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The International Comparative Legal Guide to:

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A practical cross-border insight into corporate tax work

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1 Tax Treaties and Residence

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

There are currently 49 double taxation agreements (“DTAs”) in force, covering 54 countries. The DTAs with the USSR, the Socialist Federal Republic of Yugoslavia and the Czechoslovak Socialist Republic are still applied by some of their former constituent states.

1.2 Do they generally follow the OECD Model Convention or another model?

All but the oldest DTAs follow the OECD Model Convention.

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

Yes, as part of the ratification process.

1.4 Do they generally incorporate anti-treaty shopping rules (or “limitation on benefits” articles)?

The DTAs with the USA and the Czech Republic include provisions allowing the tax authorities of both contracting states to withhold the benefits of the DTA if they agree that the main purpose of the creation or existence of a person or of a transaction undertaken by that person was to obtain the benefits under the DTA that would not otherwise be available.

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

The internal laws of a country cannot override its obligations under international agreements.

1.6 What is the test in domestic law for determining corporate residence?

The test for residence is the locus of management and control. A company is regarded as resident in Cyprus if it is managed and controlled in Cyprus. Mere registration or incorporation in Cyprus will not be enough to render a company liable to tax in Cyprus. A

majority of resident directors on the board establishes a *prima facie* rebuttable presumption of management and control being exercised in Cyprus as far as the Cyprus tax authorities are concerned.

A company should have economic substance in terms of staff, premises and equipment, and sufficient competence in Cyprus to make necessary business decisions.

2 Transaction Taxes

2.1 Are there any documentary taxes in Cyprus?

Stamp duty is payable on contracts relating to property or transactions in Cyprus. The rates are as follows:

- For transactions with a consideration up to €5,000, no stamp duty is payable.
- For transactions with a consideration in excess of €5,000 but not exceeding €170,000, stamp duty of €1.50 for every €1,000 or part thereof is payable.
- For transactions with a consideration in excess of €170,000, stamp duty of €2 for every €1,000 or part thereof is payable.

The maximum stamp duty payable on a contract is capped at €20,000. Where no amount of consideration is specified in the contract, the stamp duty is €35. For a transaction which is evidenced by several documents, stamp duty is payable on the main contract and ancillary documents are charged at a flat rate of €2. A number of categories of documents are exempt from stamp duty, including documents relating to corporate reorganisations (which are exempt from all forms of taxation) and ship mortgage deeds or other security documents.

Stamp duty must be paid within 30 days of the date of execution of the relevant documents or, if they are executed abroad, within 30 days of their receipt in Cyprus. If stamp duty is paid late, a surcharge of approximately 10% of the unpaid amount is payable if payment is made within six months of the due date; otherwise, the surcharge is twice the unpaid amount.

Documents that require stamping will not be accepted for registration by government departments or as evidence by courts unless they are stamped.

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

Cyprus’s standard rate of value added tax (VAT) is 19% and reduced rates of 5% and 9% apply to certain goods and services. The VAT registration threshold is €15,600 *per annum* for VAT-able outputs or for

services received from abroad subject to the reverse charge procedure, or €10,251 for acquisition of goods from other Member States.

VAT returns must be submitted quarterly and any tax due must be paid by the tenth day of the second month following the quarter-end date. If the amount of input tax is greater than output tax, the difference may be refunded or carried forward to the next return. Companies that do not have trading activities within the European Union need not register for VAT, but will be unable to recover input tax.

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

A transaction is considered to be taxable for Cyprus VAT purposes if it is carried out within Cyprus and is not an exempt transaction. A transaction is exempt if any of the following apply:

- it is carried out by a non-taxable person;
- it is carried out in a foreign state (unless it is received by a person who is registered for VAT in Cyprus); or
- it is unrelated to the business activities of the taxable person and is not done for the purpose of furthering of those activities.

Transactions between members of the same VAT group, the supply of industrial samples, the transfer of a business as a going concern and a supply of services (but not goods) for no consideration are outside the scope of VAT.

The following supplies are exempt, subject to certain conditions and limitations:

- most banking, financial (including the sale of shares) and insurance services;
- hospital and medical care;
- medical services of registered doctors, nurses, dentists, psychologists, dieticians, etc.;
- educational services at all levels;
- supplies of real estate, other than supply of new buildings before their first use;
- letting of immovable property;
- cultural services provided by public bodies or non-profit organisations;
- management services provided to mutual funds;
- postage and stamps; and
- lottery tickets, betting and gaming.

Certain services, principally ship management services, repairs, chartering/hiring of seagoing vessels or aircraft, and exports of goods to countries outside the EU, are zero-rated.

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

No deduction of input tax can be claimed in relation to exempt supplies. When a taxable person makes both taxable and exempt supplies, the amount of input tax directly attributable to the exempt supplies cannot be recovered, and the amount directly attributable to taxable supplies (including zero-rated supplies) is entirely recoverable. When input tax is attributed to supplies that are both taxable and exempt, the VAT is apportioned between the two. The portion of VAT relating (or deemed to relate) to the taxable supplies is recoverable. The apportionment calculation is complex, but broadly, apportionment is calculated by reference to the proportion of the taxable and exempt supplies, respectively, to the total value of the supplies made. The VAT Commissioner may authorise a taxpayer to use a different method of apportionment in order to achieve a more equitable result, depending on the circumstances.

2.5 Are there any other transaction taxes payable by companies?

No, there are not.

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

Immovable property tax is payable each year on the market value of all immovable property registered in the name of the taxpayer at the start of the year, with progressive rates of taxation being charged on each tranche of the total value.

3 Cross-border Payments

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

Cyprus does not impose any withholding tax on dividends paid to non-residents.

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

Royalties or any other payments to a non-resident for intellectual or industrial property rights are liable to a 10% withholding tax, subject to relief under any applicable double tax treaty. No tax need be withheld if the rights are used exclusively outside Cyprus. Rental payments made to non-residents in respect of films shown in Cyprus are subject to withholding tax at 5% of the gross amount.

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

Cyprus does not impose any withholding tax on interest paid to non-residents.

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

Cyprus does not have any such rules.

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

This is not applicable.

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

This is not applicable.

3.7 Are there any other restrictions on tax relief for interest payments by a local company to a non-resident?

Over and above the normal stipulation that interest is only allowable when the funds concerned are used to finance income-earning assets, companies making back-to-back loans by borrowing funds and

lending them on, are required to generate a sufficient taxable interest margin, failing which relief for interest paid will be restricted. The acceptable margins are set out in published correspondence between the tax authorities and the Institute of Certified Public Accountants of Cyprus, and are as follows:

- for loans of less than €50 million, the acceptable taxable margin is 0.35%;
- for loans of between €50 million and €200 million, the acceptable taxable margin is 0.25%;
- for loans of more than €200 million, the acceptable taxable margin is 0.125%; and
- for loans made on an interest-free basis, taxation will be calculated on the basis of the 0.35% rate, irrespective of the loan amount.

The following conditions must be satisfied:

- the ultimate shareholder of the Cyprus-resident company is resident overseas;
- the financing arrangements are back-to-back, that is to say the Cyprus tax resident company receives from a related company a specific amount by way of loan, which it lends on to another related company; and
- no more than six months should elapse between the date upon which the company receives the funds and the date upon which it lends them on.

The margins are net of all directly related expenses; foreign exchange differences arising from such loans, whether realised or not, do not constitute tax-deductible expenses in case of a loss and are not taxable in case of a profit.

3.8 Is there any withholding tax on property rental payments made to non-residents?

Cyprus does not impose any withholding tax on immovable property rents paid to non-residents.

3.9 Does Cyprus have transfer pricing rules?

Cyprus does not have specific transfer pricing rules in its domestic legislation, but article 33 of the Income Tax Law allows the tax authorities to impose additional taxes on profits or benefits arising from related party transactions carried out other than on an arm's length basis.

4 Tax on Business Operations: General

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

Tax is charged at 12.5% on profits.

4.2 Is the tax base accounting profit subject to adjustments, or something else?

The tax base is generally accounting profit subject to adjustments. There is a special calculation for insurance companies, and companies engaged in international maritime transport have the option of a tonnage tax scheme in which tax payable is based on the registered tonnage of vessels operated or managed (see question 10.2 below).

4.3 If the tax base is accounting profit subject to adjustments, what are the main adjustments?

The following categories of income are exempt from corporate income tax:

- profit from the sale of securities;
- dividends;
- income of any company formed exclusively for the purpose of promoting art, science or sport and of certain educational and charitable companies;
- income of any approved pension or provident fund; and
- profits from a permanent establishment situated entirely outside Cyprus, unless the permanent establishment directly or indirectly engages more than 50% in activities which lead to investment income and the foreign tax burden is substantially lower than the tax burden in Cyprus.

Interest other than interest earned in or closely related to the normal activities of the business is not subject to corporate income tax, but is instead subject to the Special Defence Contribution ("SDC tax") (currently 30%).

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

For members of a group of companies, trading losses incurred by one group company may be offset against trading profits of another group company by way of group relief, provided that the losses and profits were accrued in the same year of assessment and companies were both resident in Cyprus and members of the same group for the whole of the tax year concerned. A subsidiary that is formed during a tax year (as opposed to an existing company that is acquired) is treated as being a member of the group for the whole tax year.

Two companies are deemed to be members of a group if one is the 75% subsidiary of the other or both are 75% subsidiaries of a third company. A "75% subsidiary" means holding at least 75% of the voting shares with beneficial entitlement to at least 75% of the income and 75% of the assets on liquidation.

Currently (September 2015) there is no provision for offsetting losses between companies in different countries, but a proposed amendment allowing group relief throughout the European Single Market is going through the legislative process.

4.5 Do tax losses survive a change of ownership?

Yes, for up to five years, provided there is no substantial change in the scale or the nature of the activities.

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

The "deemed dividend" provisions of the Special Defence Contribution ("SDC tax") regime provide neutrality between distributed and undistributed profits. If a Cyprus-resident company does not distribute a dividend within two years of the end of a tax year, a deemed dividend distribution is calculated, which is 70% of post-tax profits for that tax year, reduced by any dividends that have been paid out of those profits. SDC tax (see question 4.7 below) is charged on the proportion of the deemed dividend distribution that is applicable to Cyprus-resident shareholders.

When an actual dividend is paid after the deemed dividend distribution, SDC tax is payable only on any dividend paid to Cyprus residents over and above the deemed dividend distribution.

4.7 Are companies subject to any significant taxes not covered elsewhere in this chapter – e.g. tax on the occupation of property?

The Special Defence Contribution (“SDC tax”) is payable by Cyprus-resident (determined in the same way as for income tax) companies on interest received other than in or closely related to the normal course of business (passive interest), certain dividends and rents received at 30%, 17% and 2.25% respectively.

Dividends received by one resident company from another are exempt from SDC tax. Dividends received by a resident company (or a permanent establishment of a non-resident company) from overseas are also exempt from SDC tax unless both the following conditions apply:

- the investment income accounts for more than 50% of the paying company’s activities; and
- the foreign tax burden on the income of the paying company is substantially lower than the Cyprus tax burden (less than 50%).

5 Capital Gains

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

Capital gains tax in Cyprus is charged only on disposals other than in the course of a trade of immovable property situated in Cyprus and of shares in unlisted companies to the extent that their value derives from such property. Subject to certain exemptions and reliefs, capital gains tax at 20% is payable on net gains on disposal of these assets. All other gains are exempt.

In order to stimulate the real estate market a further exemption was put in place in July 2015. Any gain on disposal of immovable property acquired between 16 July 2015 and 31 December 2016 will be exempt from capital gains tax, irrespective of the date of disposal, provided that the property was acquired on an arm’s length basis and not under the foreclosure provisions of the Transfer and Mortgage of Immovable Properties Law.

As an added incentive, the normal transfer fee payable to the Department of Lands and Surveys on acquisition of immovable property will be discounted to 50% of the standard rate until 31 December 2016, provided that it was acquired on an arm’s length basis and not under the foreclosure provisions of the Transfer and Mortgage of Immovable Properties Law. Alternatively, if VAT is payable on the purchase of the property, no transfer fee is payable at all, provided that the sale agreement is deposited with the Land Registry by 31 December 2016.

5.2 Is there a participation exemption for capital gains?

Except for gains from the disposal of shares in unlisted companies that derive from immovable property in Cyprus, there is a complete participation exemption.

5.3 Is there any special relief for reinvestment?

There is no general relief for reinvestment. Companies may obtain credit for SDC tax deemed distribution purposes (see question 4.6 above) for investment in certain categories of fixed assets, but this relief is of limited application.

5.4 Does Cyprus impose withholding tax on the proceeds of selling a direct or indirect interest in local assets/shares?

No, it does not.

6 Local Branch or Subsidiary?

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

On incorporation of a Cyprus-registered company, capital duty of €102 plus 0.6% of the authorised share capital is payable. Capital duty of 0.6% is payable on any increase in authorised share capital. Capital duty can be mitigated by creating shares at a lower nominal value and higher premium.

6.2 What is the difference, if any, between the taxation of a locally formed subsidiary and the branch of a non-resident company?

There is no difference between the taxation of a local company and the branch or permanent establishment of an overseas company.

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

Taxable profits would be calculated in the normal way, subject to the provisions of any applicable DTA.

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

A branch is taxed in the same way as a Cyprus-resident company.

6.5 Would a branch benefit from double tax relief in its jurisdiction?

This depends on the tax regime of the jurisdiction concerned and on any DTA in force.

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

Cyprus does not impose withholding or similar taxes on such remittances.

7 Overseas Profits

7.1 Does Cyprus tax profits earned in overseas branches?

Profits of a permanent establishment overseas are exempt from tax unless both the following conditions apply:

- investment income accounts for more than 50% of the paying company’s activities; and

- the foreign tax burden on the income of the paying company is substantially lower than the Cyprus tax burden (less than 50%).

Relief is available for overseas taxes, either under a DTA or, if there is no DTA in force, by way of unilateral relief for overseas taxes paid.

7.2 Is tax imposed on the receipt of dividends by a local company from a non-resident company?

Dividends received by a resident company (or a permanent establishment of a non-resident company) from overseas are subject to SDC tax only if both the following conditions are satisfied:

- the investment income is more than 50% of the paying company's activities; and
- the foreign tax burden on the income of the paying company is substantially lower than the Cyprus tax burden (less than 50%).

Otherwise there is no taxation in any form on dividends received by Cyprus-resident companies.

7.3 Does Cyprus have "controlled foreign company" rules and, if so, when do these apply?

No, the rule set out in question 7.2 above is the only rule applicable.

8 Taxation of Real Estate

8.1 Are non-residents taxed on the disposal of real estate in Cyprus?

Yes. As noted in question 5.1 above, capital gains tax is payable on net gains from the disposal of immovable property in Cyprus and from the disposal of shares in unlisted companies to the extent that the gain derives from immovable property in Cyprus. The liability applies irrespective of the residence of the disponent.

8.2 Does Cyprus impose tax on the transfer of an indirect interest in real estate located in Cyprus and, if so, what constitutes an indirect interest?

No, if an overseas company holds real estate in Cyprus, gains on disposal of its shares are effectively tax-exempt.

8.3 Does Cyprus have a special tax regime for Real Estate Investment Trusts (REITs) or their equivalent?

Cyprus law provides for the establishment of REITs, but as yet, they have rarely been used and there is no separate tax regime.

9 Anti-avoidance

9.1 Does Cyprus have a general anti-avoidance or anti-abuse rule?

Article 33 of the Assessment and Collection of Taxes Law of 1978 contains a general anti-avoidance clause, allowing the tax authorities to disregard any transaction through which the taxation of any person

is reduced if they deem the transaction to be artificial or fictitious. There is no significant jurisprudence or published policy regarding the application of this article.

In addition, in July 2015 the parliament passed the Income Tax (Amendment) No 4) Law of 2015, which implements the latest changes to the EU Parent Subsidiary Directive. After 31 December 2015 the current exemption from Cyprus income tax on dividends received by Cyprus-resident companies will not be available in cases where the dividend was allowed as a tax deduction in the jurisdiction of the paying entity, or where the arrangement is a sham. This law has been enacted by the parliament but will not take effect until it is published in the official gazette.

9.2 Is there a requirement to make special disclosure of avoidance schemes?

No, there is no such requirement. Furthermore, taxpayers in Cyprus have a right to request an advance tax ruling from the tax authorities on the taxation treatment of a proposed transaction, which the tax authorities regard as binding on them, provided that all material details of the transaction were disclosed.

10 BEPS and Tax Competition

10.1 Has Cyprus introduced any legislation in response to the OECD's project targeting Base Erosion and Profit Shifting (BEPS)?

A number of the proposed amendments to the tax laws put before parliament in July 2015 but not yet enacted (for example introduction of transfer pricing rules, refinement of article 33 of the Assessment and Collection of Taxes Law of 1978 and changes to accounting for foreign exchange transactions) are in line with the BEPS project objectives.

10.2 Does Cyprus maintain any preferential tax regimes such as a patent box?

Cyprus has an extremely advantageous intellectual property box scheme. Not only does it provide by far the lowest effective rate of tax on income from intellectual property (less than 2.5%, which is less than half the effective rate of the next-best EU scheme), but it also applies to the widest scope of assets and is subject to the fewest limitations, such as on location of the activity. In addition, full effective exemption from tax on gains on disposal can easily be achieved. Under the OECD/G20 agreement on the "modified nexus" approach the intellectual property box scheme will be closed to new entrants after June 2016, and will cease to apply in June 2021. For companies entering the scheme before June 2016 it will provide five years of very substantial benefits.

Cyprus also has a very attractive tonnage tax scheme for businesses involved in international maritime transport and ship management. The Merchant Shipping (Fees and Taxing Provisions) Law of 2010 gives qualifying Cyprus-resident shipping and ship management companies the option to be taxed on the basis of the tonnage of the vessels they operate, simplifying and in most cases substantially reducing the tax burden. Tonnage tax is charged on a tapering scale on net tonnage, with discounts for newer and safer vessels. Profits on the disposal of vessels, interest earned on funds and dividends paid directly or indirectly from shipping-related profits are exempt from taxation. Ship managers may elect to pay tonnage tax at one-quarter

of the rates applicable to ship owners and charterers, in which case profits earned from the provision of technical and crewing services are exempt from tax in respect of qualifying vessels, together with dividends paid out of those profits at all levels of distribution.

There is also a highly favourable VAT leasing scheme for pleasure boats for personal use, allowing VAT savings of up to 90% to the lessor, based on the size and type of the vessel.



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Established in 1965, Andreas Neocleous & Co LLC is now one of the largest law firms in south-eastern Europe and the eastern Mediterranean region, and has earned a world-class reputation for quality. Headquartered in Limassol, Cyprus, the firm also has offices in Nicosia and Paphos in Cyprus, as well as in Russia, Belgium, Hungary, Ukraine and the Czech Republic.

Andreas Neocleous & Co LLC has a team of more than 130 experienced professionals in Cyprus and mainland Europe, giving the strength and depth of resource to provide international businesses and their advisers with world-class standards of quality and responsiveness. The firm values diversity and its staff speak most major European languages. All are fluent in English.

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