

“Amendments in the Cyprus tax legislation in relation to the taxation of intangible assets and intellectual property rights”

The House of Representatives voted on 24 May 2012 various amendments in the Income Tax Law (hereafter “the Law”) in relation to the taxation of the gains deriving from the use of intangible assets and intellectual property rights in Cyprus. The above amendments have been published in the official Gazette of the Republic of Cyprus on 6 July 2012 and have entered into force as of 1 January 2012 and onwards.

The intangible assets and intellectual property rights which fall into the provisions of the Law are those that are included in the definitions provided under the Cyprus Intellectual Property Law, the Patents and Trademarks Law and the Copyrights Law as amended.

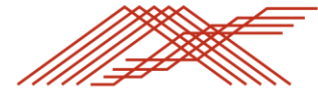
The new provisions in the Law introduced by the amendments mentioned above, aim to enhance the competitiveness of Cyprus against various foreign jurisdictions in relation to the taxation of gains deriving from the use of intangible assets and intellectual property rights in Cyprus, and are the following:

Capital allowances

- (a) Capital allowances at the rate of 20% will be granted on any capital expenditure incurred for the purchase or development (cost of acquisition or cost of development) of intangible assets or intellectual property rights.
- (b) The above allowances will be provided in the tax year in which the expenditure was incurred and in the four subsequent tax years. The allowances will only apply for expenditure incurred after 1 January 2012 and onwards. Relevant expenditure which has been incurred prior to 1 January 2012 will be granted with capital allowances at the rates applicable before the introduction of the above amendments in the Law.

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Taxation of profits

Prior to the amendment, any income from IP Rights was taxed under the normal corporate tax rate of 10% on any resulting net profits.

(a) In respect of profits (calculated after the deduction of any attributable expenses including the capital allowances mentioned above) deriving from:

- The use of intangible assets or intellectual property rights
- The disposal of intangible assets or intellectual property rights
- Indemnity received from the unauthorized use of intangible assets or intellectual property rights by non-beneficiary persons

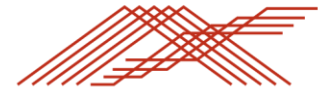
(b) Then 80% of such profits will be regarded as a tax allowable deduction and will therefore be treated as tax exempt.

(c) The above provisions will apply on any profits deriving after 1 January 2012 and onwards from the use/disposal of intangible assets or intellectual property rights, irrespective of when these have been acquired.

The changes mentioned above allow Cyprus to compete favorably with other jurisdictions which offer similar incentives. The most important change in the law is the creation of a specific tax regime for companies owning any kind of intellectual property right out of which royalty income is generated, making “The Cyprus Royalty Company” the best vehicle for holding intangible assets.

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Example

Assume that a Cyprus IP company licenses its IP to its operating foreign Companies and in return it receives royalty income of €100.000 per year.

The structure is depicted below:



The expected annual tax for the Cyprus IP Company will be as follows:

	€
Annual royalty income	100.000
Direct expenses (say)	(20.000)
Net income	80.000
80% deemed deduction	(64.000)
Taxable income	16.000
@10% Income tax	1.600
Effective tax rate	1.6%

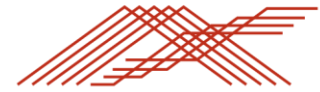
Under the majority of Cyprus double tax treaties the withholding tax on royalty payments is 0%

Cyprus is signatory to the following international conventions relevant to IP

- European Community Trademarks
- Convention Establishing the World Intellectual Property Organisation (WIPO)
- WIPO
- The Madrid Agreement Concerning the International Registration of Marks (the Madrid Agreement) and Protocol to the Madrid Agreement
- The Patent Cooperation Treaty
- Berne Convention for the Protection of Literary and Artistic Works
- Paris Convention for the Protection of Industrial Property
- Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of Their Phonograms
- WIPO Performance and Phonograms Treaty
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations
- Trademark Law Treaty
- WIPO Beijing Treaty on Audiovisual Performances

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