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Tax News
Amendments to the Tax Law December 2015

The aim is to simplify the tax regime and make it more attractive, fair and effective and align with EU Directives

Definitions of Republic of Cyprus and Permanent establishment

Remuneration from first employment in Cyprus

On December 10, 2015, the House of Representatives passed amendments to the Cyprus tax legislation which was published in the Official Gazette of the Republic on December 17, 2015.

The changes mainly relate to the Income Tax Law and Capital Gains Tax Law.

1. Definitions

Republic of Cyprus

The definition has been amended to include the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of Cyprus.

Permanent establishment

The definition includes all activities pertaining to the exploration and exploitation of the seabed in the exclusive economic zone.

2. Remuneration from first employment in Cyprus

Exemption of 20% of remuneration with a maximum amount of €8.550 annually

Remuneration from any employment exercised in Cyprus by an individual who was not a resident of Cyprus before the commencement of the employment. For employments commencing during or after 2012 the exemption applies for a period of 5 years starting from the tax year following the year of commencement of the employment with the last eligible tax year being 2020. This exemption cannot be claimed in addition to the 50% employment income exemption (see below).

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Remuneration from first employment in Cyprus

Increased writing down allowances for capital expenditure

Exemption of 50% of remuneration when income exceeds €100.000

Under the previous law, a 50% exemption is granted from employment income in Cyprus that exceeds €100.000 p.a. by an individual who was not a resident of Cyprus before the commencement of the employment. The exemption was applicable for the first five years of employment commencing 1 January 2012.

Under the new provisions

- the 50% exemption from employment income in Cyprus applies for a period of 10 years and
- for employments commencing as from 1 January 2015 the exemption will not be granted in case the said individual was a Cyprus tax resident for 3 (or more) tax years out of the 5 tax years immediately prior to the tax year of commencement of the employment nor in the preceding tax year.
- In certain cases, it is possible to claim the exemption where income falls below €100.000 per annum.

The above provisions are applicable as from tax year 2015.

3. Increased writing down allowances for capital expenditure

Plant and machinery acquired/to be acquired during the tax years 2012 till 2016 are eligible to accelerated tax depreciation at the rate of 20% (except assets which are already eligible for a higher annual tax rate of tax depreciation)
In the case of industrial and hotel buildings which were/are to be acquired during the tax years 2012 till 2016, the accelerated tax depreciation rate of 7% per annum may be claimed.

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New provisions of the EU Parent – Subsidiary directive Anti-hybrid rule

Group loss relief

Losses under the intellectual property box regime

Income earned in Cyprus for providing ancillary services related to exploration and exploitation activities

4. New provisions of the EU Parent – Subsidiary directive

Anti-hybrid rule

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 law 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. Arrangement will be considered genuine if there are valid commercial reasons that reflect the economic reality.

5. Group loss relief

Previously group loss relief was available only for losses incurred by Cyprus tax resident companies. As from 1 January 2015 a non-Cyprus tax resident company will not affect the eligibility for group relief as long as such company (ies) is tax resident in another EU member state or in a country with which Cyprus has a double tax treaty or an exchange of information agreement (bilateral or multilateral).

6. Losses under the intellectual property box regime

Cyprus's IP box regime allows an 80% deduction from the net profit generated by the use or disposal of IP rights. If a loss is made from such activities, only 20% of the resulting loss can be offset against income from other sources or carried forward to be offset against income of subsequent tax years.
This amendment applies retrospectively to all tax years from 2012 onwards.

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7. Income earned in Cyprus for providing ancillary services related to exploration and exploitation activities

Such income earned in Cyprus by a person who is not tax resident in Cyprus and does not have a permanent establishment in Cyprus is subject to 5% tax as from 1 January 2016.

8. Tax neutrality of foreign exchange differences

Any gains and losses deriving from exchange differences and irrespective of whether they are realized or unrealized will not be taxable / tax deductible. These provisions apply retrospectively from 1 January 2015.

The new provisions will not apply to a company trading in foreign currencies.

9. Anti-avoidance provisions for re-organisations

Corporate re-organisations are exempt from all taxes in Cyprus. However with the new changes the law allows the tax authorities to withhold the exemption if they have sufficient reason to conclude that the re-organisation is not based on valid commercial of financial considerations.

10. Arm's length adjustments

Section 33 of the income tax law, allows tax authorities to adjust the value of any transaction between related parties not being at market value. Before the current amendment, the only adjustment that could be made was to increase profits and there was no provision for the corresponding expense to be compensated. Under the new law changes, s.33 as amended allows such deduction to be granted.

This provision applies as from 2015 tax year.

Tax neutrality of foreign exchange differences.

Anti –avoidance provisions for re-organisations.

Arm's length adjustment.

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11. Amendments of the Capital Gains Tax Law

Under the existing Law CGT is charged on disposal of immovable property located in Cyprus or on disposal of shares of companies, which own immovable property in Cyprus.

Under the new provisions of the CGT, gains from the sale of shares in companies which indirectly own immovable property in Cyprus by holding directly or indirectly shares in a company, which owns immovable property located in Cyprus will also be subject to CGT.

This will apply only in case the value of the immovable property represents more than 50% of the value of the assets of the company whose shares are sold.

The gain subject to taxation will be calculated based on the market value of the directly or indirectly owned immovable property.

Capital gains from sale of shares in property companies

Trading gains from sale of shares of property companies

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December 2015