

# CYPRUS TAX UPDATE

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## EDITORIAL

As part of the overall plan to improve Cyprus' attractiveness as an international business center and to attract foreign investment, the Cyprus Parliament on 9 July 2015 passed a number of new laws that:

- Introduce the non-dom status with tax exemptions over dividends and interest earned by qualifying non-doms
- Provide incentives to Strengthen the use of Cyprus companies in international tax structuring and to increase the operational substance of companies by providing incentives to relocate key persons to Cyprus
- Make Cyprus more attractive as a prime destination choice for persons wishing to invest in property (being a main pre-requisite for acquiring the Cyprus permanent residency permit or citizenship).

The Laws will come into effect once they are published in the Official Gazette which should be before the end of July.

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# 1. THE CYPRUS NON-DOM REGIME

An individual is considered as domiciled in Cyprus by way of domicile of origin or by domicile of choice.

Individuals that are Cyprus tax resident for 17 out of the last 20 years are considered to be domiciled in Cyprus. Cyprus tax residency for individuals is determined by the number of days each person spends in Cyprus on each calendar year (183 days).

Individuals that were born in Cyprus are considered NOT to be domiciled in Cyprus where they have not been Cyprus tax resident for at least 20 years before returning to Cyprus.

Non Domiciled persons are now exempt from defence tax. Such persons are therefore exempt from taxation on both dividends and any passive interest they receive.

Those persons already living in Cyprus and who are Cyprus tax resident persons qualifying as non-doms will immediately see a tax saving of 17% on dividends, 30% on bank deposit interest and, 3% on rental income).

Cyprus tax resident non-doms will continue to be subject to taxation at the normal applicable personal tax rates in respect of rental and other forms of income that they receive (salaries, directors fees etc.)

*BDO Observation: Together with the unconditional exemption afforded under tax law for Capital Gains realised on the disposal of securities (shares, bonds etc.), the new law creates an attractive tax environment for non-doms residing in Cyprus.*



# 2. INCENTIVES FOR MOVING OPERATIONS AND SUBSTANCE TO CYPRUS

## 2.1. EXEMPTIONS OF INCOME FROM FIRST EMPLOYMENT IN CYPRUS

Extension of incentives provided to persons obtaining employment in Cyprus:

- a. 20% exemption of the income from employment in Cyprus with a maximum exemption amount of €8,550 per year is extended from the first 3 to first 5 years and until the year 2020.
- b. 50% exemption of the income from employment in Cyprus that exceeds €100,000 per year is extended from 5 years to 10 years. This plan is available to individuals who were not Cyprus tax residents for three out of the last five years prior to the commencement of their employment in including the year immediately preceeding their employment.

Note that a person can only claim exemption under one of the above plans.

*BDO Observation: Together with the introduction of the non-dom regime the above plans offer significant tax incentives for high ranking employees to move to Cyprus.*

## 2.2. NOTIONAL INTEREST DEDUCTION ON EQUITY

As from 1 January 2015, companies are entitled to a notional interest tax deduction on 'new equity'. New equity means funds or in-kind payments introduced into the share capital of the company after 1 January 2015 and which has actually been paid and is used for the operations of the company.

This interest will be calculated based on the effective interest earned on the 10 year government bond yield of the country in which the new equity is invested plus 3%, with the minimum rate being the equivalent 10 year bond yield of Cyprus plus 3%. This notional expense deduction will be tax deductible to the extent that it relates to business assets and cannot exceed 80% of the taxable income of the company for the year. A tax deduction is not granted where the company makes losses.

The law allows the capitalisation of existing loans.

The law also allows new capital to be introduced by way of in kind transfers. Such transfers must be made at market values and should be supported by appropriate valuations carried out by appropriately qualified professionals.

The Law specifically excludes the capitalisation of existing reserves (such as revaluation reserves) and of retained profits as at 31 December 2014 from the definition of new capital.

The law includes a number of anti abuse provisions. Where the capital originates directly or indirectly from loans obtained by another Cyprus company that has itself received a tax deduction for interest expense, then the notional interest deduction will be reduced by that same amount. Similarly, where new capital originates either directly or indirectly from new capital introduced to another Cyprus company, only one company will be entitled to the notional interest deduction.

*BDO Observation: The aim of the law is to encourage new equity which in turn should increase the economic robustness of Cyprus companies through less reliance on debt financing. The new provision also potentially provides a solution to beneficial ownership issues that are increasingly the subject of double tax treaty anti-avoidance provisions.*

### 2.3. ACCELERATED CAPITAL EXPENDITURE ALLOWANCES EXTENDED

The annual tax depreciation for plant and equipment purchased after 2012 of 20% (instead of 10%) is extended for the years 2015 and 2016. Similarly the tax depreciation rate of 7% (instead of 4%) for new industrial and hotel buildings is extended for the same period.

*BDO Observation: This proposal aims to encourage business investment in qualifying fixed assets.*

### 2.4. TREATMENT OF FOREIGN EXCHANGE GAINS AND LOSSES

As from 1 January 2015, exchange differences, whether these are gains or losses realised or unrealised, are no longer be taxable or tax deductible.

The above provision does not apply to companies that are trading in foreign currencies. Such companies now have the right to make an irrevocable election so as not to be taxed on unrealised gains or losses and to be taxed only when such gains or losses are realised.

*BDO Observation: The aim of the law is to simplify the tax administration of companies and to reduce volatility in tax revenues caused by tax.*

### 2.5. EXTENSION OF GROUP LOSS RELIEF PROVISIONS

Until now, group loss relief was only available between qualifying group member companies that were Cyprus tax resident. In order to align with related European Court of Justice rulings, as of 1 January 2015, group loss relief is extended to include qualifying group subsidiary companies that are also tax resident in any EU member state. This will apply provided the foreign company has exhausted all possibilities available for using the available tax loss in its respective country or in the country where its immediate holding company resides.

*BDO Observation: The aim of the law is to align with EU Law and increase the attractiveness of Cyprus holding companies.*

## 3. INCENTIVES FOR INVESTMENT IN REAL ESTATE

### 3.1. NEW CAPITAL GAINS TAX EXEMPTION:

Immovable property purchased from the date the law comes into effect and 31 December 2016 will be exempted from CGT on any capital gain arising upon the future disposal. The property must include buildings to be eligible.

### 3.2. LAND REGISTRY (TRANSFER) FEES REDUCED:

For properties transferred until 31 December 2016 there will be a 50% reduction on the land transfer fees.

