

The Cyprus Holding Company

A gateway to Europe, Asia, Africa and the Middle East
Investor's Guide



Apserou Shiaka & Co Ltd

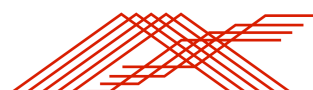


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Foreword

Cyprus, a long established business centre offers the ideal location through which investors can channel their investments anywhere in the world. Cyprus has gained this enviable position through its unique geographical location, its advanced infrastructure and services, the very competitive tax regime, its strong legal and regulatory framework based on UK common law and other strategic advantages.

The island's entry into the EU and the EU-Monetary Union has established Cyprus as the ideal gateway for investments to and from EU. Cyprus legal and Regulatory framework is based on English Common Law principles, it is fully compliant with the EU, the Financial Action Task Force on money laundering (FATF), OECD, FATCA, the Financial Stability Forum laws and regulations and EU AML directives.

Cyprus, offers unique tax opportunities to international businesses – low corporate tax rate, a network of favorable double tax treaties, no withholding tax on dividends and interest paid, no capital gains on profits from the disposal of shares and securities, exemption of taxes on foreign dividends and interest received. It complies with the EU directives and the OECD requirements against harmful tax practices.

Public/private companies and funds (UCITS and ICIS) registered in Cyprus can be used as efficient investment vehicles. A company or fund registered in Cyprus can conduct public offers in other EU member states or have their shares admitted on an EU regulated stock exchange. Cyprus holding companies are tax efficient and popular to invest in EU and non-EU countries.

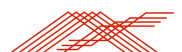
All the above positive arguments, along with the strong incentives given by the Cyprus Government with regards to Cyprus citizenship by investment scheme have created excellent opportunities for professionals to establish Cyprus as a major financial center within the European Union.

At Apserou Shiaka & Co, we can help you to determine your tax strategy of your business whether you are looking to use Cyprus as a base for your international operations or to invest in Cyprus. We provide professional services which include accounting, audit, tax, legal and business advisory.

We shall be pleased to hear from you.

Maria Shiaka

September 2016





Main features of Cyprus

Cyprus is located in the Eastern Mediterranean at the crossroads of Europe, the Middle East and Africa. Its strategic position plays a key role in trade and international business

An EU member state since May 2004 and member of Eurozone since 2008

A well advanced infrastructure, educational institutions and medical centers

The telecommunications infrastructure of Cyprus is well developed and companies are equipped with the latest technology

A well educated workforce and low cost business environment

High quality of life and the cost of living is low compared to other international financial centres

The Banking, Legal and Accounting Services in Cyprus closely follow the British pattern. Many Cypriot Banks have branches or representative offices throughout the world and International Banks also have branches on the island

An investor friendly tax regime with an extensive network of double taxation agreements with around 60 agreements signed. It is fully compliant with EU, OECD, and international laws and regulations

The new guidelines issued by the Cypriot VAT authorities make Cyprus the most attractive jurisdiction for private aircraft and Yacht registration in the EU

Investment fund jurisdiction

The discovery of significant Natural Gas reserves within Cyprus' EEZ brings new opportunities

Plans for a Science and Technology Park are in progress and are expected to boost business focusing on research, technology and innovation

Government residency and citizenship Schemes encourages property investments for non-EU citizens





The Cyprus Holding Company

Cyprus as an international financial centre is an ideal tax efficient gateway for investments in EU as well as non EU companies. It is widely used as an ultimate or intermediary holding company in a number of structures including the holding of operating, financing, real estate, as well as shipping companies.

Key features beneficial to the Cyprus Holding companies

KEY CRITERIA	COMMENT
Incoming dividends	Extensive double tax treaties, unilateral reliefs and EU Directives
Dividend income	Generally non taxable
Outgoing dividends	No withholding tax to non-residents
Capital Gains	Full tax exemption of gains
Foreign PE profits	Exempt
Reorganization and Group Relief	Group relief is allowed and losses set off against future profits
Controlled Foreign company	No CFC legislation
Thin Capitalization	No provisions for debt to equity ratio
Transfer pricing	No TP rules. Arm's length principle applies
Redomiciliation	Redomiciliation is permitted
Listing in international Stock Exchanges	Tax efficient and easy process
Interest income	Interest taxed only at 12,50 percent

KEY CRITERIA	COMMENT
Interest and Royalties Withholding	No withholding taxes, only for royalties (10%) for their use in Cyprus
VAT Registration	Holding activities are not obliged to register
Liquidation	Distribution of assets without any tax
Stamp Duty	Only for assets existing in Cyprus





The legal framework of a Cyprus Holding Company

Registering a Limited Liability Company in Cyprus

A Cyprus Limited Liability Company may be created in Cyprus as a legal entity by being registered under the provisions of the Companies Law, CAP 113.

Limited liability companies

Two types of Companies are recognized by the Companies Law:

1. The Company with limited liability by shares, which is the most popular type used and where its members' liability is limited to the stake they hold in the company, and
2. The Company with limited liability by guarantee, with or without shares, which is usually used when the purpose of the company is non-profit. The liability of its members is limited, on winding up, to the extent agreed upon.

Private and Public companies limited by shares

The Companies Law of Cyprus provides for private and public companies. It is simple to register and is affected by filling with the Registrar of Companies the company's

Memorandum and Articles of Association and other pertinent information.

A **private limited liability** company which is the most popular vehicle for carrying out business in and from Cyprus is one which its articles:

- restricts the right of transfer of shares,
- limits the number of its members to 50, and
- prohibits any invitation to the public to subscribe for any shares or debentures of the Company
- the word 'Limited' must be added at the end of the name

More stringent regulations from the Registrar of Companies and more requirements by law govern public companies.

A **public company** must adhere to the following:

- a minimum of 7 shareholders
- a minimum of 2 directors
- must maintain a minimum share capital of £15.000
- may invite the public to subscribe for any shares/debentures of the company
- before issuing shares or debentures to the public it must issue a prospectus or a statement in lieu of a prospectus



- trading certificate is needed by the Registrar of Companies
- The word 'Limited' must be added at the end of the name
- hold a statutory meeting and the directors make a statutory report to its shareholders

International business entities are as a rule registered as private companies because this legal form enjoys comparatively inexpensive formation procedures, consensus of a few shareholders, control over the membership and uncomplicated reporting requirements.

The main characteristics of the Cyprus Company

- The company has its own legal personality and is separate from its members (shareholders), which are only liable to their share participation in the company.
- The number of shareholders can be from one (1) to fifty (50).
- The minimum numbers of Directors of the company is one (1) and there is no maximum.
- The company must appoint one (1) Secretary, who may be physical or corporate, local or foreign.
- Special classes of shares with preferential rights may be issued but shares to the bearer cannot.
- The Company's share capital may be expressed in any currency although Euro is

the almost exclusively used currency. There are no restrictions with regards to the denomination of the shares but normally the Capital is divided into shares of Euro 1 each.

- Nominee shareholders may be appointed.
- The company must have a registered office in Cyprus.
- The company must have a Memorandum which defines the company's objects and powers and an Article of Association which sets out the administrative regulations for running the company.
- No license is required for the incorporation of a Cyprus Company

Registration of a Cyprus Limited Liability Company

1. Approval of the Name of the Company
2. Preparation of the Memorandum and Articles of Association in Greek and/or English language
3. Submission of the company documents to the Registrar of Companies and receipt certified full set of documents (Certificate of Incorporation, Memorandum and Articles of Association, Certificate of Directors & Secretary, Certificate of Shareholders and Certificate of Registered Office)





The Holding Company Location

Multinational companies may decide to establish a holding company for a number of reasons. These are mainly to

- hold assets in other companies or
- to participate in other companies and act as the 'ultimate holding company' or act as the 'intermediary holding company'.

The ultimate holding company

It may be more efficient to manage a group of subsidiaries in a particular region by centralizing financing, licensing or management activities. The ideal location for the ultimate holding company will be one with:

- No CFC provisions so the group can invest funds overseas without any tax penalties,
- No withholding taxes on dividends payable to the shareholders,
- A good tax treaty network or the country to be an EU member state so as to reduce or eliminate the withholding tax on dividends and interest received
- A location with no tax on interest and dividends received whereby they qualify as exempt tax income
- No stamp duty or transfer tax on the sale of shares by the shareholders
- Low corporate tax rate but not critical if dividends are tax exempt

- Low personal income tax rates or very attractive tax schemes and provisions. This is really very important for headquarter operations transferred with a substantial number of staff.

The intermediate holding company

In this case the holding company is used to collect dividends and refinance other subsidiaries owed by the same holding company or make acquisitions without the need to repatriate the dividends directly to the ultimate company.

The asset holding company

The holding company can be used to protect the assets of the business and reduce business risk. A lot of multinational companies use this structure and have IP holding companies located in low tax rate countries or with a tax treaty country.

There may be a lot of factors in considering the location of the holding company. These factors can have the nature of business, economic, logistical or operational characteristics. Tax considerations is a relevant factor but may not be the decisive factor in choosing to set up a holding company in a particular location.



The Cyprus Tax System

The major tax considerations that a multinational group should take into account in choosing the suitable place for the holding company should include the dividends tax regime and the tax regime with regards to the capital gain on the disposal of shares in participation holdings.

Dividends tax regime

Payment of dividends

There is no withholding tax on dividends in the case where the recipient is an overseas company or an individual. Only individuals who have their domicile in Cyprus are subject to Special Defence Contribution of 17% on dividends received.

Payment of dividends to both resident and non-resident Cyprus companies is exempted from withholding tax.

Dividends declared by a Cyprus tax resident company to another Cyprus tax resident company after the lapse of four years from the end of the year in which the profits giving rise to the dividend relate, are subject to 17% defence contribution.

Outward dividends paid by the Cyprus holding company to individuals are subject to 17% special defence contribution if they are both Cyprus tax residents and Cyprus domiciled.

Dividends received

Dividends received by a Cyprus holding company from Cyprus participation holdings are tax exempt subject to the following exemption.

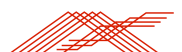
Dividends declared by a Cyprus tax resident company to another Cyprus tax resident company after the lapse of four years from the end of the year in which the profits giving rise to the dividend relate, are subject to 17% defence contribution.

As from 1 January 2016, dividends which are tax deductible for the paying company are not exempt from tax in the hands of the recipient (Anti – hybrid rule).

Dividends received from abroad are exempt from defence fund contribution if one of the following conditions is satisfied

(a) The company paying the dividend must not directly or indirectly engage more than 50% in activities which lead to investment income¹ **and**

(b) The foreign tax is not significantly lower than the tax rate burden in Cyprus. An effective tax rate of at least 6,25% in the country paying the dividend satisfies the condition. If neither of the above conditions is satisfied, then dividends received from abroad



are taxed at the level of the Special Contribution for Defence at the rate of 17% for years 2014 onwards.

Dividend income received from abroad is exempt and from July 9, 2016 non domicile but tax resident individuals are not liable to the Special Contribution for Defence Fund (SCDF)

¹Investment income is defined by Law as any income which is not obtained or derived from any business, employment, pensions or annuities which are paid by reason or in connection with a past employment. Dividends and interest can be considered as investment income.

Disposal of Securities regime

Any income arising from the disposal of securities is exempt, irrespective of whether the gain is considered to be of a capital nature or of a revenue nature. There is no requirement for any minimum holding period, minimum investment amount or minimum percentage holding.

The term “Securities” as defined in Law includes shares, bonds, debentures, founders’ shares and other securities of companies or other legal persons, incorporated in Cyprus or abroad and options thereon. A circular has been issued by the Tax Authorities in 2008 further clarifying what is included in the term Securities. According to the circular the term includes, among others, options on Securities, short positions on Securities, futures/forwards on Securities, swaps on Securities, depositary receipts on Securities (ADRs, GDRs), rights of claim on bonds and debentures (rights on interest of these instruments are not included), index participations only if they result on Securities, repurchase agreements or Repos on Securities, units in open-end or close-end collective investment schemes. The circular also clarifies specific types of participation in foreign entities which are considered as Securities.

Profits from the sale of shares that relate to immovable property situated in Cyprus is taxable. The profits arising from the disposal of immovable property are exempt from Capital Gains Tax provided the property was acquired from July 2015 until December 31, 2016

Capital gains from the sale of immovable property situated outside Cyprus is tax exempt.





Other tax considerations

Company tax residency

In accordance with the Cyprus Income Tax Laws, a company should be tax resident in Cyprus to enjoy the Cyprus Tax Benefits and to qualify for the Double Tax Treaty treatment.

A company is considered as Cyprus Tax resident if the effective management and control is exercised in Cyprus.

The following factors are considered:

- The majority of the members of Board of Directors are tax residents in Cyprus and exercise their office from Cyprus
- The Board Meetings take place in Cyprus and the major (and preferably day to day) decisions are properly taken during these meetings. During the meetings written resolutions, agreements, contracts and other documents which relate to the management and administration of the company are signed.
- Actual administration office where actual management and control of the company will be exercised.
- Hard copies of commercial documentation are stored in the office facilities of the company
- Accounting records are prepared and kept in Cyprus

- The annual audited financial statements are approved during these meetings
- The Board of Directors control the bank accounts even if they are established outside Cyprus
- The place where the seal of the company is authorized to be used

Taxation of the Cyprus Tax resident companies

A company which is tax resident in Cyprus is taxed on its worldwide income.

Double tax treaty relief

The credit method is followed for granting relief for any foreign tax paid on income arising in the foreign country, against the Cyprus tax payable on the same income. In the absence of a Double Tax Agreement (DTA), Cyprus unilaterally affords a credit for the foreign tax paid up to the amount of tax that would have been payable in Cyprus on the same income. For dividends received from EU Member States the underlying tax credit is also available.

The taxation of the Cyprus Non-Tax resident companies

A company which is non-tax resident of Cyprus, will only be taxed on its profits arising from a

permanent establishment in Cyprus. The company will not be able to have access to the benefits of the double tax treaties and access to the EU Directives is not required. It is just an EU based / incorporated company for commercial purposes.

Income tax rate

12.5% uniform corporate tax on trading profits.

The New equity and notional interest deduction for Cyprus Companies (NID)

According to the amending law, companies resident in Cyprus or companies not resident in Cyprus with a permanent establishment in Cyprus can claim a notional interest deduction (NID) in respect of new equity. It is calculated by multiplying the new qualifying equity amount by the reference interest rate which is equal to the yield of the 10-year Government bond of the country in which the new capital is invested plus 3%. The deductible amount cannot exceed 80% of the taxable profit as calculated before allowing for this deduction.

Interest Income

Active interest income (interest income effectively connected with the carrying on of a trade or business of the company) is subject to the corporate income tax rate of 12.5% as regular trading income after the deduction of any relevant expenses.

Passive interest income, (income not connected to a trade or business), is exempt from corporate income tax purposes but taxed at the level of the Special Contribution for Defence (SCD) at thirty percent (30%) on a gross basis. Individuals who are not “domiciled” in Cyprus be exempted from the payment of the SCD on income from interest even if they are considered as tax residents of Cyprus

Rental Income

Rental income from immovable property located in Cyprus and profit from sale of goodwill in Cyprus is also taxable irrespective

of the existence of a permanent establishment. This income is taxable under both income tax law and Special Contribution for Defence law. Non domiciled individuals are not liable to Special Contribution for Defence.

Tax exempt income

Dividend income received from abroad is exempt and from July 9, 2016 non domicile but tax residents are not liable to the Special Contribution for Defence Fund (SCDF)

Capital gains on sale of Securities are tax exempt. Profits from the sale of shares are not taxable unless they relate to immovable property situated in Cyprus. The profits arising from the disposal of immovable property are exempt from Capital Gains Tax provided the property was acquired from July 2015 until December 31, 2016

Capital gains from the sale of immovable property situated outside Cyprus is tax exempt

Foreign Permanent Establishment profits are tax exempt (subject to conditions)

Rent income from preserved buildings is tax exempt

Foreign Permanent Establishments (PEs)

The profit of a foreign PE of a Cyprus holding company is exempt from corporate tax in Cyprus, if one of the following two conditions is satisfied:

- (1) The PE must not engage more than 50%, directly or indirectly, in activities which lead to passive income or
- (2) The foreign tax burden imposed on the PE must not be substantially lower than that in Cyprus.

Reorganizations

The Income Tax Law adopts the relevant EU directive whereby reorganizations, amalgamations, mergers and acquisitions can be effected without any tax implications.



A photograph showing two business people in suits shaking hands over a desk with papers and a laptop. The image is slightly blurred, focusing on the handshake.

Other considerations

Double Tax Agreements (DTA)

Cyprus has currently concluded over 60 agreements for the avoidance of double taxation covering the majority of the European Countries, USA, Canada, China, India, Russia and the C.I.S countries.

European Union Directives

Cyprus has adopted all EU Directives in relation to taxation including the Parents Subsidiary Directive, the Interest and Royalty Directive, the Tax Savings Directive and the Mergers Directive.

The EU Parent Subsidiary Directive exempts the withholding tax deduction on dividends and other profit distributions paid by EU subsidiary companies to their EU parent companies and eliminate double taxation of dividend income at the level of the parent company. The main criterion that needs to be met is that the parent holds at least 10% of the share capital of the subsidiary.

Thin capitalization rules

There are no thin capitalization rules in the Cyprus Income Tax Law. However, it is stated in law that the interest cost for loans used for the purchase of assets not used in the business is not allowable for tax purposes.

Acquisition cost

Interest expense incurred for the direct or indirect acquisition of 100% of the share capital of a subsidiary company will be treated as deductible for income tax purposes provided that the 100% subsidiary company does not own any assets that are not used in the business. If the subsidiary owns (directly or indirectly) any assets not used in the business the interest expense deduction is restricted to the amount which relates to assets used in the business. This applies for acquisitions of subsidiaries from 1 January 2012.

Transfer pricing

No formal transfer pricing rules exist in the Cyprus Income Tax Law. However, the income tax law is specific that transactions between 'related parties' to be in accordance with the arm's length principle.

Tax losses

Taxable losses incurred during a tax year and which cannot be set off against other income, is carried forward subject to conditions and set off against the profits of the next five years.

Group relief

The current year loss of one company can be set off against the current year profit of another

provided the companies are Cyprus tax resident companies of a group. A company incorporated by its holding company during the year is considered as member of the group for the whole year of assessment. Group is defined as:

(a) one company holding at least 75% of the shares of the other company or

(b) at least 75% of the voting shares of the companies are held by another company.

As from 1 January 2015 interposition of a non - Cyprus tax resident company(ies) will not affect the eligibility for group relief as long as such company(ies) is tax resident of either an EU country or in a country with which Cyprus has a double tax treaty or an exchange of information agreement (bilateral or multilateral).

Losses arising from a PE abroad can be offset against the profits arising in Cyprus. Any future profits of the foreign PE will be taxable under the Cyprus Income Tax up to the amount of the losses already surrendered to the Cyprus Company.

Withholding taxes

No withholding tax on outward payments to non Cyprus tax residents (companies or individuals) in respect to dividends, interest and royalties which are used outside Cyprus.

Re-Domicilation of Companies

Tax free corporate re-domiciliation permitted

Establishment of SE European Company

Possibility for establishing an SE (European Company)

Advance tax rulings

Advance ruling practice exists

Controlled Foreign Companies (CFC) Rules

Cyprus does not have in its legislation CFC rules

Inheritance or Estate Taxes

There is no inheritance or estate tax under Cyprus legislation

Wealth Taxes

Cyprus imposes no tax on wealth

Stamp Duty

Stamp duty is concerned with documents which deal with property situated in the Republic of Cyprus, as well as matters or things to be performed or done in Cyprus, irrespective of the place of execution of such documents.

A number of categories of documents are explicitly exempted from stamp duty, including documents relating to the sale of goods, hiring of employees, transfer of securities quoted on a recognized stock exchange etc.

The stamp duty payable for the amount in excess of €5.000 is 0,15% and over €170.000 is 0,20% with a maximum duty of €20.000. The duty is payable within 30 days from the day of signing the agreement.

Annual corporate levy

Every company registered in Cyprus is subject to annual levy of €350. In case of corporate groups, the total payment is capped at €20.000 allocated to each Cyprus Company.





Special Contribution for Defence

Non – domiciled persons are exempt from the payment of Special Contribution for Defence.

Before July 2015 individuals were subject to Special Contribution for Defence if they were tax resident in Cyprus. As from July 16, the Law has been amended and is as follows:

Legal entities are subject to Special Contribution for Defence if they are tax resident in Cyprus.

Individuals are subject to Special Contribution for Defence if they are both Cyprus tax resident and Cyprus domiciled.

For the purposes of Special Contribution for Defence an individual is domiciled in Cyprus if he / she has a domicile of origin in Cyprus per the Wills and Succession Law or if he / she has been resident in Cyprus for at least 17 out of the 20 tax years immediately prior to the tax year of assessment.

Deemed Dividend Distribution provisions

If a Cyprus tax resident company does not distribute seventy per cent (70%) of its accounting profits accruing in a financial year in the form of a dividend to its Cyprus tax resident shareholders (Companies and Individuals) within two years following the year to which the profits relate, then 70% of

the company's accounting profits will be deemed to have been distributed and Special Defence Contribution tax will be imposed at a rate of 17% on the deemed distribution amount.

The amount of dividends deemed to have been distributed is reduced by any actual dividends which have been distributed during the two year period starting from the end of the year of assessment to which the profits relate.

If the ultimate shareholders of a Cyprus tax resident company are non-domiciled of Cyprus, deemed dividend distribution provisions are not applied.

Thus, profits arising in a Cyprus company can be accumulated for as long as the shareholders wish, since the shareholders are not tax residents of Cyprus, for further financing or reinvestment in the group if so desired, without any obligation to distribute the dividends.

Dividends receivable by a Cyprus Company

Dividends receivable by a Cyprus company will be exempt from the Special Contribution for Defence (SCD) tax if the following conditions are satisfied:

The company paying the dividend must not engage more than fifty percent directly or

indirectly in activities which lead to passive income (non-trading income); and

The foreign tax is not substantially lower than the tax rate payable in Cyprus;

If the above conditions are not satisfied, then dividends will be subject to Special Contribution for Defence tax (SCD) at the rate of 17%.





Notional Interest Deduction (NID) on capital

Companies resident in Cyprus or companies not resident in Cyprus with a permanent establishment in Cyprus can claim a notional interest deduction (NID) in respect of new equity. The new equity can be contributed in cash or in assets in kind and is used to finance business assets.

NID is calculated by multiplying the "new equity" with the "reference interest rate".

Reference interest Rate means the yield rate of the 10 year government bonds of the Country where the funds are employed increased by 3 percentage points, with a minimum rate of return the 10 year government bonds of the Republic, increased by 3 percentage points as at 31 December of the year preceding the tax year. The minimum applicable reference interest rate for Cyprus companies in 2015 was 8% (5%+3%).

New Equity means the equity which has been introduced in the company on or after January 1, 2015, but which do not include amounts that have been capitalized and are derived from the revaluation of movable or immovable securities.

Old equity means the equity that existed on December 31, 2014

Equity means the issued share capital and share premium from the issue of shares to the extent that they have been paid.

Capital is not considered as new equity, if the funds that have been introduced in the company on or after January 1, 2015 which directly or indirectly relate to the reserves outstanding as at December 31, 2014 and are not related to new assets used in the business.

Anti-abuse provisions

The amount of NID may not exceed the rate of eighty percent (80%) of taxable income and cannot be carried forward to future tax years

The Tax Commissioner may restrict the amount of NID if he considers that arrangements have been put into place aiming to benefit from the deduction with no valid economic or commercial reason.



Non-domiciled status

In July, 2015, the Cypriot House of Representatives voted significant amendments to the Cyprus tax legislation. Most of these amendments aim to the modernization of the Cyprus tax system and improve the competitiveness of Cyprus in attracting foreign investment. All changes made were aligned with global and European Union (EU) developments in the field of corporate taxation.

One of the most important changes made to the Cyprus legislation was the introduction of the non-domiciled individual concept. The non-domiciled status might be a viable solution for high-earners to optimise their taxes and relocate to Cyprus and use Cyprus as their business centres, by transferring the headquarters of their business and creating real substance.

For tax purposes, an individual is considered to be a Cypriot tax resident if he/she is physically present in Cyprus for a period or periods exceeding in aggregate 183 days during a particular calendar year. The Cyprus tax resident individual is then liable to Cyprus income tax on his/her worldwide income and before July, 2015 to Cyprus Defence Tax. The Cypriot tax resident who is not "domiciled" in Cyprus is exempted from the payment of the Special Contribution for Defence on the following income even if they are considered as tax residents of Cyprus

- dividends
- passive interest income and
- rental income

For purposes of the Law, an individual is domiciled in Cyprus if he has his domicile of origin in Cyprus based on the provisions of the Wills and Succession Law excluding

4. An individual who has his domicile of origin in Cyprus, has obtained and maintained domicile of choice outside Cyprus, based on the provisions of the Wills and Succession Law, provided that he was not tax resident in Cyprus for any period of at least 20 consecutive years before the tax year, or
5. An individual who was not a tax resident in the Republic for at least 20 consecutive years immediately before the entry into force of the Law.

An individual is considered to have his domicile in Cyprus for the purposes of this Law if he was a tax resident in Cyprus for at least 17 out of the last 20 years before the tax year, irrespective of whether or not has his domicile of origin in Cyprus.

The following points should be taken into consideration

- An individual must at all times have one single domicile and cannot be without a domicile at any given time



- Until a new domicile is acquired the existing domicile is valid
- The domicile is distinct irrespective of an individual's nationality, citizenship and residence status





EU Directives in Cyprus

Cyprus is member of the EU since 2004, enjoying ever since full membership privileges including the benefits from the EU directives.

Parent - Subsidiary Directive

The EU Parent – Subsidiary directive aims to exempt distribution within the EU from Withholding tax where at least 10% of the capital of the paying company is owned by the parent company which is based in another member state and the holding period lasted for at least 2 years.

Cyprus adopted and fully implemented the Directive. According to the national provisions, an exemption on withholding tax on dividends is granted irrespective of the holding in the subsidiary shares. Cyprus has not applied the minimum 2 years of holding period.

As from 1 January 2016, dividends which are tax deductible for the paying company are not exempt from tax in the hands of the recipient. In this case the income will be taxable as normal business income under income tax and not as dividends under SDC. In addition no unilateral relief will apply in the event arrangements have been put into place for the main purpose of obtaining tax advantage. Arrangements will be considered genuine if there are valid commercial reasons that reflect the economic reality.

Interest and Royalties Directive

This directive has many similarities to the Parent – Subsidiary directive, including the conditions under which it applies. No withholding tax applies to the payment of interest and royalties between “associated” companies in different member states where one has the requisite ownership of the other or both are commonly owned by a third EU Company. This test requires direct ownership of 25% of the capital for at least 2 years.

Cyprus has incorporated the Directive without imposing any minimum shareholding requirement and minimum holding period for the applicability of the Directive.

Mergers Directive

The mergers directive is applicable to mergers, divisions and partial divisions, exchange of shares and transfer of assets between member states.

Under this directive:

- gains not actually realized are effectively rolled over into the transferee company
- losses are carried over if the state in which the transferor company is located permits under its domestic law for the losses to be carried over



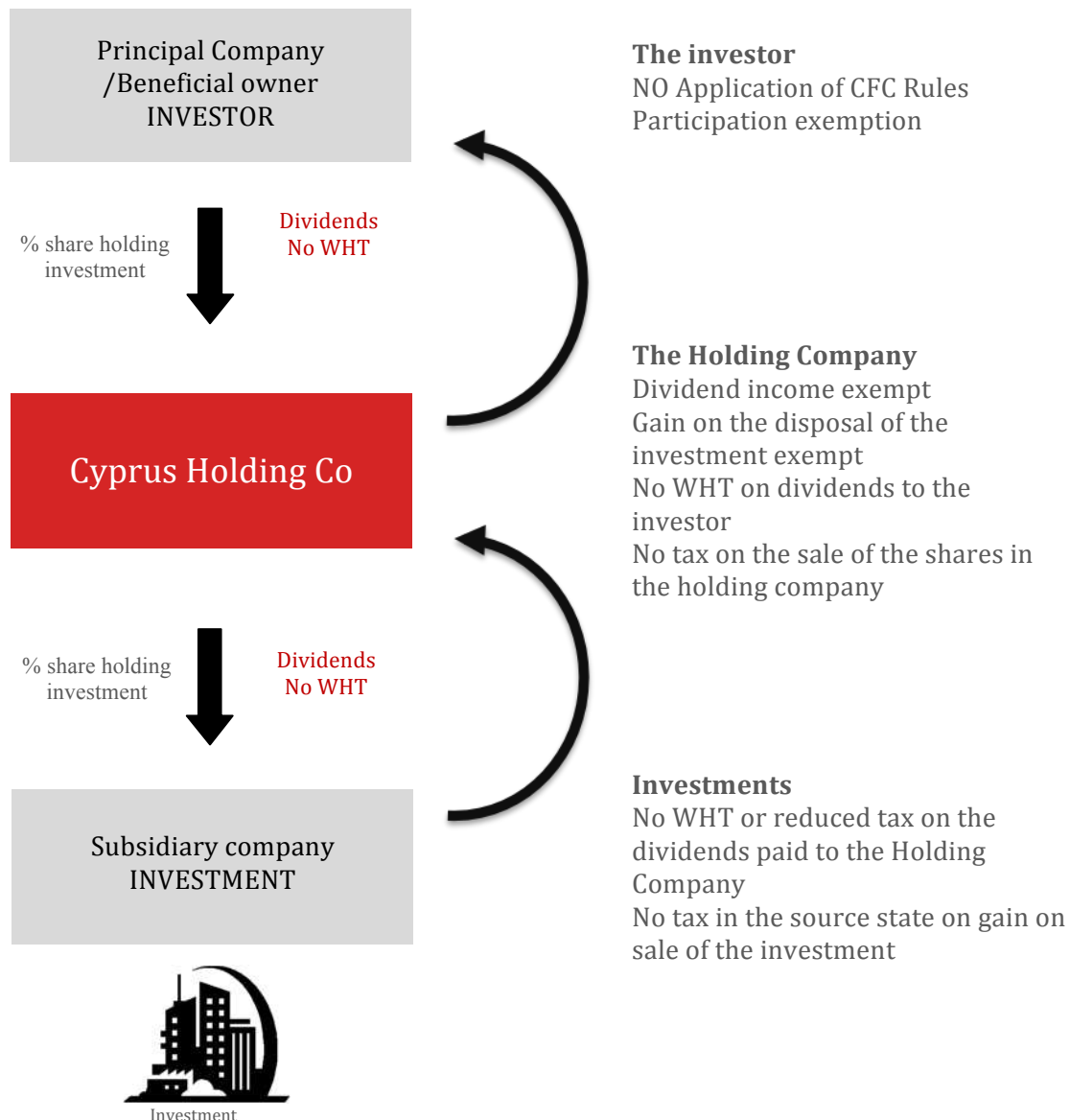
- potential gains to shareholders on transfers of initial shares held.

Cyprus has fully incorporated the EU Directive into its national law.

	Participation	Period	Withholding rate
Parent Subsidiary Directive			
Dividends	10%	2 year	0%
Interest and Royalty Directive			
Interest, Royalty	25%	2 years	0%

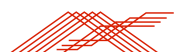


Company Structures – The Ideal Condition



Important factors to consider

- Deferral of taxation until actual distribution
- CFC Rules
- Double tax treaties and EU Directives
- Tax residency factors
- Beneficial ownership
- Actual place of the management
- Economic substance
- Office facilities and personnel





Substance requirements

Base Erosion and Profit Shifting

Since the Organisation for Economic Co-operation and Development ([OECD](#)) presented their action plan on 'Base Erosion and Profit Shifting' ([BEPS](#)) the importance of 'substance' has significantly increased.

The ultimate goal of the BEPS initiative is to prevent the granting of the tax treaty benefits in the case of international corporate structures which are only set up to enjoy the beneficial terms of the specific double tax treaties. In order to achieve this BEPS is addressing a broad range of subjects, including:

- substance requirements under treaties for the avoidance of double taxation,
- anti-abuse provisions in double taxation treaties,
- anti-abuse measures in home country legislation, and Controlled Foreign Company ([CFC](#)) rules.

Other include

- Beneficial ownership provisions and tax residency issues
- Exchange of information between tax authorities

Key considerations for setting up a Cyprus company

The decision to set up and use a Cyprus company must be driven by valid business reasons. The purpose of the company should be to carry out bona fide, genuine business activities and tax strategies should be aligned based on the business management and operation model.

To qualify as a Cyprus Tax Resident, the management and the control of a company must be exercised from Cyprus. This means that the company should have a registered address in Cyprus, the majority of its directors must be Cyprus tax residents and most of their meetings should take place in Cyprus.

Tax authorities in other jurisdictions will be difficult to deny treaty benefits to Cyprus Tax Residents if they show sufficient substance and business rationale of their operations.

It is therefore important to pay special attention when designing and implementing an international tax structure in order to minimize the risk of a successful challenge over tax residency.



Issues that need to be considered:

What are the specific activities of the foreign corporate entity?

What is the legal framework of the countries involved?

What is the level of economic activity and what is the actual set-up of the foreign corporate entity.

Does the company have its own staff (one or more people) and equipment?

Does it have its own office space and/or are business premises available?

What is the turnover and how many costs are incurred locally?

Are there actual activities and functions established locally and which decisions can local staff take independently?

Management and Control VS Effective Management and Control

The place of effective management and control is where key management and commercial decisions are made. If the board in Cyprus merely gives formal approval to decisions that have already been made elsewhere, then it can be argued that the company is not a Cyprus Tax Resident or that it has a permanent establishment abroad. It is, therefore, important that the board consists of qualified individuals that have all relevant information before them in order to make informed decisions regarding key issues.

Office Requirements

It is strongly recommended that an actual office is maintained in Cyprus where the

management and control, and preferably also the day-to-day administration, of the company are exercised. Furthermore, the office should have a telephone and a fax line.

Staff Requirements

In order to enhance their substance, companies should employ an adequate number of qualified staff to run their business from Cyprus. This, however, depends on the type of business performed by each individual company.

Record Keeping Requirements

Hard copies of all relevant documents, such as corporate documents, agreements, invoices and so on, should be kept in the Cyprus based office of the company.

Accounting Records

The accounting records of the company should be prepared and kept in Cyprus.

Bank Accounts

The bank accounts of the company, regardless of whether they are based in or outside Cyprus, should be operated from Cyprus as it can be argued that the effective management and control of the company is where its funds are managed from.

Web Presence

The company should have an e-mail address and a website.





Cyprus Tax Treaties

The purpose of the double tax treaties is the protection of income derived in one country and remitted to another, from being subject to taxation in both jurisdictions. Treaties usually provide for a tax credit to the recipient of the income for the amount of tax that has already been paid in the country where the income has originated.

In accordance with the Cyprus Income Tax Laws, a company should be tax resident in Cyprus to enjoy the Cyprus Tax Benefits and to qualify for the Double Tax Treaty treatment.

A company is considered as Cyprus Tax resident if the effective management and control is exercised in Cyprus. The following factors should be considered:

- The majority of the members of Board of Directors are tax resident in Cyprus and exercise their office from Cyprus
- The Board Meetings take place in Cyprus and the major (and preferably day to day) decisions are properly taken during these meetings. During the meetings written resolutions, agreements, contracts and other documents which relates to the management and administration of the company are signed.
- Actual administration office where actual management and control of the company will be exercised.

- Hard copies of commercial documentation are stored in the office facilities of the company
- Accounting records are prepared and kept in Cyprus
- The annual audited financial statements are approved during these meetings
- The Board of Directors control the bank accounts even if they are established outside Cyprus
- The place where the seal of the company is authorized to be used.

WHT on other types of income

Cyprus levies a 10% WHT on technical services performed by non-residents in Cyprus. However, no such WHT is levied if such services are performed via a permanent establishment in Cyprus of the non-resident or if performed between 'associated' companies as these are defined by the EU Interest and Royalty Directive as enacted in the Cyprus tax legislation.

Cyprus also levies a 10% WHT on the gross income/ receipts derived by a non- resident individual from the exercise in Cyprus of any profession or vocation and the remuneration of non-resident public entertainers (such as theatrical, musical including football clubs, other athletic missions etc).



Further, a 5% WHT is levied on gross income derived from within Cyprus by non-residents with no local permanent establishment for providing ancillary services related to exploration and exploitation activities.

The rate of 5% WHT applies in respect of the showing of cinematograph films in Cyprus.

Received in Cyprus*

Payments from Cyprus

Dividends, interest and royalties are not subject to any withholding tax when paid by a Cyprus company.

Cyprus has concluded double tax treaties with the following countries:

Country	Dividends (%)	Interest (%)	Royalties (%)
Armenia	0/5 if a dividend is paid by a company in which the beneficial owner has invested less than €150.000	5	5
Austria	10	0	0
Bahrain	Take place in 2017	Take place in 2017	Take place in 2017
Belarus	(5 if amount invested > 200.000 EURO irrespective of % of votes / 10 if at least 25% of share cap. / otherwise 15)	5	5
Belgium	10 (15 if <25% of votes)	10 / 0 if paid to public body	0
Bosnia*1	10	10	10
Bulgaria	5 / 10 if received by a company owning < 25% of share cap.	7 / 0 if paid to or guaranteed by a public body	10 / does not apply if > 25% of cap. of Cypriot resident owned directly or indirectly by Bulgarian resident paying the royalties and the Cyprus company is subject to a preferential tax rate
Canada	15	15 / 0 if paid to the Government or for export guarantee	10 / 0 on literary, dramatic musical or artistic work with the exception of films used for television programs
China	10	10	10
CIS (Armenia, Kyrgyzstan, Moldova, Tajikistan,	0	0	0



Country	Dividends (%)	Interest (%)	Royalties (%)
Uzbekistan, and Ukraine consider themselves bound by the treaty signed with the former USSR. The rates shown are those of the treaty Cyprus / USSR)			
Czech Republic	0/5 if received by a company holding directly at least 10% of the share capital of the paying company for an uninterrupted period of no less than one year then, nil is applied.	0	0/ 10 for patent, trademark, design or model, plan, secret formula or process, computer software or industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
Denmark	0 if paid to the government/ Central Bank/ Public Authority of the other state / 15 if received by a company controlling <10% of the share capital of the paying company or the duration of any holding is < one uninterrupted year or if received by an individual	0	0
Egypt	15	15	10
Estonia	0	0	0
Finland	5/15 if received by a company controlling less than 10% of votes in the paying company and if received by an individual	0	0
France	10/15 if < 10% of votes	10 / 0 if paid to a government, bank, or financial institution	0/5 on films including films used for television programs
Georgia	0	0	0
Germany	5 /15 if < 10% of votes and in all cases if received by an individual	0	0



Country	Dividends (%)	Interest (%)	Royalties (%)
Greece	25	10	0 / 5 on cinematographic firm royalties (other than films shown on television)
Guernsey	0	0	0
Hungary	5/15 if <25% of votes and in all cases if received by an individual	10 / 0 if paid to the government/ Central bank/ Public Authority of the other state	0
Iceland*2	10/ 5 if received by company holding directly at least 10% of votes of the company paying the dividend.	0	5
India	10/15 if <10% of votes	10/ 0 if paid to public body or financial institution	15 / 10 on payment of technical fees, management fees and consultancy fees
Iran	5% withholding tax on the dividends, if the beneficial owner is a company holding at least 25% of the capital of the company paying the dividends / 10% withholding tax in all other cases	5	6
Ireland	0	0	0 / 5 on cinematographic firm royalties (other than films shown on television)
Italy	15	10	0
Jersey	0	0	0
Kuwait	0	0	5
Latvia	0/ if this is not applicable, and the recipient company is not the beneficial owner the dividend will be 10	0/ if this is not applicable, and the recipient company is not the beneficial owner the interest will be 10%	0/ if this is not applicable, and the recipient company is not the beneficial owner, the royalties will be 5%.
Lebanon	5	5	0



Country	Dividends (%)	Interest (%)	Royalties (%)
Lithuania* ³	0/ 5 if received by a company holding <10% of votes paying the dividend and in all cases if received by an individual	0	5
Malta	0 The treaty provides that the tax on gross dividends shall not exceed that chargeable on the profits out of which the dividend is paid	10	10
Mauritius	0	0	0
Moldova	10/ 5 if received by a company holding less than 10% of votes and in all cases if received by an individual	5	5
Montenegro	10	10	10
Norway* ⁴	15 / 0 if the beneficial owner is a company holding directly at least 10% of the capital of the company paying the dividends or if the beneficial owner of the shares is the Government of Cyprus or Norway.	0	0
Poland	5/0 if recipient company holds directly 10% of the share capital of the paying company for an uninterrupted period of at least 2 years.	5/0 if paid to the government/ Central bank/ Public Authority of the other state	5
Portugal	10	10	10
Qatar	0	0	5
Romania	10	10/ 0 if paid to public body or financial institution	5 / 0 on literary, artistic or scientific work including films
Russia	5 / 10 if received by a company which has	0	0



Country	Dividends (%)	Interest (%)	Royalties (%)
	invested < \$100.000		
San Marino	0	0	0
Seychelles	0	0	5
Singapore	0	10 / 7 if paid to a Bank or similar financial institution / 0 if to the Government	10
Slovakia	10	10/ 0 if paid to public body or financial institution	5 / 0 on literary, artistic or scientific work including films
Slovenia	5	5	5
South Africa	10/ A protocol to the treaty entered into force on 18 September 2015 but may apply retrospectively. 5% if the beneficial owner is a company which holds at least 10% of the capital of the company paying the dividend	0	0
Spain	0/5 if received by a company holding < 10% of Votes of the paying company and in all cases if received by an individual or a company not limited at least partly by shares	0	0
Sweden	5/15 if <25% of votes	10/ 0 if paid to public body or financial institution	0
Switzerland	15/ 0 if the beneficial owner is a company holding directly at least 10 per cent of the capital of the company is paying the dividends during an uninterrupted period of at	0	0



Country	Dividends (%)	Interest (%)	Royalties (%)
	<p>least one year (the holding period condition may be satisfied post the date of the dividend payment) and 0 if the</p> <p>beneficial owner is a pension fund or other similar institution or relates to the Government of Cyprus or Switzerland.</p>		
Syria	0/15 if <25% of votes	10/ 0 if paid to public body or financial institution	15 / 10 on literary, dramatic, musical, artistic work, films and TV
Thailand	10	15 / 10 on interest received from financial institutions, on interest paid in connection with industrial, commercial, scientific equipment or the sale or merchandise between two companies	5 / 10 on right to use industrial, commercial or scientific experience / 15 on patents, trademarks, designs, models, plans, secret formulas or processes
Ukraine	5/15 if a dividend is paid by a company in which the beneficial owner holds <20% of votes and the beneficial owner has invested < €100.000	2	10 / 5% will be levied on payment of royalties in respect of any copyright of scientific work, any patent, trade mark, secret formula, process or information concerning industrial, commercial or scientific experience
United Arab Emirates	0	0	0
United Kingdom	<p>15% on individual shareholders regardless of their</p> <p>percentage of shareholding and on Companies controlling less than 10%</p> <p>of the voting shares /0 if <10% of votes</p>	10	0/5 on films including films used for television programs



Country	Dividends (%)	Interest (%)	Royalties (%)
United States of America	15 / 5 if more than 10% of votes	10 / 0 if paid to the Government or a bank or a fin. Inst. Or in respect to debt obligations arising in connection with sale of property or the provision of services	0
Yugoslavia (Serbia - Montenegro and Slovenia)	10	10	10

*¹ Serbia, Montenegro and Bosnia apply the Yugoslavia/Cyprus treaty.

*² The treaty with Iceland is effective from 1 Jan 2015. This is the first double tax treaty between the two countries.

*³ The treaty with Lithuania is effective from 1 January 2015. This is the first double tax treaty between the two countries.

*⁴ The treaty with Norway is effective from 1 Jan 2015. This replaces the previous treaty effective between the two countries.





Our services

At **Apserou Shiaka & Co** we provide a broad range of services that includes Audit, Tax, Consulting and Financial Advisory.

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