

Cyprus Introduces an Attractive Non-Domiciled Status



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Introduction

On 9 July 2015, the Cypriot House of Representatives voted on significant amendments to the Cyprus tax legislation further improving its attractiveness, as being a long established comprehensive, simple and transparent tax system.

The changes serve a multitude of purposes such as promoting economic development and are also aimed at encouraging the creation of business substance by offering compelling advantages to individuals from a personal tax perspective. The Government has ensured that the changes made were aligned with global and European Union (EU) developments in the field of corporate taxation.

Tax structuring has always been a very complicated issue. In the last years though, with the collapse of long established conventions such as confidentiality internationally, and with tax authorities of each country having the legislative power to request information for all controlling persons in a company at any time, and in any jurisdiction, other tax structuring avenues should be explored by individuals who want to reduce their tax burden in a legal and pragmatic way.

One of the most important changes made to the Cyprus legislation was the introduction of the concept of a non-domiciled resident individual. The introduction of the non-domicile status might be a viable solution for high-earners to optimise their taxes and relocate to Cyprus and use Cyprus as their business centre, by transferring the head-quarters of their business and creating real substance.



The Tax Regime prior to the changes in the tax laws

Prior to the changes in the tax laws, most of the advantages of the Cypriot tax regime were offered only to non-Cypriot tax residents. The reasoning behind this by the tax legislator was that of the creation of a tax regime with two main pillars, one for the Cyprus tax resident and one for the non-Cyprus resident. The creation of these two pillars is a usual tactic followed by most of the countries with attractive tax regimes.

Local citizens are subject to relatively high levels of taxation, whilst international investors are encouraged to bring new investments by being offered attractive tax incentives. Even though this strategy was quite successful for some time the attractiveness of Cyprus as a place of permanent residence has made a number of international investors use Cyprus as their permanent home.

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 a particular calendar year. If someone becomes a Cyprus tax resident then the special Contribution for the Defence of the Republic Law (SDC) is applicable. This means that under this law certain categories of income which are substantially exempted from all taxes applicable to non-Cyprus residents (interest, rents, dividends) are no longer exempted.

Up until the changes to the laws, apart from normal income tax, Cypriot tax resident individuals were also subject to another form of taxation on certain types of income, called the Special Contribution for Defense (SDC) tax, at the following rates:

- 30% on passive interest income
- 17% on dividend income
- 3% on 75% of rental income

The SDC law also included provisions for the deemed distribution of profits of Cypriot tax resident companies where the shareholders (beneficiaries) of such companies were Cyprus tax resident individuals. In accordance with the law, Cyprus companies are deemed to have distributed in the form of dividends, 70% of their accounting profits after deducting Cyprus corporation tax, from the end of the second year of the year when the profits have been related. SDC tax at 17% is payable on such deemed dividends to the extent that the shareholders are Cyprus tax residents.

In an effort to attract corporate executives and high net worth individuals to reside in Cyprus, the Cypriot Government has sought to create a further differentiation in the tax regime of Cyprus by introducing the legal concept of “Domicile” as part of a series of amendments to the Cypriot tax legislation.

The Tax Regime after the changes in the tax laws

Domiciled in Cyprus

For the purposes of the SDC Law, an individual has a “domicile in the Republic” if he/she has a domicile of origin in Cyprus based on the provisions of the Wills and Succession Law (WSL) (i.e. domicile of the father at the time of birth), except for:

- i. An individual who has obtained and maintained a domicile of choice outside Cyprus in accordance with the Wills and Succession Law (factum and animus - an individual that permanently and habitually lives in any place outside the Republic of Cyprus, or has the intention of living indefinitely in such a place), provided that such an individual has not been a tax resident of Cyprus for a period of 20 consecutive years preceding the tax year; or
- ii. An individual who has not been a tax resident of Cyprus for a period of 20 consecutive years prior to the introduction of the law.



Notwithstanding the above, and regardless of the domicile of origin, an individual who has been a tax resident of Cyprus for at least 17 years out of the last 20 years prior to the tax year will be considered to be “domiciled in Cyprus” and as such be subject to SDC regardless of his/her domicile of origin.

The following points should also be taken into consideration:

- An individual must at all times have one single domicile and cannot be without a domicile at any given time
- Until a new domicile is acquired the existing domicile of an individual is valid
- The domicile is distinct irrespective of an individual’s nationality, citizenship and residence status.

Anti-abuse provisions

The law includes anti-abuse provisions under which the tax authorities have the right to disregard the transfer of property/assets made by a person who is domiciled in Cyprus to a relative up to a third degree of kindred who is not domiciled in Cyprus in case such transfer was made with the aim to avoid the imposition of SDC as a result of the introduction of “non-domicile” rules.

Effective Date

The above provisions have come into effect on the 16th day of July 2015, which is the date they were published in the Official Gazette.

Tax Implications

Taxation of dividends in the hands of a Cyprus resident but non-domiciled individual

A Cyprus tax resident but non-domiciled individual earning dividend income, from Cypriot as well as non-Cypriot participation holdings, will not be subject to SDC as of 16 July 2015.

In addition to the above tax exemption, dividend income is unconditionally exempt from Income Tax and thus in essence all dividend income is completely exempt from Cyprus taxes.

Taxation of interest in the hands of a Cyprus resident but non-domiciled individual

A Cyprus tax resident but non-domiciled individual earning interest income, from Cypriot as well as from non-Cypriot sources, will not be subject to SDC as of 16 July 2015.

In addition to the above tax exemption, interest income is unconditionally exempt from Income Tax and thus in essence all interest income is completely exempt from Cyprus taxes.

Taxation of rental income in the hands of a Cyprus resident but non-domiciled individual

A Cyprus tax resident but non-domiciled individual earning rental income, from Cypriot as well as from non-Cypriot sources, will not be subject to SDC as of 16 July 2015.

However rental income is not exempt from Income Tax and is subject to Income Tax at the normal rates (following a 20% allowance).



Other significant tax incentives

Tax Treatment of Capital gains from the disposal of shares in participation holdings

Cypriot tax rules provide full exemption from local taxation on the realisation of capital gains from the disposal of shares in participation holdings, irrespective of whether the gain is considered to be of a capital or of a revenue nature. There is no requirement for any minimum holding period, minimum investment amount or minimum % holding.

High earners Employment Relief

Employees who exercise employment in Cyprus with annual remuneration in excess of EUR 100,000 are entitled to an exemption from income tax of 50% of their employment income for a period of ten years if the individual was not a resident of Cyprus before the commencement of employment in Cyprus. The exemption applies from the year of commencement of employment.

Relief for salaried services rendered outside Cyprus

Remuneration from salaried services rendered outside Cyprus for a total aggregate of more than 90 days in a tax year to a non-Cyprus resident employer or to a foreign permanent establishment (PE) of a Cyprus resident employer is fully exempt from tax.

Pension income from services rendered abroad

The pension income of any individual resident in the Republic, which arises from services rendered abroad, is taxed at a rate of 5% for amounts exceeding €3,420 per annum.

The individual has the right to choose to be taxed either under the special mode of taxation as stated above or under the personal income tax rates. If the latter is chosen the pension is added to the individual's aggregate taxable income.

Exempt from any Cyprus taxes is any lump sum received as retiring gratuity, commutation of pension, death gratuity or as consolidated compensation for death or injury

Exempt from any Cyprus taxes is any lump sum repayment from life insurance schemes or from approved provident funds

Tax Treatment of Capital gains from the disposal of property situated outside Cyprus

Cypriot tax rules provide full exemption from local taxation on the realisation of capital gains from the disposal of property situated outside Cyprus

A 20% tax is imposed on gains arising from the disposal of immovable property situated in Cyprus or the disposal of shares of companies (other than companies whose shares are listed in any recognised stock exchange) that own such immovable property. Further, as from 17 December 2015, shares of companies which indirectly own immovable property located in Cyprus and at least 50% of the market value of the said shares derive from such immovable property, are subject to capital gains tax.

Inheritance or Estate Taxes

Cyprus does not have in its legislation any inheritance or estate taxes.

Wealth Taxes

Cyprus does not have in its legislation any taxes that are imposed on wealth.



Conclusion

The amendments to the Cypriot tax laws provide investors with a broader scope of options in structuring their investments into Cyprus, and are expected to establish Cyprus as a serious contender among jurisdictions where wealthy individuals should consider residing in. Interested individuals should therefore obtain professional specialist advice from tax and legal experts in an effort to assess their personal options and consider taking any necessary migration actions.



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