

Newsflash

“Amendments to the Cyprus Tax Laws”

On the 21st day of December 2012 several amendments to the Cyprus Tax laws have been voted in by the Parliament in Cyprus. We present below the most relevant amendments that affect our line of business.

1. Obligation to keep proper accounting records reduced to 6 years

The existing legislation was imposing a minimum requirement for all Cyprus companies to keep their accounting records for at least seven years from the end of the tax year to which they relate. This requirement has now been reduced to six years from the end of the tax year to which they relate.

2. Increases in VAT rates

As of the 14th day of January 2013 the standard VAT rate is 18% (up from 17%) and as of the 14th day of January 2014 will increase to 19%.

In addition the reduced VAT rate of 8%, will be increased to 9% as of the 14th day of January 2014. The reduced rate mainly applies to services offered by hotels and restaurants.

3. Non-resident Cyprus incorporated companies

Companies incorporated in the Republic of Cyprus, but are not Cyprus tax residents (i.e. are managed and controlled outside of Cyprus), are obliged as of 2013 to submit annual tax returns by December 31 of the year following the tax year they relate to. This procedure was already happening in practice, but needed to be clearly stated in the legislation.

4. Income from dividends and interest

Persons, including trusts, who receive interest and/or dividend income, whether from Cyprus or abroad, are obliged as of 2013 to keep proper accounting records. This was already happening in practice since such information was required by the Tax authorities.

Table of Contents

AMENDMENTS TO THE CYPRUS TAX LAWS

1. Obligation to keep proper accounting records reduced to 6 years.
2. Increase in Vat Rates
3. Non-Resident Cyprus incorporated companies
4. Income from dividends and interest
5. Provisional tax payments
6. Employers' Return (IR-7 forms)
7. Limitation to carry forward losses
8. New Law governing the provision of Fiduciary & Corporate Services
9. Bank Levy payable by Financial Institutions "FI"
10. Transparency and exchange of information
11. Penalty for omission or delay in tax payments
12. Annual License Fee for All Cyprus Companies

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5. Provisional Tax Payments

Starting from 2013, the submission of the Provisional Tax Returns should be filed before the 31st day of July (instead of the 1st day of August as it was the case currently).

In addition, the payment of taxes will now be made in two installments (instead of three), the first being due on the 31st day of July and the second on the 31st day of December.

6. Employers' Returns (IR7 Forms)

Employers' returns, starting from 2013, shall be filed electronically.

For this reason the deadline for submission of the employers' return is extended by three calendar months i.e. the 30th of July.

7. Limitation to carry forward losses

Under the current legislation legal persons and those individuals under the obligation to prepare audited financial statements (for individuals this applies for turnover exceeding €70.000), are allowed to carry forward all their taxable losses for off-setting against future taxable income.

Starting from 2013 these losses will no longer be able to be carried forward indefinitely; a temporary limitation of five years is introduced in the tax system under which, losses will be, for a period of five years from the year to which the profits relate.

The temporary limitation however is not expected to cause any significant disturbances since a five year period remains a wide enough gap for losses to be set-off.

Address:

Centaur House
2 Apostolos Varnavas
2571 Nisou, Nicosia,
Cyprus

Tel: +357 22 499 994
Fax: +357 22 499 984

Email:

info@centaurtrust.com

Website:

www.centaurtrust.com

Contributed by:

Demetris Papaprodromou (BA, MSc, FCA, CPA)
Managing Director

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8. New Law governing the provision of Fiduciary & Corporate Services

The law on the Regulation of Fiduciaries, Administration Businesses and Company Directors, which transposes the provisions of Directive 2005/60/EC into national law, has been enacted by the Cyprus Parliament.

The supervisory responsibility is with the Cyprus Securities and Exchange Commission (CySEC).

The law applies to persons and companies providing relevant fiduciary and other corporate services relating to the administration or management of trusts and companies in or from Cyprus.

The new law provides that relevant services may be offered only by persons or legal entities that hold a license from CySEC or who are specifically exempted from the licensing requirement.

Lawyers and accountants who are regulated by their respective regulatory bodies are exempt from the need to obtain a license.

(Please see our Newsflash issued on the 15 January 2013 for more info)

9. Bank Levy payable by Financial Institutions “FI”

According to the Law introduced in 2011, FI operating in Cyprus for 2011 and 2012 were liable to a levy of 0,095% of their total deposits (both domestic and foreign but excluding interbank deposits). However, should this amount have exceeded 20% of their total taxable income for two consecutive years, the excess would have been refundable.

With retrospective effect from 2011 the provisions relating to the maximum cap of 20% on total taxable income and the refund for any excess paid, are abolished. Furthermore, from 2013 the levy rate increases from 0,095% to 0,11% and the law provisions are extended indefinitely.

Address:

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Cyprus

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Fax: +357 22 499 984

Email:

info@centaurtrust.com

Website:

www.centaurtrust.com

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Demetris Papaprodromou (BA, MSc, FCA, CPA)
Managing Director

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10. Transparency and exchange of information

It should be emphasized that from an Anti-money laundering perspective, Cyprus has a strong legal framework fully harmonized with the European Union directives which aim at fully combating such practices. The professionals within the services sectors are adopting procedures imposed by foreign professional bodies while all proposed changes by the IMF regarding the fiduciary services law have been incorporated in the legislation. The financial institutions are adopting very strict rules and procedures in relation to the opening of bank accounts and transferring of funds. These are supervised by the Central Bank of Cyprus and effectively by the European Central Bank.

Amendments to the existing legislation clarify those procedures that need to be followed with foreign investors. For example, in accordance with the new legislation the trustee has to keep proper books and records in relation to dividend and interest income payments. This was already happening in practice since such information was required by the Tax authorities. Additionally from now on all Cyprus registered companies which are not tax residents are required to file annually their tax returns. That was also the practice followed, but needed to be clearly stated in the legislation.

The latest amendments also clarify the procedures already in place in relation to the Exchange of information. Cyprus has already signed several double tax treaties and/or protocols thereon aligning the DTT framework with the OECD's guidelines as to the exchange of information and the Cypriot legal system has long ago been amended to allow for the exchange.

However, with the latest amendments to the Company's Law, Assessment and Collection of Taxes Law and to the AML legislation, the procedure under which the Cypriot Authorities (tax and otherwise) may collect information, the type of information collected, especially in relation to company share ownership as well as the means of the exchange have been clarified further reducing administrative processes and increasing efficiency.

Address:

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2 Apostolos Varnavas
2571 Nisou, Nicosia,
Cyprus

Tel: +357 22 499 994
Fax: +357 22 499 984

Email:

info@centaurtrust.com

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Demetris Papaprodromou (BA, MSc, FCA, CPA)
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11. Penalty for omission or delay in tax payments

Where a person is convicted for fraudulent omission or delay in tax payments he may be subject to imprisonment for at least one year (previously the jail term could not exceed 6 months). In such a case, the competent authorities of the Republic of Cyprus are obliged to provide information about the individual who commits the offense, when such information is requested by the competent authorities of another state.

12. Annual License Fee for All Cyprus Companies

The Cyprus Parliament on August 26th 2011, introduced for the first time the requirement for a payment of an annual license fee of €350 for all companies registered with the Cyprus Registrar of Companies.

However, the payment of the license fee was postponed in the case of Companies that did not have any assets (“dormant”), at the discretion of the Registrar of Companies. With the new amendments, as voted on the 17th day of January 2013, all exceptions, excluding the maximum of €20.000 per group, are abolished and all companies registered with the Registrar of Companies will be subject to the payment.

Companies which were exempted from the payment of the annual fee for 2012, in accordance with the previous legislation, will now have to proceed with the payment prior to the end of March 2013.

Delay in the payment of the license fee will incur penalties ranging from 10% to 30% even leading to the company’s removal from the Registry. Removal from the Registry will automatically exclude the company from filing any documents or requesting certificates from the Registrar’s Office while possibly facing problems with the legality of transactions in which it was engaged.

The deadline for the payment of the License fee as from 2013 onwards will be 30 June.

With regards to new incorporations, if a company is incorporated prior to the 30th of June the payment of the annual license fee is due by the 30 June. If a company is incorporated after the 30th of June the payment of the license fee is due at the time of incorporation.

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2 Apostolos Varnavas
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Cyprus

Tel: +357 22 499 994
Fax: +357 22 499 984

Email:

info@centaurtrust.com

Website:

www.centaurtrust.com

Contributed by:

Demetris Papaprodromou (BA, MSc, FCA, CPA)
Managing Director

Contact us

Address:

*2 Apostolos Varnavas
2571 Nisou, Nicosia,
Cyprus*

*Tel: +357 22 499 994
Fax: +357 22 499 984*

Email:

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Demetris Papaprodromou (BA, MSc, FCA, CPA)
Managing Director

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