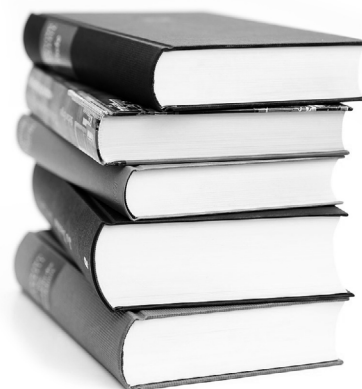


## Amendments to the Cyprus Tax Laws



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## Amendments to the Cyprus Tax Laws

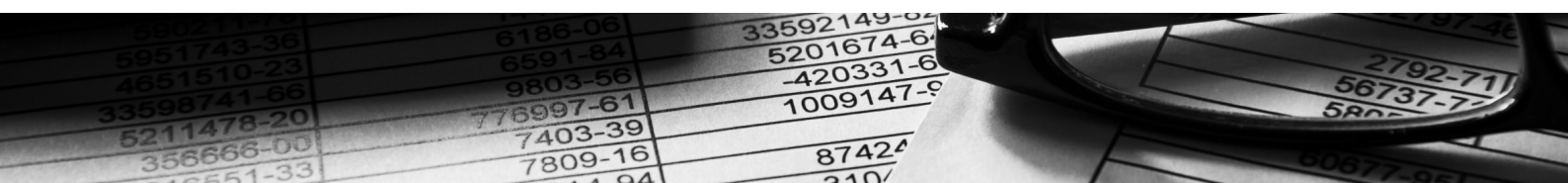
The much expected developments in taxation are predicted to considerably enhance the competitiveness of the Cyprus tax system without taking away from its already established comprehensive and transparent nature. A set of draft Bills were submitted to the Cyprus Parliament, and have been voted into law. A second pack is expected to be voted into law in September.

The new amendments to the Cyprus tax system serve a multitude of purposes and aim primarily to:

- Modernise the existing legal framework of the Cyprus tax system and to improve further the competitiveness of Cyprus as an international business center.
- Attract new equity capital in an attempt to phase-out debt financing and promote economic development.
- Attract businesses to set-up operations in Cyprus and
- Attract high-net worth entrepreneurs and individuals to reside and work from Cyprus by setting out a bundle of compelling incentives

The relevant amendments to the tax laws have been published in the official Cyprus gazette in accordance with article 52 of the Cyprus constitution, on the 16th day of July 2015.

The Government has ensured that the changes made are aligned with global and European Union (EU) developments in the field of corporate taxation and that the new tax measures will be fiscally viable without resulting in a reduction of total tax revenues.



## Corporate Taxation

### Changes to the Income Tax Laws of 2002 – No4 of 2014

The new law is named, (N.116(I)/2015 – Law that amends the Income Tax Laws of 2002 – No4 of 2014

#### Notional Interest Deduction (NID) on New Capital:

In accordance with the new amendments, Cyprus resident companies, that obtain new equity/capital as of 1 January 2015, would be able to claim a notional interest deduction of up to 80% of their taxable income.

The NID will be calculated on the basis of a reference interest rate on new equity/capital held by the company and used in the business. The above measure reduces significantly the tax charge of 12,5% up to an effective interest rate of 2,5%, for those companies that will elect to re-capitalise their operations. The NID will finally bring parity and will remove any distortions between equity and debt capital, since both will be entitled to a tax deduction from taxable income.

The NID as shown in the below formula, will equal the multiple of “Reference Interest Rate” and “New Capital”.



#### Reference Interest Rate

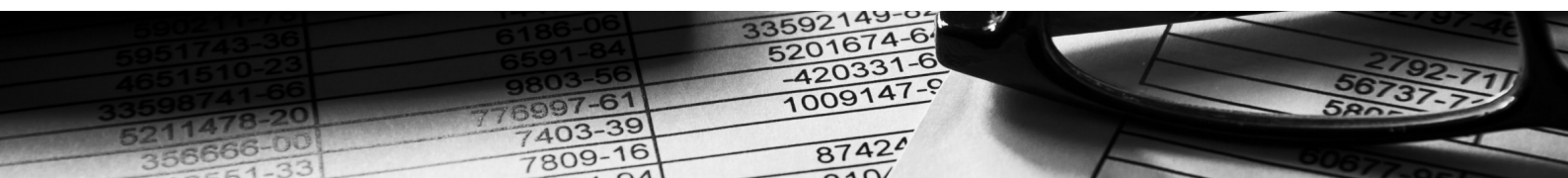
The applicable reference interest rate will be the 10 year government bond yield rate (as at 31st December of the previous tax year) of the country in which the new equity is invested in, increased by 3%, subject to a minimum rate equal to the 10 year Cyprus government bond yield, increased by 3%.

The Cyprus 10-year government bond yield, as at 31 December 2014, was in the region of 3,8%, thus the minimum applicable reference interest rate for Cyprus companies that want to provide finance in 2015 is 6,8%. The Russian 10 year government bond yield rate was, as at 31 December 2014, 10,45% and thus if a Cyprus company uses the funds in order to finance its Russian subsidiary in 2015, the applicable reference interest rate will be 13,45%.

It is important to be stated that any funds that have not been further invested into the business activities of the Cyprus company, will not attract the relevant NID.

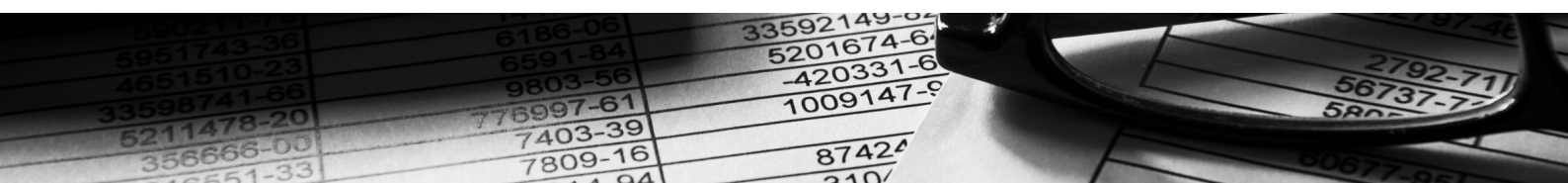
#### What is meant by New Capital?

Any new equity capital introduced in the business on or after January 1, 2015. This includes issued fully paid share capital and share premium, but does not include amounts which have been capitalized and result from a revaluation of movable or immovable property or retained earnings (prior to 31st December 2014).



## Anti-abuse provisions

- The NID regime is considered as interest expense and is subject to the same limitation rules as interest. In order to safeguard the coherence of the tax base, the NID will not be available in the case of losses neither can it exceed 80% of the taxable profit. Effectively this means that the NID cannot create or increase a tax loss.
- In the calculation of the NID, only equity in excess of old equity will be taken into account. Any equity introduced into the business on or after January 1, 2015 which results directly or indirectly from reserves existing on 31st December 2014 and such equity does not relate to new assets used in the business, will not be treated as new equity.
- If a taxpayer's new equity is derived, directly or indirectly, from the new equity of another taxpayer, or if an interest expense has been claimed on the same equity investment, the NID is granted in relation to only one of those taxpayers.
- The NID will be restricted in the event where the new equity is the result of a qualified reorganization.
- When new capital is introduced and paid in the form of in-kind contribution, the NID is only applicable on the market value of the assets contributed on the date that these assets were introduced into the Cyprus company. It is also important to be stated that it is up to the discretion of the Commissioner of taxes to accept any concluding market values valuations.
- The NID may be restricted by the Tax Commissioner in the case where arrangements have been put into place aiming to benefit from the deduction, with no valid economic or commercial reason or in the case where old equity is attempted to be re-characterized as new equity through related party transactions and other arrangements.
- The claiming of the NID is not compulsory; taxpayers may elect whether to claim the NID, and they may also elect whether to claim part of the NID only.



## Personal Taxation – Changes to the Special Defence Laws of 2002-2013

The new law (N.119(I)/2015 – Law that amends the Special Contribution for Defence of the Republic Laws 2002 – 2013)

### Introducing the Non-Domicile Principle:

The current Special Contribution for Defence (SCD) provisions impose tax on certain categories of income (interest, dividends, rents), received by persons who are considered to be residents for tax purposes of Cyprus. An individual is considered to be a resident for tax purposes of Cyprus if he/she is physically present in Cyprus for a period or periods exceeding in aggregate 183 days during the calendar year. The SCD law is amended so that an individual will now be subject to SCD if he/she is both a resident for tax purposes of Cyprus and is also considered to be domiciled in Cyprus.

The new amendments of the law, will exclude from SCD, dividends, interest and rents (as well as from deemed dividend distribution provisions), of individuals who are Cyprus tax residents but are not “domiciled” in Cyprus (as defined in the SCD Law) irrespective of the origin of the relevant income (i.e. from sources within Cyprus or abroad).

The new provisions define domicile in accordance with the rules of the Wills and Succession Law under which two main kinds of domicile are identified:

- A domicile of origin (i.e. the domicile received by him at his birth); and,
- A domicile of choice ((i.e. the domicile acquired by him by establishing a home with the intention of a permanent or indefinite residence).

A person who has his domicile of origin in Cyprus will be treated as “domiciled in Cyprus” for SCD purposes with the exception of:

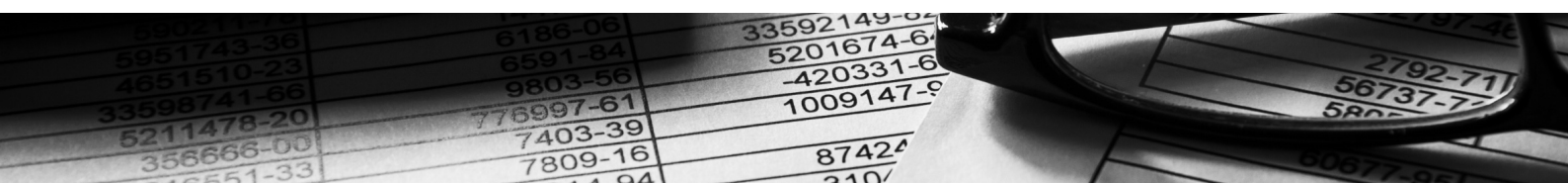
- An individual who has obtained and maintained a domicile of choice outside Cyprus under the provisions of the Wills and Succession Law, provided that this individual was not a Cyprus tax resident for any period of at least 20 consecutive years prior to the tax year in question; or
- An individual who was not a Cyprus tax resident for a period of at least 20 consecutive years immediately prior to the entry into force of the introduced provisions (i.e. prior to 16 July 2015).

An individual who is resident in Cyprus for a period of at least 17 years out of the last 20 years prior to the tax year in question shall be deemed as domiciled in Cyprus for SCD purposes regardless of whether or not he has his domicile of origin in Cyprus.

The above provisions will result to the complete exemption from SCD of a Cyprus tax resident individual, who, in adopting the rules above is not a domicile of Cyprus for SCD purposes.

### Anti-abuse rules on multiple-tiered dividend distributions:

However, the exemption from SCD will not apply in the event of any assets that may give rise to SCD having been transferred from an individual domiciled in Cyprus to an individual not domiciled in Cyprus where one of the main reasons for the transfer was to benefit from the exemption. In such a case, SCD will be imposed on the income derived from such assets and may be collected either from the transferor or the transferee accordingly.





Given that many individuals have interposed multiple corporate structures between themselves and their investments as an attempt to defer (and sometimes avoid) the payment of SCD on dividends distributed by such investments, the amendments vest the Cyprus tax authorities with the discretion to ignore any interposing companies that have been interposed for no valid commercial reasons reflecting economic reality, and treat the dividend as distributed directly to the individual.

Both amendments are applicable as of their date of publication in the Official Gazette (published on 16 July 2015)

## Real Estate Tax

### Capital Gains Tax (CGT) Exemption:

A full exemption from capital gains tax will be granted for the sale to an independent party, of immovable property consisting of land, or land with a building or buildings, which will be acquired from an independent party, at market value, from the date the law will enter into force (17 July 2015) until 31/12/2016. That is, regardless of when the property will be sold, in essence it is enough that it has been bought up until 31/12/2016 and no capital gains tax will be payable.

The exemption does not apply to immovable property that was acquired not by purchase or by purchase agreement but by a donation/gift or by way of an exchange.

### Transfer Fees Exemption:

A 50% exemption from transfer fees under the Land and Surveys (Fees) Law will apply to ALL transfer applications effected until 31/12/2016.

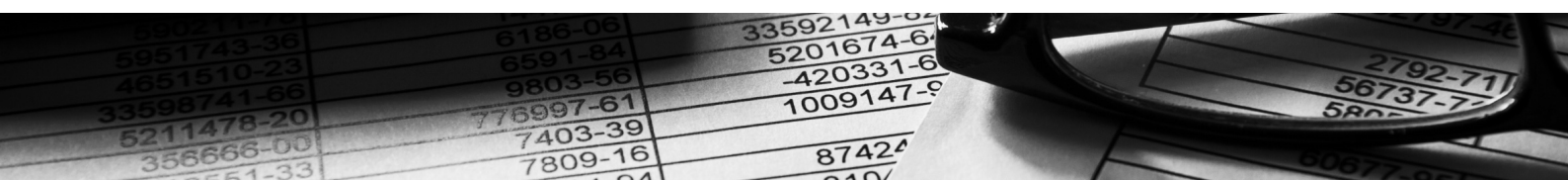
Both amendments are applicable as of their date of publication in the Official Gazette (published on 16 July 2015).

## Second pack of laws expected to be voted in September

The relevant tax bills submitted to the Parliament for voting included a number of other amendments which were postponed for further discussion and consultation.

Of primary importance are the proposed amendments shown below:

- Amendment to the Income Tax Law so that all foreign exchange differences are treated as tax neutral (neither taxable nor deductible) unless they result from trading in currencies or currency derivatives. This proposed amendment will bring considerable tax benefits to corporate entities since it will eliminate unwanted tax liabilities resulting from FX gains.
- Extension of the 50% exemption from 5 to 10 years for employment income exceeding €100,000 per annum. This proposed amendment will further encourage the relocation of corporate executives and high-net-worth individuals to take up residency in Cyprus.



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