



In this issue	REMOVAL OF ALL REMAINING CURRENCY CONTROLS
Removal of all remaining currency controls	In the immediate aftermath of the banking crisis of March 2013 the Cyprus government imposed temporary restrictions on currency transfers in order to prevent a mass withdrawal of deposits then in the banking system and a rapid outflow of funds. The controls, which affected only deposits in existence at the time of the banking crisis, and not funds subsequently deposited, were gradually relaxed following the recapitalization of the banking sector.
Cyprus's new double taxation agreement with Bahrain	On 3 April 2015 the government announced the abolition of all the remaining restrictions, so that funds are freely transferable in every way, just as they were prior to the imposition of controls.
New insolvency laws	While the restrictions did not have a practical impact on most international investors, nevertheless their final abolition is a welcome confirmation of the progress that has been made in rehabilitating the banking sector and the real economy of Cyprus.
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### CYPRUS'S NEW DOUBLE TAXATION AGREEMENT WITH BAHRAIN

On 9 March 2015 Cyprus and Bahrain signed a new double taxation agreement. Like all of Cyprus's recent DTAs it closely follows the 2010 OECD Model Tax Convention. Its main provisions are summarised below.

#### **Taxes covered**

The agreement applies to taxes on income imposed by either country. In Bahrain these are currently the income tax payable under Legislative Decree No. 22/1979 ("the Oil Tax"); in Cyprus they are income tax, corporate income tax, Special Contribution for Defence (known as SDC tax) and capital gains tax.

#### **Permanent establishment**

The permanent establishment article closely follows the OECD Model. A building site, construction or installation project or any supervisory activities in connection with them constitute a permanent establishment only they last for more than twelve months.

#### **Hydrocarbon activities**

This minimum duration does not apply to hydrocarbon exploration, exploitation or refining activities. An enterprise is deemed to have a permanent establishment in a contracting state and to carry on business through that permanent establishment if in that state it is directly engaged either in the exploration for or production of crude oil or other natural hydrocarbons from the ground in that state for its own account or in refining crude oil owned by it or by others, wherever produced, in its facilities in that state, irrespective of the duration of the activities.

#### **Income from immovable property**

Income derived by a resident of a contracting state from immovable property situated in the other may be taxed in the state in which the property is located.

#### **Business profits**

The article of the agreement dealing with business profits reproduces the corresponding article of the OECD Model verbatim, with profits (apart from profits of a permanent establishment in the other contracting state) being taxable only in the contracting state in which the enterprise is resident. Profits from the operation of ships or aircraft in international traffic are taxable only in the contracting state in which the enterprise concerned is resident.

#### **Dividends, interest and royalties**

Dividends, interest and royalties paid by a company which is a resident of one contracting state to a resident of the other contracting state are taxable only in the contracting state in which the recipient is resident, unless they relate to the activities of a permanent establishment in the contracting state in which they arise, operated by the recipient.

#### **Capital gains**

Gains derived by a resident of one contracting state from the alienation of immovable property (or of moveable property associated with a permanent establishment) situated in the other may be taxed in the contracting state in which the property is situated. Gains derived from the alienation of all other property

(including ships or aircraft operated in international traffic) are taxable only in the contracting state in which the alienator is resident.

#### **Elimination of double taxation**

In either contracting state a credit is given against local tax for tax paid in the other contracting state in respect of the income concerned. The credit may not exceed the local tax payable on the income.

#### **Exchange of information**

The information exchange article follows the corresponding article of the OECD Model and the protocol contained in several of Cyprus's recent agreements setting out the material required to support a request for information and the procedures to be followed is not included. However, Cyprus's Assessment and Collection of Taxes Law provides Cyprus residents with identical safeguards.

#### **Entry into force and effect**

The agreement will enter into force once both countries have exchanged notifications that their formal ratification procedures have been completed. It will have effect in respect of taxes withheld at source on or after the following January 1 and in respect of other taxes, for tax years commencing on or after that date.

#### **Conclusion**

The new agreement is a valuable extension of Cyprus's network of DTAs. Trade between the two countries has been relatively modest until now, and, together with other agreements between the two countries signed at the same time, it should boost trade between them, which has hitherto been modest. Investment flows between Cyprus and Bahrain are more substantial, and the new agreement should also encourage these. As Cyprus has a comprehensive participation exemption, and does not impose any tax on capital gains apart from gains derived from disposal of real estate located in Cyprus, the provisions relating to dividends and gains should provide tax mitigation opportunities.

It is therefore to be hoped that the remaining steps required to bring the agreement into effect can be achieved quickly. In the meantime the Cyprus tax authorities will doubtless follow their normal practice of allowing unilateral relief for taxes paid overseas.

For further information please contact [Philippos Aristotelous](#).

## **NEW INSOLVENCY LAWS**

On 18 April the Cyprus parliament approved a new package of insolvency laws, aimed at streamlining and modernising the existing system and promoting a rescue culture. The new insolvency framework forms part of the economic adjustment programme agreed between the Cyprus government and international providers of financial support at the time of the 2013 banking crisis.

The new insolvency laws, which were extensively amended by the parliament in the course of its debate, have not been promulgated, and have not been published in final form. As a result there is considerable uncertainty concerning the detail. We set out below our understanding of the principal changes, but this should not be regarded as definitive.

### **Companies**

The Companies Law has been amended to introduce a process called "examinership", which is akin to the United Kingdom administration process. These provide for the appointment of an insolvency practitioner as "examiner", whose role is to develop restructuring proposals and agree them with stakeholders during a four-month moratorium in which the company is protected from creditor action.

The Companies Law has also been amended to make the following changes regarding liquidation:

- ≡ for a company to be deemed to be unable to pay its debts the court must be satisfied that the net asset value is negative, taking into account potential and future liabilities.
- ≡ a liquidator can be appointed by the court as well as by existing procedures;
- ≡ when a winding up order is made the Official Receiver can be appointed as the permanent liquidator and not merely on a provisional basis pending the appointment of another liquidator, as had previously been the case;
- ≡ a liquidator must be a licensed and regulated professional insolvency practitioner;
- ≡ a court can make an order authorising the liquidator to dispose of assets subject to a charge if it is satisfied that this would be advantageous;
- ≡ net proceeds from the sale of secured assets are used first to repay the secured debt, with any surplus going to unsecured creditors.

### **Individuals**

The court has the power to order a 95-day moratorium on enforcement action by creditors for the debtor to agree an arrangement (known as a personal repayment plan) with them. If approved by a 75% majority of creditors in value and the court, the arrangement will be binding on the debtor and all creditors. Dissenting creditors will have a right to be heard before the court.

For individuals with limited assets and income the court can impose a rescheduling if the following conditions are

satisfied:

- ≡ aggregate liabilities are no more than €350,000;
- ≡ the primary residence of the debtor was bought for less than €300,000 and is mortgaged in favour of at least one of the creditors;
- ≡ the total value of the remaining assets does not exceed €250,000;
- ≡ the inability to pay debts is due to a deterioration of the debtor's financial situation as a result of events outside his or her control, leading to a diminution of income of 25% or more.

Individuals with minimal assets and income (assets below €1,000 and monthly income below €2,000) may apply to the court via the government insolvency service for an "order for debt relief" of up to €25,000.

### **Bankruptcy**

Discharge from bankruptcy is automatic after 3 years on the condition that all the debtor's property, both movable and immovable, is sold and the proceeds are distributed to the creditors. There are new criminal sanctions against fraudulent alienation of assets prior to bankruptcy and non-disclosure of assets.

### **Guarantees**

The liability of guarantors who are natural persons is limited to the shortfall of the value of the charged property below the secured liability, even if the guarantee provides for joint and several liability. Where the outstanding amount due to the creditor is less than the value of the mortgaged property, guarantors are discharged of their liabilities entirely. No proceedings can be commenced to enforce a guarantee within 2 years after the date of implementation of a personal repayment plan by the primary debtor.

For further information please contact [Maria Kyriacou](#).

### **AMENDMENTS TO THE COMPANIES LAW**

The Law Amending the Companies Law CAP 113 Number 4, has been passed by the Cyprus parliament. It makes significant changes to the Companies Law and updates several of its provisions. The main changes are as follows:

- ≡ a company may be incorporated as a general commercial company with power to carry on any trade or business and to do all such things as are incidental or conducive to this, rather than having a detailed objects clause in its memorandum of association;
- ≡ where security documents are amended to increase the amount secured, the amendment regarding the increase of the secured amount is registered without affecting the priority of the initial charge;
- ≡ a time limit of 42 days from the date of creation of the charge is allowed for registering a registrable charge created outside Cyprus which includes property situated outside Cyprus, in line with the existing practice of the Registrar of Companies;
- ≡ the law makes clear that a pledge of share certificates, assignment of rights which are attached to shares of companies or any other charge over share certificates do not constitute a registrable charge;
- ≡ foreign companies that transfer their seat to Cyprus with the intention of continuing there are obliged to register any registrable charges that existed prior to the registration of the company as a company continuing in the Republic of Cyprus within 42 days from the date of the temporary continuation certificate;
- ≡ in the case of a cross border entity, where the surviving entity is an entity which is subject to the Companies Law, then any registrable charges which were registered against the entity which was dissolved due to its merger must be registered anew within 42 days from the date when the cross border merger became effective;
- ≡ a board meeting can take place via telephone conference or other similar means, and will be deemed to have been held at the location where the person who was taking the minutes was physically located;
- ≡ the articles of association of a company can stipulate a larger majority for a shareholders' resolution to be passed than the majority specified in the Companies Law;
- ≡ the Registrar of Companies can strike off a company following an application of the directors or in the event that the company does not pay its annual levy within one year from the due date; and
- ≡ certain types of documents and returns submitted to the Registrar of Companies from 1 January 2007 onwards will be stored in electronic form by the Registrar of Companies and made available to the public in that form.

The changes will take effect once the law is published in the official gazette of the Republic of Cyprus.

For further information please contact [Panos Labropoulos](#).

### **LICENSING OF INSOLVENCY PRACTITIONERS**

The Insolvency Practitioners Law, 64(I) of 2015 was published in the official gazette on 7 May 2015. Enacted as part of the agreement between the Cyprus government and international providers of financial support, it is aimed at providing a modern, effective and well-regulated legislative framework for insolvent companies and individuals. The new law sets minimum standards of qualification and regulation for persons fulfilling the role of

insolvency practitioner, and restricts certain activities, including acting as liquidator, provisional liquidator, receiver, administrator or examiner under the Companies Law or as trustee in bankruptcy of a natural person, to persons meeting those standards or to the Official Receiver.

Licensed insolvency practitioners must be members of a recognised professional body which has appropriate practice rules specifying the matters to be taken into account in deciding whether a person is fit and proper to act as an insolvency practitioner.

In order to obtain authorisation the individual must meet the standards prescribed in article 14 of the law, which are as follows:

- (a) a university degree or equivalent qualification;
- (b) at least three years' experience as a lawyer, chartered accountant, actuary, officer or examiner in the government insolvency service, or equivalent experience in the financial sector;
- (c) recent practical experience of insolvency work (600 hours or ten cases within the two years preceding the application);
- (d) success in an examination of professional competence recognised for the purpose of the law;
- (e) adequate professional indemnity insurance.

Article 23 of the law contains various "grandfathering" provisions. The first of these allows officeholders in existing insolvency proceedings to continue in office until the proceedings have been completed. Article 23(2) provides that the provisions of article 14 relating to experience and success in an examination of professional competence ((b) to (d) inclusive above) may be waived by ministerial order for up to one year after the law comes into force, subject to the person concerned successfully completing an approved training seminar within five months after receiving an insolvency licence.

Article 23(3) provides that for an initial period from the date the law enters into force, until a date to be specified by a ministerial order, the requirements described at (b) to (d) inclusive above are replaced by at least eight years' experience as a lawyer, chartered accountant, actuary, officer or examiner in the government insolvency service, or equivalent experience in the financial sector, combined with proven practical experience of insolvency work of 1,800 hours or 20 cases within the five years preceding the application.

For further information please contact [Demetris Roti](#).

## **NEWS ABOUT OUR FIRM**

### ***Andreas Neocleous & Co LLC – International Tax Review's choice as Cyprus Tax Firm of the Year***

The market-leading strength of Andreas Neocleous & Co LLC's tax and tax planning team has again been recognized, this time in International Tax Review's 2015 European Tax Awards. At a prestigious awards ceremony held at London's Grosvenor House Hotel on 21 May Andreas Neocleous & Co LLC was awarded the accolade of Cyprus Tax Firm of the Year, beating off strong competition from Deloitte and Eurofast Taxand, the other shortlisted firms.

The awards are generally dominated by the "Big Four" accounting firms, and Andreas Neocleous & Co LLC was among a small group of elite tax law firms winning awards. It is the only law firm to have won the Cyprus award, repeating its success in the 2010 awards.

First published in 1990, International Tax Review has established itself among the world's most authoritative magazines dedicated to international tax strategy. Its European Tax Awards have taken place annually since 2005, recognising the leading international tax professionals from across Europe, judged on the basis of innovation, technical expertise and market position in the field of cross-border taxation, based on detailed research which includes interviews with leading tax practitioners, private-practice lawyers, and in-house counsel.

To determine the winners, the judges and researchers analysed information from a variety of sources, including tax advisers and lawyers, tax executives and in-house counsel, to identify and acknowledge the most innovative and significant tax work that took place in Europe in the past year.

Commenting on the award Elias Neocleous, vice-chairman of the firm and head of the corporate and commercial department said, "We strive to offer our clients the highest quality advice and service, and to help them gain the benefits of using Cyprus as a base for their business. Tax planning and strategic tax advice are at the heart of our practice and we are delighted to be recognised by our fellow tax professionals for the quality of our work, affirming our reputation as the Cyprus advisor of choice for market-leading businesses."

### ***Ratings success for Andreas Neocleous & Co LLC***

#### ***Legal 500***

The latest "Legal 500" rankings of law firms around the world, published on 8 April, place Andreas Neocleous & Co LLC firmly at the head of the legal profession in Cyprus. Andreas Neocleous & Co LLC is ranked in the top grade in every area of activity that Legal 500 assesses, from banking and finance through corporate and commercial, dispute resolution, shipping and taxation, far ahead of its rivals.

Legal 500 has been analysing the capabilities of law firms in more than 100 countries around the world for almost 30 years, with a comprehensive research programme revised and updated every year to give the most

accurate, comprehensive and up-to-date analysis of the global legal market. The rankings are based on feedback from 250,000 clients worldwide, submissions from law firms and interviews with leading private practice lawyers, carried out by a team of researchers who have unrivalled experience in the legal market. Law firms pay nothing to participate and are assessed on merit alone. The independence, objectivity and accuracy of Legal 500's assessments have put it among the global leaders in law-firm ratings.

Andreas Neocleous & Co LLC is one of only a handful of firms around the world to achieve the distinction of a top-grade ranking in every area of activity, demonstrating consistent high quality across the board. Legal 500 describes the firm as the "dominant force" in Cyprus, producing work of "an exceptionally high standard". The firm's "excellent team of lawyers" are described as "very client-oriented and professional", providing "good value for money".

In fact, this is the fifth successive year in which Andreas Neocleous & Co has achieved a 100 per cent record of top-tier Legal 500 rankings, demonstrating its consistent quality over time.

#### *Chambers Guides*

The 2015 edition of Chambers Europe Guide, published on 27 April, shows Andreas Neocleous & Co LLC continuing to lead the Cyprus legal services market. For a fourth successive year we are ranked in the highest possible category in all the practice areas (corporate and commercial, banking and finance, dispute resolution, construction and real estate, shipping and taxation) assessed by Chambers & Partners, a distinction achieved by only a handful of firms worldwide. In real estate we are the only firm ranked in the top band. No other Cyprus firm comes close to matching this achievement, let alone maintaining it on a sustained basis.

Commenting on the rankings, Andreas Neocleous said, "It is very gratifying to be recognised by such respected organisations as Legal 500 and Chambers Guides, and I should like to thank our clients for placing their trust in us and all my colleagues for their hard work and relentless focus on quality and service. There is no room for complacency in today's fast-moving business world: we are committed to renewing our clients' trust in us every day by constantly striving to improve and providing them with the best possible service."

For further information please contact [Andreas Neocleous](#).

#### **RECENT PUBLICATIONS**

The following are a small selection of our publications since the previous edition of this newsletter. They may be viewed by following the links below or by visiting the publications section of our website, which is constantly updated and contains a wealth of useful information on recent developments in Cyprus law.

- ≡ [Cyprus chapter of "The International Comparative Legal Guide to: Real Estate 2015"](#)
- ≡ [Cyprus chapter of "LexisNexis® Guide to FATCA Compliance"](#)
- ≡ [Laws of Cyprus with Commentary in "World Intellectual Property Rights and Remedies"](#)
- ≡ [Cyprus chapter of "International Protection of Foreign Investment - Second Edition"](#)
- ≡ [Cyprus chapter of "Private Client Tax" The European Lawyer Reference Series\]](#)
- ≡ [Cyprus chapter of "Getting the Deal Through - Distribution and Agency"](#)
- ≡ [Cyprus chapter of "Global Legal Insights - International Arbitration"](#)
- ≡ [Cyprus chapter of "Getting the Deal Through: Banking Regulation 2015"](#)
- ≡ [Cyprus chapter of "Getting the Deal Through: Fund Management 2015"](#)
- ≡ [Cyprus chapter of "Global Legal Insights – Banking Regulation"](#)
- ≡ [Cyprus chapter of "The International Comparative Legal Guide to Product Liability 2015 Edition"](#)
- ≡ [Cyprus chapter of "The International Comparative Legal Guide to Corporate Governance 2015 Edition"](#)
- ≡ ["The IP box – a limited opportunity"](#)
- ≡ ["Recent Tax Treaty Developments In Cyprus" in Global Tax Weekly](#)



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