



Cyprus Business Headlines

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SIMPLIFICATION OF SDC TAX RETURN SUBMISSION

The Cyprus Inland Revenue Department has issued a circular (2011/10) introducing a significant change in practice which will benefit international companies in Cyprus.

Under the so-called "deemed distribution" rules, resident companies which have not distributed at least 70% of their after tax profits attributable to Cyprus-resident shareholders within two years of the end of the year in which the profits were earned are required to pay special defence contribution ("SDC tax") at 20% on the amount by which actual dividends distributed to resident shareholders within the two year period fall short of the 70% threshold. A lower rate of 3% SDC tax is payable by companies operating as collective investment schemes.

The deemed distribution rules do not apply to the proportion of profits attributable to non-resident shareholders.

The new circular now makes clear that profits attributable to resident shareholders which are ultimately attributable to non-resident shareholders should also be excluded from the deemed dividend calculation.

Companies in Cyprus are generally required to submit an annual return on form IR 623 for the purpose of calculating deemed dividends. In cases where the entire share capital of a Cyprus resident company is ultimately owned by non-residents the directors of the company may make a declaration to this effect, have it certified by the company's auditors or lawyers and forward it to the tax authorities. When the declaration has been accepted by the tax authorities the company will no longer be required to make returns for deemed distribution purposes. Sample forms of declaration and certification are appended to the circular.

If part of the share capital is ultimately owned by Cyprus residents an annual return must still be submitted, but the profits ultimately attributable to non-resident shareholders will be excluded.

As a result of the change in approach set out in the circular many companies will no longer need to pay dividends in order to avoid being caught by the deemed distribution provisions, allowing value to be retained in the company and giving maximum scope for exit planning, especially in the light of the fact that gains on most securities are exempt from tax in Cyprus. Furthermore, there will be significant administrative savings as many companies will no longer need to complete returns for deemed distribution purposes and indirect non-resident shareholders will no longer need to submit claims for repayment of SDC.

The circular has immediate effect and the new approach applies to all years for which companies' tax affairs have not been finalised.

Further information: [Philippos Aristotelous](#)

AMNESTY ON OVERDUE TAX PAYMENTS

In November 2011 the Cyprus Parliament enacted a law allowing a partial write-off of interest and penalties on overdue tax. The law applies to liabilities of individuals and companies in respect of income tax, SDC tax, immovable property tax, stamp duty and capital gains tax for periods up to 31 December 2008 and provides for the waiver of interest or penalties in excess of 5% of the principal amount owed, as long as the balance is paid by 31 March 2012.

According to the tax authorities, outstanding tax arrears for 2008 and prior years amount to some €355 million.

The government believes that the waiver of fines and penalties will encourage taxpayers to settle their debts, resulting in the collection of these long-overdue amounts.

The law was passed despite warnings from the office of the Attorney General that it is inconsistent with articles 24 and 28 of the Constitution, which provide that all persons are equal before the law and that every person is bound to contribute according to their means towards public burdens. A similar law passed in 2007 was found to be unlawful by the Supreme Court of Cyprus on the grounds that it unfairly discriminated against taxpayers who comply with their obligations in favour of those who do not.

Further information: [Elias Neocleous](#)

DECEMBER 2011 AMENDMENTS TO THE INCOME TAX, SDC TAX AND VAT LAWS

In December 2011 a number of amendments were made to the laws regarding income tax, SDC tax and VAT in order to reduce the government deficit. The main changes are as follows.

The Income Tax Law

Deductibility of payroll costs

Employment costs will not be allowed as a tax deductible expense unless social insurance, provident fund and pension fund contributions have been paid within the year due for payment.

If unpaid contributions and any related penalties are paid within two years from the due date, the emoluments and associated contributions will be allowed as a deductible expense in the year of payment.

Loans and advances to directors and shareholders

If a company provides a loan or advance to a director or shareholder (including their spouse and relatives up to the second degree) other than in the normal course of business and on normal commercial terms, the relevant director or shareholder will be liable to income tax on the benefit in kind, calculated at 9 percent per annum on the balance. The benefit will be taxed as income subject to tax under the PAYE system.

These provisions replace article 39 of the Income Tax Law, which provided for deemed interest at the rate of 9% on loans to directors and shareholders of closely-held companies to be attributed to the company and subjected to SDC tax at 15%.

SDC Tax Law

Dividends paid after more than four years

Dividends paid by one Cyprus-resident company to another are generally exempt from SDC tax. However, dividends paid more than four years after the underlying profit was earned are now subject to SDC tax if the recipient is a tax resident (whether corporate or individual) of Cyprus.

Increase of SDC rate on dividends

For 2012 and 2013 the rate of SDC tax applicable to dividends or deemed distributions is 20%.

Neither of these changes will affect companies whose ultimate shareholders are non residents of Cyprus.

The VAT Law

Increase in the standard rate of VAT

With effect from 1 March 2012 the standard rate of VAT will increase from 15% to 17%. The reduced rates of 5% and 8% will remain unchanged.

Obligation to issue receipts

A taxable person who supplies goods or provides services to a non taxable person is now obliged to issue a receipt showing the name, address and VAT registration number of the supplier, the description of goods or services and the total amount payable including VAT. Failure to issue a receipt incurs a penalty of 20% of the amount of the receipt. On conviction by the court, an additional fine of up to €1,700, imprisonment for up to six months or both may be imposed.

Levy on private sector earnings and pensions

For 2012 and 2013 a special levy will be payable on wages, salaries and pensions paid by private sector employers and on self-employed earnings at the following rates:

- ≡ On the first €2,500 of gross monthly earnings - nil;
- ≡ On the next €1,000 of gross monthly earnings above €2,500 - 2.5%, with a minimum of €10;
- ≡ On the next €1,000 of gross monthly earnings above €3,500 - 3%;
- ≡ On all monthly earnings above €4,500 - 3.5%.

In the case of employees the levy is payable by the employer and the employee in equal shares. No levy is payable on retirement gratuities, payments out of provident funds, emoluments of foreigners employed by a foreign government, emoluments of the crew of a Cyprus ship or allowances to cover business expenses for the account of the employer.

For self employed persons the income on which the contribution is payable is the individual's earned income, with the minimum being the amount on which social insurance contributions are paid.

For employees or pensioners the levy will be deducted and paid in the same way as PAYE. For self employed persons there will be a self-assessment system.

The levy is deductible for income tax purposes.

Further information: [Elias Neocleous](#)

REMOVAL OF CYPRUS FROM THE PORTUGUESE TAX "BLACKLIST"

Cyprus has been removed from the so-called "blacklist" published by the Portuguese tax authorities. Decree



150/2004 of the Portuguese Ministry of Finance set out a list of more than 80 jurisdictions considered to have unduly favourable tax regimes. Residents of countries on the list are denied certain benefits of the Portuguese tax system, and subject to higher rates of certain taxes. Companies resident in the countries on the list are subject to the Portuguese CFC rules, with significant Portuguese shareholders being liable to Portuguese tax on undistributed profits attributable to them.

As Cyprus and Portugal are fully compliant with the relevant EU Directives, particularly Directive 77/799/EEC concerning mutual assistance by the competent authorities of the Member States of the EU in the field of direct taxation and taxation of insurance premiums and Directive 2008/55/EC on mutual assistance by the EU Member States for the recovery of claims relating to certain levies, duties, taxes and other measures, Cyprus has now been removed from the list of "suspect" jurisdictions and Cyprus-resident companies and individuals will no longer be subject to unfavourable treatment.

Decree 292/2011 of the Portuguese Ministry of Finance, published on 8 November 2011, sets out the revised "blacklist" of 81 jurisdictions, which include the Channel Islands, Gibraltar, Hong Kong, the Isle of Man, Qatar, Seychelles and the British and US Virgin Islands.

Further information: [Elias Neocleous](#)

SUPPLEMENTARY SUPERVISION OF INVESTMENT FIRMS IN A FINANCIAL CONGLOMERATE

The Cyprus Securities and Exchange Commission ("CYSEC") has recently issued Directive DI144-2007-11 of 2011 on "Supplementary Supervision of Investment Firms in a Financial Conglomerate". The Directive sets out the provisions for the supplementary supervision of an investment firm which has been granted an authorisation by CYSEC and which is part of a financial conglomerate.

The Directive sets out the parameters which CYSEC uses to identify groups to which the Directive applies and the procedures for appointing a supervisory authority to coordinate their supervision. It also sets out minimum requirements as regards capital adequacy, risk diversification, intra-group transactions and internal control procedures. It explains the role and responsibilities of the supervisory coordinator and the procedures for exchange of information and coordination of actions between competent authorities.

Further information: [Stephanos Evangelides](#)

AMENDMENTS TO THE BANKING LAWS

The Settlement Finality in Payment and Securities Settlements Systems Law (Amendment) Law, 99 of 2011 and the Banking Business and Securities Transfer (Amendment) Law, 103 of 2011 align Cyprus domestic banking legislation with Directive 2009/44/EC of the

European Parliament and of the Council amending Directives 98/26/EC on settlement finality in payment and securities settlement systems and 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims. The changes incorporate the definitions of "interoperable system", "system operator" and "business day" included in the Directive and extend the scope of the Banking Business and Securities Transfer Law, 64(I) of 1997 to cover "credit claims", which are defined as in the Directive.

The Banking Business and Securities Transfer (Amendment) Law also facilitates the transfer of covered securities operations and the underlying assets following the enactment of the Covered Securities Law, 130(I) of 2010, which established the legal framework for issuance of covered bonds in Cyprus. The Banking (Amendment) (No 2) Law, 104 of 2011 amends the provisions of the Banking Laws of 1997 to 2011 relating to banking secrecy and reorganisation and winding up of credit institutions to take account of the covered securities regime.

Further information: [Panos Labropoulos](#)

PROPERTY AMNESTY LAWS AMENDED

In October 2011 the Cyprus Parliament approved amendments to the so called Property Amnesty Laws, which were introduced earlier that year in order to address the problems arising from delays in the issue of title deeds to property owners. These laws, which streamline the procedure of applying for title deeds and remove unnecessary obstacles, came into force on 8 April 2011 and set various deadlines for applicants.

The recent amendments provide for an extension of the time allowed for the submission of a Statement of Intent to apply for the issue of title deeds. Following the amendments, applicants must notify the Ministry of Interior no later than 6 April 2012 of their intention to apply for the legalisation of any irregularities and the issue of title deeds. The formal application must be submitted by 7 April 2014.

The submission of a Statement of Intent does not commit the owner to submit a formal application, but if no Statement of Intent is submitted by 6 April 2012 the right to submit an application is lost.

Strict conformity of the building with all relevant regulations is no longer a prerequisite for the issuing of a certificate of registration (title deed). A certificate of registration may be issued for a building with minor irregularities as long as the irregularities are recorded on the title deed.

In order to encourage owners to comply with their obligations the competent authorities (Planning Authority, Building Authority and the Director of the Land and Surveys Department) are empowered to impose administrative fines on owners who neglect to



submit the required declarations or applications for the legalisation of buildings, or irregularities in buildings, or for the issue of certificates of approval or certificates of unauthorised works or updated title deeds.

Further information: [Christos Vezouvios](#)

WAIVER AND REDUCTION OF PROPERTY TRANSFER FEES

On 2 December 2011, following publication in the official Gazette, Law 156(I)/2011, the Law to Amend the Lands and Survey Departments (Fees and Charges) Law ("the Amending Law") came into force. The Amending Law will apply for six months and will cease to have effect on 2 June 2012. Its main provisions are as follows.

No transfer fees are payable for the registration of title deeds in respect of sales of property subject to VAT.

Transfer fees in respect of other properties are charged at half the standard rate where the transfer relates to the first sale of plots, buildings or parts of them on land or undivided shares of land, after the date of the issuance of the relevant Town and Planning Permit and in cases where the relevant sale agreement was stamped and deposited with the Lands and Survey Department, according to the Sale at Immovable Property (Specific Performance) Law.

These exemptions and discounts will apply as long as the sale agreement is stamped and deposited with the Lands and Survey Department within the life of the Amending Law, even if the registration of the title takes place later. This provision ensures that purchasers of properties for which a title deed is not immediately available are not disadvantaged as long as they stamp and deposit the sale agreement in time.

No exemption or discount is available for sale agreements dated prior to 2 December 2011 or to properties in respect of which a sale agreement was deposited with the Lands and Survey Department and withdrawn and resubmitted in order to obtain the benefit of the Amending Law.

Further information: [Christos Vezouvios](#)

CYPRUS OFFSHORE NATURAL GAS DISCOVERY AND SECOND LICENSING ROUND

The Cyprus government has announced that the relevant documentation is being prepared for the second licensing round for the remaining blocks of Cyprus's Exclusive Economic Zone (EEZ) and that expressions of interest will be invited shortly. The exploration area covers approximately 51,000 square kilometres and is divided into 13 blocks. An exploration licence for one block (Block 12) was awarded to Noble Energy International Limited ("Noble") in 2008.

The second licensing round, like the first, will be

carried out within the framework of the Hydrocarbons (Prospection, Exploration and Production) of 2007, which transposes EC Directive 94/22 into national law and sets out the criteria for the assessment of applications for licences for prospecting, exploration and extraction of hydrocarbons in Cyprus's territory including its Exclusive Economic Zone. Hydrocarbon activities are subject to general domestic laws and regulations on health, safety and environmental protection.

Interest in the second licensing round will no doubt be stimulated by Noble's recent announcement of a significant natural gas discovery at its Block 12 prospect, with an estimated gross resource range of 5 to 8 trillion cubic feet and a gross mean of 7 trillion cubic feet.

Further information: [Christos Floridis](#)

THE MERCHANT SHIPPING (RECOGNITION AND AUTHORISATION OF ORGANISATIONS) LAW OF 2011

The Merchant Shipping (Recognition and Authorisation of Organisations) Law of 2011 (Law 128(I)/2011), which was published in the Official Gazette on 7 October 2011, transposes into Cyprus law Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.

The new law regulates the powers delegated by the Republic of Cyprus to the Department of Merchant Shipping to authorise classification societies which are recognised by the European Commission to certify compliance with relevant international conventions of ships flying the Cyprus flag.

The new law repeals the Merchant Shipping (Recognition and Authorisation of Organisations) Laws of 2001 and 2004. Notification P.I. 241/2005 issued under the repealed laws will, however, remain in effect for the time being, until it is replaced by a new Notification issued under section 6 of the new law.

The Merchant Shipping (Recognition and Authorisation of Organisations) Order of 2011, P.I.451/2011, issued under section 2 of the new law, defines the relevant conventions as follows:

- ≡ the International Convention for the Safety of Life at Sea of 1974, apart from chapter XI-2;
- ≡ the International Load Lines Convention of 1966;
- ≡ the International Convention for the Prevention of Pollution from Ships of 1973 and the 1978 Protocol thereto;
- ≡ the International Convention on Tonnage Measurement of Ships of 1969;
- ≡ the Special Trade Passenger Ships Agreement of 1971 and the Protocol on Space Requirements for Special Trade Passenger Ships of 1973;



- ≡ The International Convention on the Control of Harmful Anti-fouling Systems on Ships of 2001; and
- ≡ The current version of any Protocols, amendments and codes relating to these conventions.

Further information: [Costas Stamatou](#)

AMENDMENTS TO CYPRUS-ITALY AGREEMENT ON MARITIME NAVIGATION

The Cyprus Department of Merchant Shipping has announced that the 2004 agreement between Cyprus and Italy on Maritime Navigation has been amended by an Exchange of Notes between the two countries. The amendments took effect on 23 November 2011.

The key provisions of the amended agreement are as follows:

- ≡ Article V requires each Contracting Party to treat ships of the other Contracting Party that call at its ports as favourably as its own ships on issues such as freedom of entry to ports, port duties, taxes, tariffs and charges for port services, use of port equipment for loading and unloading cargo, supplies and waste and embarkation and disembarkation of passengers, crew and goods.
- ≡ Article VII commits each Contracting Party to recognise the identity documents issued by the competent national maritime authority of the other Contracting Party to crew members who are nationals of that Contracting Party.
- ≡ Article VIII permits crew members of one Contracting Party visiting ports of the other to go ashore temporarily in the port town and its environs in accordance with local legislation provided they appear in the crew list of the ship and hold the identity documents referred to in Article VII.
- ≡ Article XI commits the competent national maritime authority of each Contracting Party to provide the same assistance and facilities to ships of the other as would be available to its own vessels in the event that they are shipwrecked, run aground or suffer loss or damage or any other accident in its territorial waters, in one of its ports or off its coast.

Further information: [Costas Stamatou](#)

NEWS ABOUT OUR FIRM

Seminar and book launch in Moscow

The launch of the third edition of "Neocleous's Introduction to Cyprus Law" took place in Moscow on 6 October, within the context of a seminar given by our firm and Bank of Cyprus aimed at enhancing awareness of doing business in and through Cyprus.

An audience of 90 invited guests from the world of business and finance heard presentations from partners at our firm on the use of Cyprus holding companies for investment to and from Russia and on the role of the Cyprus courts in resolving disputes involving Russian and Eastern European investors, and from Bank of

Cyprus on banking in Cyprus.

Introducing the third edition of "Neocleous's Introduction to Cyprus Law" on behalf of Andreas Neocleous, partner Kyriacos Georgiades reminded the audience that the law of Cyprus reflects the diversity of the island's history, coming from a range of sources including Roman, Greek and Ottoman law, but overwhelmingly the greatest influence is Anglo-Saxon or common law. "Neocleous's Introduction to Cyprus Law" is not only an introduction to Cyprus law, but also to common law, which is the most important legal system for international business.

Participants were also presented with a copy of "Journey to the Churches in Occupied Cyprus", a book published by our firm which describes the present state of the churches in the Turkish-occupied area of the island.

RECENT PUBLICATIONS

The following are a 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.

- ≡ [Cyprus chapter of "Merger Control, Jurisdictional comparisons"](#)
- ≡ [Cyprus chapter of "The Restructuring Review"](#)
- ≡ [Cyprus chapter of "Corporate Real Estate Handbook 2011/12"](#)
- ≡ [Cyprus chapter of "The Merger Control Review"](#)
- ≡ [Cyprus chapter of "Dispute Resolution 2012 Multi-Jurisdictional Guide"](#)



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