive any services from abroad for which Cypriot VAT must be accounted under the reverse charge provision (threshold of EUR 15,600 for any consecutive 12-month period).

The registration is effected by completing the appropriate application form.

## VAT declaration and payment/return of VAT

VAT returns must be submitted electronically on a quarterly basis, and payments must be made by the 10th day of the second month following the month in which the tax period ends. If the VAT output in a VAT period exceeds the total VAT input, a payment has to be made to the state. If the VAT input exceeds the VAT output, the excess VAT input is refunded or carried forward as a credit and set off against future VAT output.

## VAT on immovable property

- Leasing of immovable property (land and commercial buildings, other than residential buildings) used by the lessee in making taxable supplies is subject to the 19% standard rate. The lessor has the right to opt (irrevocable option) not to impose VAT on the specific property.

- As of 2 January 2018, the sale of non-developed building land is subject to the 19% standard rate. Non-developed building land includes all non-developed land plots that are intended for the construction of one or more structures.
- Repossession of immovable property by financial institutions under the process of loan restructuring or for compulsory transfer to the lender (applied from 2 January 2018). VAT must be accounted under the reverse charge provisions.
- Leases of immovable property which effectively transfer the risks and rewards of ownership of immovable property are considered supplies of goods, and are thus subject to VAT at the 19% standard rate.

Also, the reduced rate of 5% is imposed on the:

- acquisition and/or construction of residences for use as the primary and permanent place of residence, and
- renovation and repair of private residences.

## 7.2 Transfer Taxes

The fees charged by the Department of Land and Surveys to the acquirer for transfers of immovable property are as follows:

<b>Market Value (EUR)</b>	<b>Rate (%)</b>	<b>Fee (EUR)</b>	<b>Cumulative fee (EUR)</b>
First 85,000	3	2,550	2,550
From 85,001 to 170,000	5	4,250	6,800
Over 170,000	8		

It is important to note that:

- No transfer fees are payable if VAT is applicable upon purchasing the immovable property.

- The above transfer fees are reduced by 50% if the purchase of immovable property is not subject to VAT.

Where property is transferred without a consideration ("free") then the transfer fees are calculated on the value of the property (as at 1 January 2013) as follows:

- from parents to children – Zero
- between spouses – 0.1%
- between third-degree relatives – 0.1%
- to trustees EUR 50

Mortgage registration fees are 1% of the current market value.

## 7.3 Others

### Stamp duty

Cypriot stamp duty is imposed only on written instruments relating to the sale and purchase of assets located in Cyprus or to matters that will take place in Cyprus.

The applicable rates (as from 1 March 2013) are based on the value stipulated in each instrument and are zero for values up to EUR 5,000, 0.15% for values from EUR 5,001 up to EUR 170,000, and 0.2% for values above EUR 170,000, subject to an overall maximum stamp duty of EUR 20,000.

Transactions which fall within the scope of reorganisations are exempt from stamp duty. Also, documents relating to assets situated outside Cyprus or business affairs that take place outside Cyprus are exempt from stamp duty, unless they are brought into Cyprus. In such cases the stamp duty should be paid within 30 days from the date the agreement came into Cyprus, otherwise, additional penalties will be incurred.

### Custom duties and excise taxes

Customs duties may be imposed upon the importation of goods into Cyprus, depending on the nature of the goods and the respective customs duty codes. The customs duties are imposed in accordance with the provisions of applicable legislation. Excise taxes are imposed on certain products, including means of transport, petroleum, tobacco products and alcoholic drinks.

### Capital duty

- Upon the incorporation of a limited liability company (either by shares or by guarantees), a capital duty of EUR 105 is payable to the Registrar of Companies.
- For issued share capital there is a flat duty of EUR 20 if the shares are issued at a premium and no duty if shares are issued at nominal value.
- For any subsequent increases there is no capital duty for the additional authorised share capital and a EUR 20 flat-rate duty on every issue (regardless whether the shares are issued at nominal value or at a premium).

Unlike many other countries, Cyprus has neither any inheritance nor any gift or wealth tax.

## Disclaimer

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