

Significant law amendments to the Cypriot tax regime

On 16 July 2015, important amendments to the Cyprus tax legislation were published to the Official Gazette. The amendments aim to enhance Cyprus' corporate and personal competitiveness in order to:

- Attract new equity capital for Cypriot companies, thus reduce corporate debts and
- Attract high net-worth individuals to reside in Cyprus and become Cypriot tax resident.

We analyse below the amendments of the tax legislation, which have been voted into law.

I. Notional Interest deduction (NID) on new equity.

The new amendments of the Income tax law provide for NID on new equity introduced to a Cyprus tax resident company as of 1 January 2015, provided that the new equity has financed trading activities.

The NID will be calculated as follows:

New equity x Reference interest rate

Definitions:

New equity: Any equity introduced to a Cypriot tax resident company in the form of paid-up share capital and/or share premium on or after 1st January 2015. Equity may be contributed in cash or in assets in kind. In the latter case, the amount of the new equity should not exceed the market value of the asset.

Reference interest rate: Interest rate of the 10 year government bond yield (as at 31 December of the previous tax year) in which the new equity is invested, increased by 3%, with the minimum rate being the 10 year government bond yield of the Republic of Cyprus (as at the same date) increase by 3%.

Other provisions:

The NID is tax deductible in the same way as interest expense, thus is subject to the same restrictions of the interest expense.

The NID granted cannot exceed 80% of the taxable profit of a Cypriot Company, as calculated prior granting the NID. Any excess amount cannot be carried forward to future years.

The claiming of the NID is not compulsory. A taxpayer may elect to claim part or the whole amount of the NID.

The NID also applies to permanent establishments in Cyprus of non-Cypriot resident companies.

General and specific anti-abuse provisions:

The NID will not be available in the cases of tax losses (i.e. cannot create tax losses).

To avoid combined benefits of the NID, it will be available to one company in cases the new equity of the company is derived directly or indirectly from the new equity of another company.

The NID is also restricted to the extent that another Cypriot entity has claimed an interest expense deduction on funds in case the new equity emanates directly or indirectly from such funds.

The NID will not be granted for new equity which emanates from:

- Reserves existing prior 1st January 2015, unless the new equity is financing new business assets.
- Share Capital and or share premium existing prior 1st January 2015 and
- Revaluation of assets

In case of qualifying reorganisation, the new equity is calculated as if the reorganisation had not been taken place.

Oxilium comments: New equity in the Cypriot companies is expected to attract the NID provision, thus less reliance on debt financing and improvement of cash flow management and re-investment policies.

II. Non Domiciled (Non-Dom) rules for Cyprus Tax Residents

The Special Defence Contribution (SDC) law has now been amended and as per the new provisions of the law, individuals who are Cyprus Tax residents but not domiciled in Cyprus will be exempt from the scope of the SDC law.

Hence, Cyprus tax resident individuals with Non-Dom status will not be subject to SDC on dividends, interest and rents earned from sources within Cyprus and/or abroad. It is worth to mention that interest and dividends are not subject under the income tax law.

As per the new provisions, domicile is defined in accordance with the rules of the Wills and

Succession Law under which two main kinds of domicile are identified:

- A domicile of origin (i.e. the domicile received by him at his birth); and,
- A domicile of choice ((i.e. the domicile acquired by him by establishing a home with the intention of a permanent or indefinite residence).

In case an individual has his domicile of origin in Cyprus will be treated as “domiciled in Cyprus” for SDC purposes with the exception of:

- An individual who has obtained and maintained a domicile of choice outside Cyprus under the provisions of the Wills and Succession Law, provided that this individual was not a Cyprus tax resident for any period of at least 20 consecutive years prior to the tax year in question; or
- An individual who was not a Cyprus tax resident for a period of at least 20 consecutive years immediately prior to the entry into force of the introduced provisions (i.e. prior to 16 July 2015).

It should be noted that in case an individual who is resident in Cyprus for a period of at least 17 years out of the last 20 years prior to the tax year in question shall be deemed as domiciled in Cyprus for SDC purposes regardless of whether or not he has his domicile of origin in Cyprus.

Anti-abuse provisions:

The exemption from SDC will not be granted in case of any assets that may give rise to SDC, have been transferred from an individual domiciled in Cyprus to an individual not domiciled in Cyprus, whereas one of the main reasons for the transfer of the said assets was to benefit from the exemption.

In this specific case, SDC will be imposed on the income derived from such assets and may be collected either from the transferor or the transferee, accordingly.

Oxilium comments: High net-worth individuals and investors are expected to reside to Cyprus in order to take up Cyprus tax residency.

III. Exemption from Capital Gain Tax on disposal of property

In accordance with the new amendments of the Capital Gain tax law, a full exemption from capital gain tax will be granted on gains from the disposal of immovable property consisting of land or land and building.

The exemption will apply subject to the following conditions:

- The immovable property was acquired during the period from 16 July 2015 to 31 December 2016.

- It was acquired from an independent party at market value.
- It was acquired via purchase or purchase agreement and not via an exchange or donation.

The above exemption will not apply for disposal of immovable properties under the foreclosure procedures.

IV. Reduction of transfer fees

As per the previous law and the new amendments, a 50% reduction in the immovable property transfer fees and lease or sublease registrations will be granted for any declaration of transfer or registration of immovable property until 31 December 2016.

The above exemption will not apply for transfer of immovable properties under the foreclosure procedures.

Meet the Team

Our tax experts will be glad to discuss with you the new provisions of the law and provide support, if needed. Our initial discussion is free-of-charge and without any obligation.

Contact us

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