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Last chance to benefit from the amnesty for late payment of tax liabilities

As reported in previous issues of this newsletter, in November 2011 the Cyprus Parliament enacted a law allowing for a partial write-off of interest and penalties on overdue tax liabilities of companies and individuals in respect of tax years up to and including 2008. Interest and penalties on overdue income tax, special defence contribution tax, immovable property tax, stamp duty and capital gains tax would be restricted to 5% of the principal amount owed, as long as the liability and the 5% surcharge were paid by 31 March 2012. Earlier this year the deadline for the amnesty was extended by eight months. Interest and penalties will be limited to 5% of the tax owed as long as payment is made by 31 October 2012.

Companies and individuals wishing to benefit from the amnesty will need to take prompt action, as the deadline is now imminent.

Further information: [Philippos Aristotelous](#)

The new system of taxation of intellectual property rights in Cyprus - the most beneficial in Europe

The growth measures introduced in May 2012, a few days before our previous issue was circulated, include a package of incentives and tax exemptions relating to income from intellectual property rights, aimed at stimulating investment in research and development. Several other countries, including Luxembourg, the Netherlands, Ireland and the United Kingdom have already introduced such schemes, which have come to be known as an intellectual property box ("IP box").

The amendments to the Income Tax Laws are effective from 1 January 2012 and effectively apply to all categories of intellectual property. The main features of the new IP box are as follows:

Five year amortisation period

The cost of acquisition or development of an IP right may be capitalised and amortised on a straight line basis over five years, giving an annual writing down allowance of 20 per cent.

This is a considerable acceleration compared with the previous amortisation regime, in which rates were determined by reference to the estimated useful life of the underlying asset. For example, if a patent had a validity of 20 years its useful life would be deemed to be 20 years and the annual writing down allowance would be 5 per cent.

The acceleration of writing down allowances will result in substantial cash flow benefits by reason of the deferral of tax liabilities, especially where the value of the IP asset is substantial.

80 per cent exemption of profits from exploitation of IP rights

Four-fifths of the profit earned from the use of intangible assets (including any compensation for improper use) is disregarded for tax purposes.

Since any dividend income generated paid to non-resident shareholders is exempt from Cyprus tax of any description a Cyprus company can be used to generate royalties under licensing or similar arrangements with third parties and distribute profits to its shareholders by way of dividends with minimal tax leakage.

80 per cent exemption of profits on disposal of IP rights

Four-fifths of any profit resulting from the disposal of relevant intangible assets is disregarded for tax purposes.

While this may be a useful exemption in certain circumstances, in most cases a more beneficial result from the taxpayer's viewpoint can be achieved by holding the assets concerned in a separate company and disposing of the shares in that company, rather than the assets themselves. This option would result in full exemption of the gain, as well as stamp duty savings, since gains on disposals of qualifying securities (which includes shares) are exempt from all forms of taxation in Cyprus except to the extent that they derive from the disposal of immovable property located in Cyprus.

Overall, an effective tax rate of less than two per cent, the lowest by far in the EU

The amount subject to tax under the new rules is calculated by deducting the writing down allowance, the costs (including interest) of financing the acquisition or development of the assets and any other direct expenses from the revenue earned,

and dividing the resultant amount by five. Applying the Cyprus corporate income tax rate of 10 per cent produces an effective tax rate of two per cent of the net income. Given that generous deductions are available against gross income, the effective rate should generally be well below two per cent.

This rate compares very favourably with the competition: the United Kingdom's optional new "patent box" regime gives an effective rate of 10 per cent on relevant income. The Irish scheme is more complex, and it is not possible to directly compare rates, but it will generally produce a rate close to the UK rate. The Luxembourg and Netherlands schemes are somewhat better, with effective tax rates of 5.76 per cent and 5 per cent respectively, but they are both considerably less beneficial than Cyprus.

Further savings by removing the need for an overseas IP owner

Before the introduction of the IP box a Cyprus licensing arrangement would typically involve an IP owner incorporated and resident in a zero-tax or low tax jurisdiction licensing the use of the IP rights to a Cyprus-resident intermediary company, which would sub-license the use of the IP rights to end-users, preferably registered and tax resident in a country with a double tax treaty with Cyprus. Following the introduction of the IP box, considerable savings can be achieved by locating the IP owner in Cyprus and having it license the use of the rights direct to the end users, eliminating (or at least reducing) foreign withholding taxes via a double tax agreement or the EU Interest and Royalties directive, which provides a uniform tax regime for royalties paid throughout Europe.

In addition to tax savings, the elimination of a corporate layer in a different jurisdiction will allow considerable savings to be made in administrative and compliance costs.

Using a Cyprus international trust to own and finance the IP owner can give further tax savings, both on income and when achieving an exit.

Conclusion

The new regime provides very attractive opportunities for structuring the exploitation of IP assets through Cyprus and in particular through the use of Cyprus-resident IP owners, especially in the context of Cyprus's extensive network of double tax treaties under which foreign withholding taxes on royalty income are either eliminated altogether or substantially reduced.

In most cases immediate economic and tax savings can be achieved by transferring intellectual rights currently held by entities located in low or no tax jurisdictions to Cyprus resident companies in order to take advantage of the new exemptions. The transfer of IP rights into a Cyprus company will not give rise to any form of taxation in Cyprus and the new benefits and substantial exemptions will become available as soon as the asset is transferred.

Further information: [Philippos Aristotelous](#)

Fast-track to permanent residence in Cyprus

The Republic of Cyprus has introduced a fast track procedure allowing high net worth individuals to acquire a permanent residence permit on an accelerated basis.

Third country nationals who purchase immovable property in Cyprus for €300,000 or more as their own residence and who can demonstrate an adequate secure income from abroad will be eligible to apply for a permanent residence card. Each case is examined on its own merits depending on the personal circumstances of the applicant.

To be eligible for permanent residence third country nationals must demonstrate:

- ≡ That they have stable and regular income sufficient to maintain the applicant and any dependants in Cyprus without recourse to its social assistance system;
- ≡ That they have medical insurance which covers the risks generally covered by insurance companies in Cyprus;
- ≡ That they do not pose a threat to public order or public security; and
- ≡ That if they have been living in Cyprus they have been doing so legally, and not by deceit or misrepresentation.

The application on the prescribed form M67 may be lodged in advance of the applicant's arrival in Cyprus provided all the relevant supporting documentation is submitted with the form. If the application is successful the applicant's spouse and children under the age of 18 years will also be granted the right of permanent residence.

The right of permanent residence is automatically lost if the holder is absent from Cyprus for a continuous period exceeding two years.

Further information: [Christos Vezouvios](#)

New law on limitation of actions

When Cyprus became independent in 1960 it retained the colonial-era Limitation of Actions Law, Cap. 15, which prescribed the time limits within which claims must be brought before a court. The Limitations Law was suspended in 1964 following inter-communal disturbances. An attempt to revive it was made in 2002 with the enactment of the Suspension of Limitation Period (Provisional Provisions) Law (Law 110(I) of 2002), which provided that the Limitations Law would re-enter into force with effect from 1 June 2005. However, the entry into force of the 2002 Law was postponed by a succession of laws passed in the interim, each temporarily extending the suspension. The latest of these, enacted in December 2011, extended the

suspension until 30 June 2012.

A new law, Law 66(I) of 2012, has now been passed with respect to the limitation periods of actionable rights. It entered into force on 1 July 2012.

Article 3 of the Law provides that the limitation period in respect of a claim commences from the day of completion of the basis of the claim (defined in article 2 as all events that give rise to an actionable right concerning a claim) and article 4 stipulates that unless otherwise provided in the Law or any other law, no proceedings may be issued after ten years have elapsed from that date.

Secured loans

Article 5 provides that for loans secured by a mortgage, charge or pledge the limitation period is 12 years.

Civil wrongs

Article 6 prescribes a general limitation period of six years for civil wrongs. However, the limitation period for claims for damages for negligence, nuisance or breach of a statutory duty is set at three years by article 6(2). Article 6(3) allows the court discretion to disapply the limitation provisions in the case of civil wrongs leading to bodily harm or death. In making its decision the court is required to consider the length of the delay in issuing proceedings and the reasons for it, the duration of any inability on the part of the claimant to handle the case, the steps taken by the claimant to safeguard any relevant evidence, as well as the stance of the defendant in relation to the application and the consequences of the delay in relation to the preservation and the reliability of the evidence. The court cannot exercise its discretion to disapply the limitation period once two years have elapsed from the expiry of the prescribed limitation period.

Article 6(4) provides for a limitation period of one year in the case of proceedings for defamation or malicious falsehood.

Contracts

Article 7 sets a general limitation period of six years for actions based on contractual claims. However, for proceedings related to a contract or to a quasi-contract in relation to an agreed or reasonable remuneration of a lawyer, a doctor, a dentist, an architect, a civil engineer, a contractor or other independent professional, the limitation period is three years.

For loans with no set repayment date and which do not require advance notice as a condition of repayment of the debt the limitation period commences on the date of service of written notice to the borrower to repay the debt, from or on behalf of the lender (or where there are co-lenders, from or on behalf of one of them).

Succession

Article 9 provides that no action can be commenced questioning the validity of a will, or in relation to the estate of a deceased or any portion or part thereof or bequest, after 8 years from the date of death. In the event that the claimant was absent from Cyprus the limitation period will not be deemed to have been completed unless one year has elapsed from the time that the claimant returned to Cyprus or became aware of the death (or with reasonable diligence could have become aware of the death).

Specific exceptions

Article 12 provides that the period of limitation will not commence or, if it has commenced, will be suspended, in respect of the following:

- ≡ Between spouses during their marriage, even though the marriage is later annulled;
- ≡ Between parents and children while the children are minors;
- ≡ Between trustees and trust beneficiaries while the trust beneficiaries are minors or, when the beneficiary has not yet been born and until the beneficiary is born and reaches adulthood;
- ≡ Between executors of a will or administrators of the property of a deceased and heirs and legatees of the deceased while the heirs and legatees are minors; and
- ≡ Between cohabiting partners.

For further information please contact [Chrysanthos Christoforou](#) or any member of our litigation team.

The Protection of Cyprus Ships against Acts of Piracy and Other Unlawful Acts Law of 2012

The Protection of Cyprus Ships against Acts of Piracy and Other Unlawful Acts Law of 2012 has entered into force following publication in the Official Gazette on 15 June 2012. The Law incorporates the recommendations and guidance of the IMO regarding the use of privately contracted armed security personnel on board ships navigating in high risk areas and takes into account the provisions of the United Nations Convention on the Law of the Sea, particularly the rights of a State as a port and a coastal State within its internal waters, territorial sea and contiguous zone.

The scope of the Law extends beyond acts and attempts of piracy and purports to address all types of unlawful acts against a ship or attempts to violate the security of the ship. It includes a broad definition of "unlawful acts" to include any act or suspicious act or circumstance which, by its nature or context, threatens the security of the ship or may cause damage to the ship or to the persons on board or to the cargo.

The Law provides that Cyprus ships navigating through high risk areas are required to implement compulsory security

measures over and above those set out in SOLAS chapter XI-2 and the ISPS Code, taking into account the relevant recommendations and guidelines published by the International Maritime Organization (IMO) and the shipping industry. It also enables the operator of a Cyprus ship (owner, bareboat charterer or manager) to request permission to engage private contractors providing armed or unarmed security guards when the ship is navigating through high-risk areas. The request should be justified by a reasoned security risk assessment and the contractor and its personnel should be among those licensed by the Government of Cyprus to provide such services.

Further information: [Costas Stamatou](#)

Obligations of foreign vessels calling at Cyprus ports under the Port State Control regime

The Cyprus Department of Merchant Shipping has issued a circular (26/2012) reminding operators, representatives and masters of foreign vessels calling at Cyprus ports of their obligations under the Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Law of 2004 as amended and the Merchant Shipping (Port State Control) Law of 2011.

Section 6 of the Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Law of 2004 requires the notification of the anticipated arrival of the vessel at least twenty four hours prior to arrival or, if the voyage time is less than twenty four hours, at the time the ship leaves the previous port. Any amendments to the information should be notified accurately and without delay. An administrative fine of up to €8543 may be imposed for non-compliance.

Section 12 (1) of the Merchant Shipping (Port State Control) Law of 2011 provides that the operator, representative or master of any foreign vessel calling at a Cyprus ports which is liable to an expanded inspection as defined in section 17 of the Law should submit the relevant information at least seventy two hours prior to the vessel's arrival, or, if the voyage time is less than seventy two hours, at the time the ship leaves the previous port. The notification should make clear whether the vessel will enter port of the Republic or stay at anchorage. An administrative fine of up to €8550 may be imposed for non-compliance.

If the required seventy two hours' notice of arrival of a foreign vessel which is liable to an expanded inspection has not been given, the operator, representative and master must ensure that the vessel remains at the port or anchorage for seventy two hours after arrival so as to allow sufficient time to arrange the required expanded inspection. Failure to do so is a criminal offence punishable with a fine of up to €8550, imprisonment for up to two years or both.

Further information: [Costas Stamatou](#)

News about our firm

Maria Kyriacou addresses the Industry, Research and Energy Committee of the European Parliament

Following the accident caused by the explosion of the Deepwater Horizon drilling rig in 2010, the European Commission launched an assessment of safety in offshore oil and gas activities in European waters and presented a proposal for a Regulation in October 2011. It intends to respond to the increased risks of offshore oil and gas activities by ensuring the application of best practices for major hazard control throughout the EU, by strengthening Member States' preparedness and response capacity and by clarifying the existing legal framework on liability and compensation.

Maria Kyriacou, head of our Nicosia office and leader of our EU law department, was invited to give her expert advice on the proposed Regulation to the Industry, Research and Energy Committee of the European Parliament on 9 July. To view a copy of Maria's presentation to the committee, please click this link.

'Spice, Cinnamon and Celebration' at Curium amphitheatre

As part of our support for the local community we were delighted to sponsor a charity concert, 'Bahari, Kanella kai Giorti' (Spice, Cinnamon and Celebration) by the distinguished Greek artists Alkistis Protopsalti and Evanthia Reboutsika. The concert, in support of the Cyprus Red Cross, took place at the ancient Curium amphitheatre on 6 July. The evening was a synthesis of songs reflective of the light of Greece and sounds and scents reminiscent of the East. After the concert Philippos Aristotelous received an award on behalf of the firm from Mrs Photini Papadopoulou, President of the Cyprus Red Cross, recognising the firm's contribution.

Top rating from 'Best Lawyers'

The recently-published second edition of the Best Lawyers listing for Cyprus includes 13 lawyers from Andreas Neocleous & Co LLC, almost twice as many as the next Cyprus firm. In addition Andreas Neocleous and Panayiotis Neocleous received individual accolades, being judged the leaders in tax and arbitration and mediation work.

Best Lawyers is based in the USA and is the oldest and most respected peer-review publication in the legal profession. Over more than three decades, Best Lawyers lists, compiled after exhaustive peer-review surveys, have gained the respect of the legal profession, the media and the public for their reliability and independence. Lawyers are not permitted to pay any fee to participate in or be included and a listing is regarded as significant distinction conferred on a lawyer by his or her peers.

Elias Neocleous addresses inaugural 'Wealth Forum Cyprus'

Elias Neocleous was among a distinguished panel of speakers at the inaugural 'Wealth Forum Cyprus'. The event, aimed at ultra-high net worth individuals from around the world and their advisers, focused on international tax planning for inbound and outbound investments.

Elias spoke on the corporate tax aspects of investment via Cyprus into Russia and Ukraine with particular emphasis on the challenges posed by the current Eurozone crisis and the latest proposals for EU tax harmonisation. He reminded participants

that Cyprus has a stable and reliable legal infrastructure and that at a time of global economic uncertainty its long-term prosperity and stability are underpinned by substantial energy resources.

Andreas Neocleous interviewed by Russian media

Several prominent Russian newspapers, including 'Rossiiskaya Gazeta', the most authoritative and respected newspaper in Russia, and RBK Daily, the leading daily business newspaper, have recently interviewed Andreas Neocleous, chairman of our firm, regarding the current situation in Cyprus and its likely impact on its prospects as an international financial centre. Mr Neocleous pointed out that notwithstanding the current financial problems, which should not impact investors in any case, Cyprus continues to offer a stable and attractive business environment with world-class services and an unrivalled reputation for integrity. He expressed the hope that the authorities would learn from the current economic difficulties and take action to eliminate waste and improve the effectiveness of government services.

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, which is constantly updated and contains a wealth of useful information on recent developments in Cyprus law.

- ≡ [Cyprus chapter of "International Agency and Distribution Law"](#)
- ≡ [Cyprus chapter of "Tax on Transactions 2012-13"](#)
- ≡ [Cyprus chapter of "The Merger Control Review" - third edition](#)
- ≡ [Cyprus chapter of "Private Client Tax"](#)
- ≡ [Cyprus chapter of "Insurance & Reinsurance"](#)
- ≡ [Cyprus chapter of "International Secured Transactions"](#)
- ≡ [Cyprus chapter of "Getting the Deal Through – Dispute Resolution 2012"](#)
- ≡ [Cyprus chapter of "Getting the Deal Through – Public Procurement 2012"](#)
- ≡ [Cyprus chapter of "Corporate Recovery and Insolvency 2012"](#)
- ≡ [Cyprus chapter of "Cross-border Restructuring and Insolvency 2012"](#)
- ≡ [Cyprus chapter of "International Taxation of Low Tax Transactions" - second edition](#)
- ≡ [Cyprus chapter of "Getting the Deal Through – Labour and Employment"](#)



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