

The International Comparative Legal Guide to: Corporate Tax 2010

A practical insight to cross-border Corporate Tax work



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1 General: Treaties

1.1 How many income tax treaties are currently in force in Cyprus?

Cyprus has 36 income tax treaties currently in force. Cyprus is well known for the very favourable tax treaties concluded with Russia and the CIS countries. Cyprus is currently negotiating more than 10 income tax treaties.

1.2 Do they generally follow the OECD or another model?

The treaties generally follow the OECD model.

1.3 Do treaties have to be incorporated into domestic law before they take effect?

Yes. A tax treaty must be ratified and incorporated into domestic law. It thereafter becomes effective according to the dates referred to in the treaty.

1.4 Do they generally incorporate anti-treaty shopping rules (or "limitation of benefits" articles)?

Very few income tax treaties have limitation of benefits articles.

1.5 Are treaties overridden by any rules of domestic law (whether existing when the treaty takes effect or introduced subsequently)?

No, international treaties do not override domestic law. In case of a conflict between treaties and any rules of domestic law, the taxpayer has the right to choose to either benefit from the domestic law or the treaty accordingly.

2 Transaction Taxes

2.1 Are there any documentary taxes in Cyprus?

Stamp duty applies on certain documents, such as documents relating to immovable property in Cyprus and all documents the subject matter of which is within Cyprus. This law has been under heavy criticism from professionals in Cyprus, as it creates obstacles in connection with the set up of companies in Cyprus for financing purposes. See question 2.5 below.

2.2 Do you have Value Added Tax (or a similar tax)? If so, at what rate or rates?

Yes, Cyprus has Value Added Tax ("VAT"). There are three rates of VAT:

- the standard rate is 15%. It applies to supplies of goods or rendering of services, other than those which are exempt or subject to a special reduced rate of VAT;
- the reduced VAT rate is 5% (e.g. liquefied petroleum gas, accommodation in hotels and other tourist establishments); and
- zero rate, 0% (e.g. ship management services, exports).

2.3 Is VAT (or any similar tax) charged on all transactions or are there any relevant exclusions?

The exclusions from VAT are as permitted or required by the Sixth Directive, and some examples of exempt supplies are:

- certain supplies of land (not new buildings 1/1/2005);
- insurance and financial services;
- medical services; and
- educational services.

2.4 Is it always fully recoverable by all businesses? If not, what are the relevant restrictions?

VAT is recoverable in full by any taxable person (that is to say, a person who is or is required to register for VAT) save in the cases of expenditure for entertainment of persons other than staff and the purchase of private saloon cars with up to nine seats.

2.5 Are there any other transaction taxes?

In general, all contracts, the subject matter of which is within Cyprus, are subject to stamp duty as follows:

- for amounts up to EUR 170.86 - EUR 2.56 for every 1,000;
- for amounts over EUR 170.86 - EUR 3.42 for every 1,000; and
- unspecified amounts - EUR 34.17.

Transactions involved in reorganisations are exempt from stamp duty.

A special fee is imposed in relation to transactions that take place in the Cyprus Stock Exchange or are announced to the Cyprus Stock Exchange at the following rates:

- individuals - 0.6%; and
- legal entities - 1%.

2.6 Are there any other indirect taxes of which we should be aware?

One should also be aware of custom duties from goods imported outside from the EU.

3 Cross-border Payments

3.1 Is any withholding tax imposed on dividends paid by a locally resident company to a non-resident?

No, there is not.

3.2 Would there be any withholding tax on royalties paid by a local company to a non-resident?

There is no withholding tax imposed on payments of royalties when the royalty is paid for use outside Cyprus. If the payment is made outside Cyprus but the royalty is to be used in Cyprus, then a 10% withholding tax applies.

The above applies only in the absence of a double tax treaty and provided that the Cypriot legislation implementing the EU Interest and Royalties Directive 2003/49/EC does not apply.

3.3 Would there be any withholding tax on interest paid by a local company to a non-resident?

No, there would not.

3.4 Would relief for interest so paid be restricted by reference to "thin capitalisation" rules?

See question 3.3.

3.5 If so, is there a "safe harbour" by reference to which tax relief is assured?

See question 3.3.

3.6 Would any such "thin capitalisation" rules extend to debt advanced by a third party but guaranteed by a parent company?

There are no thin capitalisation rules in Cyprus.

3.7 Are there any restrictions on tax relief for interest payments by a local company to a non-resident in addition to any thin capitalisation rules mentioned in questions 3.4-3.6 above?

See question 3.3.

3.8 Does Cyprus have transfer pricing rules?

No, it does not.

4 Tax on Business Operations: General

4.1 What is the headline rate of tax on corporate profits?

The tax rate on corporate profit is 10%.

4.2 When is that tax generally payable?

On 1 August, the companies must submit payment along with their first provisional tax assessment. The payment is based on the assessment.

The second payment has to be made by 30 September along with the second tax assessment. On 31 December, the companies must submit their revised temporary tax assessment for the current year, if this is considered necessary, and pay their third instalment.

4.3 What is the tax base for that tax (profits pursuant to commercial accounts subject to adjustments; other tax base)?

In general terms, the tax follows the commercial accounts, subject to adjustments. Certain items of expenditure which are shown as reducing the profits in the commercial accounts are added back for tax purposes and deductions for tax purposes may then be allowable.

4.4 If it otherwise differs from the profit shown in commercial accounts, what are the main other differences?

See question 4.3.

4.5 Are there any tax grouping rules? Do these allow for relief in Cyprus for losses of overseas subsidiaries?

VAT Group

Transactions between group companies are disregarded for VAT purposes. Generally two or more bodies are eligible to be treated as members of a VAT group if each is established or has a fixed establishment in Cyprus and:

- one of the companies is at least 75% subsidiary of the other;
- both companies are at least 75% subsidiaries of a third company; or
- two or more individuals carrying on business in partnership control all of them.

The Group Relief Rules provide for group relief of tax losses among companies of the same group. A company will be considered as the member of a group if:

- a company is at least 75% subsidiary of the other; or
- both companies are at least 75% subsidiaries of a third company.

A company will be considered to be a 75% subsidiary of another company if and so long as not less than 75% of its ordinary share capital with voting rights is owned directly or indirectly by that other company, and that the other company is entitled to no less than 75% of:

- any profits available for distribution to the equity shareholders; and
- any assets of the subsidiary company which would be available for distribution to its equity holders on a winding up.

Group tax losses may be set off as long as both companies are Cypriot tax residents and are members of the same group during the whole year of assessment. Only the loss of any year of assessment of a company can be set off against the other company's profits of the corresponding year of assessment. Losses brought forward will not be available for group relief. Any payment for acquiring the tax losses will not be taken into account in the tax computation, nor will it be considered to be a dividend or an allowable expense.

4.6 Is tax imposed at a different rate upon distributed, as opposed to retained, profits?

No, it is not.

4.7 What other national taxes (excluding those dealt with in "Transaction Taxes", above) are there - e.g. property taxes, etc.?

Under the Cyprus Income Tax Law, dividends are exempt. However, those may be taxed under the Special Contribution for Defence Tax.

Special Contribution for Defence Tax (SCDT)

Every resident person who receives any dividend from a company is liable to SCDT at the rate of 15%, except the following:

- Dividends paid from one Cyprus resident company to another.
- Dividends received from an overseas company by a resident company of Cyprus, or by a company which is not resident of Cyprus but has a permanent establishment in Cyprus, holding directly at least 1% of the share capital of the overseas company. This exemption does not apply if the company paying the dividend engages in more than 50% of its activities that produce investment income, and if the foreign tax burden on the income of the company paying the dividends is substantially lower than the Cypriot tax burden.

Capital Gains Tax (CGT)

CGT is imposed on profits from the disposal of immovable property situated in Cyprus, or on shares in companies which own immovable property situated in Cyprus when such shares are not listed in any stock market.

4.8 Are there any local taxes not dealt with in answers to other questions?

No, there are not.

5 Capital Gains

5.1 Is there a special set of rules for taxing capital gains and losses?

Capital Gains Tax ("CGT")

CGT is imposed on profits from the disposal of immovable property situated in Cyprus, or shares in companies which own immovable property situated in Cyprus when shares are not listed in any stock market. The tax is imposed on the net profit at a rate of 20%. The net profit is calculated as the disposal proceeds less the greater of the cost or market value on 1 January 1980, adjusted for inflation. Inflation is calculated using the official Retail Price Index.

5.2 If so, is the rate of tax imposed upon capital gains different from the rate imposed upon business profits?

The tax rate for CGT is 20% whereas the rate imposed upon business profits is 10%. Sale of shares in a company (other than one holding immovable property in Cyprus) is exempt from taxation.

5.3 Is there a participation exemption?

Reinvestment relief applies only in the case of exchange of properties in which a gain is derived, and only if this gain is reinvested in other property.

5.4 Is there any special relief for reinvestment?

See question 5.3.

6 Branch or Subsidiary?

6.1 What taxes (e.g. capital duty) would be imposed upon the formation of a subsidiary?

There are no taxes imposed on the formation of a subsidiary. However, there are certain registration fees imposed by the Registrar of companies on the formation of a limited liability company. That is to say, a fixed fee of EUR 102.52 plus 0.6% on the amount of the authorised share capital and EUR 17.09 for the issue of shares. The fees for formation of a branch are EUR 256.29.

6.2 Are there any other significant taxes or fees that would be incurred by a locally formed subsidiary but not by a branch of a non-resident company?

The formation of a private company consists of a fixed fee EUR 102.52 plus 0.6% on the amount of the authorised share capital, and EUR 17.09 for the issue of shares. Shares issued at a premium are subject to the flat fee of EUR 17.09 which is applicable for the issue of shares.

6.3 How would the taxable profits of a local branch be determined?

There is no branch profits tax. That is to say that a branch which is treated as a permanent establishment will be subject to a 10% income tax law.

6.4 Would such a branch be subject to a branch profits tax (or other tax limited to branches of non-resident companies)?

Tax treaty provisions would give relief to any permanent establishment to the extent provided by such a treaty, and which is usually defined based on Article 5 of the OECD model Convention. Domestic legislation does not give treaty relief against Cyprus tax unless the person claiming credit is a resident of Cyprus for tax purposes, for the accounting year in question.

6.5 Would a branch benefit from tax treaty provisions, or some of them?

The branch that would be taxed on all its profits made (derived) in

Cyprus. Domestic legislation may, subject to the fulfilment of certain conditions, allow the company owing the branch to declare tax residency in Cyprus and have all of its profits taxed in Cyprus, and obtain tax credit for taxes paid abroad. This is considered on a case by case scenario.

6.6 Would any withholding tax or other tax be imposed as the result of a remittance of profits by the branch?

No it would not.



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Pavlos' work is mainly concentrated on serving international clients including large multinational corporations and financial institutions. Pavlos specialises in taxation, banking and financial law. He is often instructed by leading international firms including "magic circle" firms and acts for international banks in connection with syndicated loans, pre export finance agreements and aircraft purchase and leasing agreements. Pavlos is also involved in corporate and company law matters involving but not limited to due diligence for Cypriot companies.

Pavlos holds an LL.B degree from Oxford Brookes University and an LL.M (International Banking and Financial Law) from Boston University in the US. Pavlos is a member of the Cyprus Bar Association, ITPA and he is the national representative of AIJA in Cyprus. He often publishes articles related to taxation and general legal issues related to Cypriot commercial law. He is also a speaker in many international conferences.

7 Anti-avoidance

7.1 How does Cyprus address the issue of preventing tax avoidance? For example, is there a general anti-avoidance rule or a disclosure rule imposing a requirement to disclose avoidance schemes in advance of the company's tax return being submitted?

There is no set procedure or fiscal requirement regarding anti-avoidance rules for preventing tax avoidance. However, the requirement from the company's law is that all companies should submit annually to the Cyprus Inland Revenue their audited financial statements and the respective tax return that is co-signed by an auditor authorised by the local authorities as well as the director of the companies.



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Aristodemou Loizides Yiolitis LLC

Aristodemou Loizides Yiolitis LLC is a Cyprus law firm specialising in all aspects of Cyprus commercial, banking, corporate tax and trust law. The law firm distinguishes itself from other Cyprus law firms as it focuses solely on the business side of the law and does not undertake activities such as litigation and dispute resolution. The philosophy of the firm captures the essence of an international trend of investment into and via Cyprus driven by the favourable Cyprus tax regime.