Cyprus

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1 Pre-entry Tax Planning

1.1 In Cyprus, what pre-entry estate and gift tax planning can be undertaken?

Estate duty was abolished in 2000. There are no gift taxes in Cyprus apart from capital gains tax (see question 3.1).

1.2 In Cyprus, what pre-entry income tax planning can be undertaken?

The Income Tax Law, 118(I) of 2002, defines a resident as an individual who stays in Cyprus for more than 183 days in any one fiscal year, including the day of arrival but excluding the day of departure.

Persons not resident in Cyprus and having a permanent establishment in Cyprus may elect to be treated as residents, so that their worldwide income will be taxed in Cyprus.

The pension of any foreigner or repatriated Cypriot from services rendered outside Cyprus, which is remitted to Cyprus, is exempt from tax up to €3,417 per annum and thereafter is taxed at 5%. It is not added to any other income to compute tax liability unless the taxpayer so elects; any tax suffered at source is credited against the Cypriot tax liability.

A company is regarded as a resident of Cyprus if its control and management are exercised from Cyprus.

1.3 In Cyprus, can pre-entry planning be undertaken for any other taxes?

Under the Merchant Shipping (Fees and Taxing Provisions) Law, 38(I) of 1992, no tax is imposed on the income of a ship owner, natural or legal, from using a Cypriot-registered vessel in any shipping business between Cyprus and foreign ports other than fishing.

Profits from ship management services are taxed at a flat rate of 4.25%, but owners may elect annually to be taxed instead at 25% of the rates of the tonnage tax on vessels they manage that are registered outside Cyprus.

Natural persons are not given any allowances, credits or exemptions in arriving at their taxable income, income from ship management services cannot be added to any other income and losses suffered may not be carried forward and offset against future profits from any source.

To qualify for these provisions, the business must have an office in Cyprus, provide ship management services to the ships they manage for more than one month and have enough qualified staff.

2 Connection Factors

2.1 To what extent is domicile relevant in determining liability to taxation in Cyprus?

Domicile ceased to be as relevant as residence for taxation purposes when major changes to the tax laws came into effect on 1 January 2003.

2.2 If domicile is relevant, how is it defined for taxation purposes?

See question 2.1.

2.3 To what extent is residence relevant in determining liability to taxation in Cyprus?

Residence is the primary test of liability to personal taxation in Cyprus.

2.4 If residence is relevant, how is it defined for taxation purposes?

See question 1.2.

2.5 To what extent is nationality relevant in determining liability to taxation in Cyprus?

Before 1 January 2003, citizens of Cyprus were considered to be domiciled in Cyprus. Nationality is now less relevant than residence in determining tax liability.

2.6 If nationality is relevant, how is it defined for taxation purposes?

See question 2.5.

3 General Taxation Regime

3.1 What gift or estate taxes apply that are relevant to persons becoming established in Cyprus?

Under the Capital Gains Tax Law, 52 of 1980 as amended, capital gains tax is imposed on the gains accruing to any person, natural or legal, from a disposal of property which does not fall within the provisions of the Income Tax Law. If property is purchased with the intention of selling it at a profit, that will be taxed under the Income Tax Law as a trading activity.

Disposal excludes transfer of property on death, gifts between spouses, gifts between relatives up to the third degree of kindred and the transfer of property on the legal separation of a married couple. Property means immovable property in Cyprus and shares in private companies whose assets consist of immovable property in Cyprus.

Capital gains tax is imposed at 20% on the gain, which is the difference between the selling price and the cost of the property. Cost is considered to be the cost of acquisition (including the transfer fee), plus the cost of additions, selling costs and interest paid on any loan raised to acquire the property. The cost of acquisition and additions is adjusted for inflation but not the transfer fees or interest paid.

If immovable property was acquired before 1 January 1980, cost is considered to be the value at 1 January 1980 as assessed by the Land Registry Department. Where the property disposed of was acquired by inheritance or gift, cost will be the original cost to the donor or the value on 1 January 1980, whichever was the later.

Capital gains on the disposal of shares in companies traded on the Cyprus Stock Exchange are exempt from taxation. Any gain on the disposal of shares in a private company is computed on the basis of the immovable property in Cyprus owned by the company.

There are the following lifetime exemptions for individuals:

- Gains up to €17,086.
- Gains up to €25,629 from the disposal of agricultural land by a person whose main occupation is farming.
- Gains up to €85,430 from the disposal of a dwelling house, provided that the house was the main residence of the taxpayer for a total period of not less than five years, which need not be continuous. On the disposal of a house for a second or further time, the period of main residence is increased to at least ten years. Where the house is disposed of after at least one year from ceasing to be the main residence, only the general exemption is given.
- Gains made from the disposal of property abroad.

No one person is entitled to all of the first three exceptions, only to the highest.

Capital losses can be offset against gains made in the same year, and unrelieved losses can be offset against gains in future years. Losses cannot be claimed on buildings on which capital allowances were claimed to the extent that such losses are less than the claimed capital allowances.

3.2 How and to what extent are persons who become established in Cyprus liable to income tax?

Income tax is levied on the worldwide income of any person who is a tax resident of Cyprus in any one fiscal year. A fiscal year is the same as a calendar year.

In the case of a person resident in Cyprus (see question 1.2), tax is levied on the worldwide income from:

- Gains or profits from any trade, business, profession or vocation.
- Income from an office or employment, including benefits in kind.
- Any dividend or interest.
- Any pension, charge or annuity.
- Any rent, royalty, premium or other profits arising from property.
- Any amount or consideration in respect of any trade goodwill.
- Any other annual profit or gain.

All expenses and outgoings wholly and exclusively incurred in producing the income may be deducted; an expense considered to be excessive may be restricted or disallowed.

A flat deduction of 20% of the gross rents received by a natural person may be deducted, plus interest paid on a loan for the purchase of the property and an annual 3% depreciation of the property.

Capital expenditure is not allowed as an immediate deduction but must be written off at rates ranging from 3 to 20% per annum.

Where, in any fiscal year, a person suffers losses that cannot be wholly offset against income from other sources, the unrelieved losses can be set off against income of subsequent years, provided that accounts and tax computations for the year in which the loss was suffered are filed within six years from the due date.

Income from all sources in any fiscal year is aggregated and legal deductions, e.g. contributions to the state Social Security scheme or approved pension schemes, are made to establish the taxable income. The rates of tax in 2011 are:

Income	Tax
€0 - €19,500	Nil
€19,501 - €28,000	20%
€28,001 - €36,300	25%
€36,301 and above	30%

3.3 What other direct taxes (if any) apply to persons who become established in Cyprus?

Immovable Property Tax

Under the Immovable Property Tax Law, 24 of 1980 as amended, all persons, natural and legal, are taxable annually on all the immovable property in Cyprus registered in their name. Immovable property means land and buildings, trees and plantations, rivers, wells and all rights relating to land and buildings. Tax is levied on the property as follows:

Value	Tax
€0 - €170,860	Nil
€170,861 - €427,150	€2.5 per thousand
€427,151 - €854,300	€3.5 per thousand
€854,301 and above	€4 per thousand

The value of the property is the price that it would, in the opinion of the Director of the Land Registry Department, have fetched on the open market on 1 January 1980. If a similar property is sold on the open market and the price indicates that the Director's estimate is wrong, he may revise it.

Every owner must file a return of all immovable property registered in their name and pay the tax on it by 30 September of the fiscal year. Where there are additions or alterations to or disposals of the property, the owner must file a supplementary return before 30 September to notify the changes.

The Commissioner of Income Tax may revise the value of the property as at 1 January 1980 within two years of the payment of the tax if, in his opinion, the property was undervalued. If the value is proved to be excessive through an open market sale of the property or a similar property at a lower price, the Commissioner may lower the assessment. Where a property owner has not filed a return, the Commissioner may raise an assessment at any time.

Where the value of the property in the return differs by more than 25% from the value on which the tax is eventually levied, there is a 10% penalty on the difference between the tax paid under the return and the tax finally assessed.

No tax is levied on farmland if it is owned by a natural person whose business is farming and/or animal breeding and who lives in the vicinity of the farm.

Tax not paid by the specified date attracts interest at 8% per annum. Penalties vary from a fine for failing to file a return to a fine or imprisonment or both, plus settlement of the unpaid tax with a penalty equal to twice the tax, for fraudulent declarations.

Special Defence Contribution

Under the Special Contribution for the Defence of the Republic Law, 117(I) of 2002 as amended, every Cypriot resident who receives or is deemed to receive a company dividend is subject to a 15 per cent Special Defence Contribution (SDC) on the dividend.

No SDC is payable by Cypriot-resident companies on dividends received from another Cypriot-resident company. A resident company, or a non-resident company that maintains a permanent establishment in Cyprus, is also exempt from SDC on dividends received from a non-resident company provided that it holds at least 1% of the share capital of the paying company.

The exemption is lost where more than 50% of the income of the paying company comes from investment activities, and the tax burden of the paying company is substantially lower than the tax burden of the resident company or permanent establishment; substantially lower is considered to be less than 8%.

Dividends paid out of dividend income taxed at 20%, whose distribution was made within six years from the date of deriving the income, are exempt from SDC.

Every resident person who receives or is credited with interest endures a 10% SDC on that interest. Interest earned in and closely related to the ordinary course of business is taxed only under the Income Tax Law.

3.4 What indirect taxes (sales taxes/VAT and customs & excise duties) apply to persons becoming established in Cyprus?

Value Added Tax

The Value Added Tax Law, 246 of 1990, came into force on 1 July 1992 and Law 95(I) of 2000 harmonised it with the European Union (EU) legislation. VAT is payable whenever there is:

- A supply of goods or services by a VAT-registered person, natural or legal, within the activities of the business or their promotion to anyone in Cyprus or to a non-VAT-registered person in the EU (a supply includes retail and wholesale supply, but excludes anything not done in exchange for money or money's worth).
- An import of goods to Cyprus from outside the EU.
- An acquisition of goods by non-registered persons from within the EU.
- A notional provision in Cyprus of services received from abroad.

A supply of goods is considered to take place in Cyprus if the goods are traded in Cyprus or imported to Cyprus from abroad, when VAT becomes payable at the point of importation. Exports are considered as traded in Cyprus but are zero-rated.

An acquisition of goods from other EU Member States gives rise to VAT when they enter Cyprus. A supply of goods to other Member States is zero-rated if made to a VAT-registered person, otherwise VAT must be charged at the applicable Cypriot rate.

A supply of services is considered to take place in Cyprus if the supplier has a business or permanent establishment in Cyprus, or is an ordinary resident of Cyprus.

Services provided to a person outside Cyprus are considered to be provided outside Cyprus (with certain exceptions) and are zero-rated. Where the services are provided to a resident of an EU Member State who is not VAT-registered, they are considered to be provided in Cyprus (with certain exceptions) and are taxable in Cyprus.

The tax point at which VAT is chargeable arises when goods are delivered or made available to the buyer or when a service has been completely rendered. A tax point arises before these events where:

- an invoice has been raised and delivered, when the tax point is the date of the invoice; or
- a payment has been made before the taxable event, when an invoice must be raised within 14 days of the receipt of funds or within four months if an application is approved by the Commissioner of VAT. Prepayments do not create a tax point unless made for a specific order.

The present rates of VAT are:

Zero rate - mainly air and sea transport of passengers and the supply of medical items and services.

5% rate - mainly books and magazines and the supply of certain farming goods and services.

8% rate - inland transport of passengers, sea transport of passengers within territorial waters and restaurant services, other than the sale of spirits, wine and beer which is taxed at the standard rate.

Standard rate - 15% since 1 January 2005, applicable to all supplies of goods and services unless exempt or taxed at other rates.

VAT is charged on the value of the goods sold or the services rendered. Value is:

- Where the consideration is money, the amount which, when VAT is added, will equal the consideration.
- Where there is no consideration, the open market value.
- In cases of self-supply, the cost of the goods.
- For door-to-door sales and transactions between related parties or not at arm's length, the open market retail price.
- For imported goods, the total of CIF charges, import duties and other related costs.

Customs and Excise Duties

Customs duties are imposed under the Customs and Excise Duties Law, Cap 34, on consumer items including motor vehicles, furniture, confectionery and cosmetics. Since Cyprus acceded to the EU, import duty has been abolished on most goods coming from the EU.

There are excise duties on alcohol, tobacco, motor vehicles, petrol and soft drinks.

4 Taxation Issues on Inward Investment

4.1 What liabilities are there to direct taxes on the remittance of assets or funds into Cyprus?

The tax reforms in 2002 abolished the remittance basis and replaced it with taxation of the worldwide income of Cypriot-resident companies and of Cypriot-source income of non-resident companies.

4.2 What taxes are there on the importation of assets into Cyprus, including excise taxes?

See question 3.4 above. There is import duty on goods worth more than €150 from non-EU countries; the rates vary between 0% and 17%, some goods are duty-free and some are subject to additional duties, e.g. bicycles made in China carry an anti-dumping duty of 48.5%.

5 Succession Planning

5.1 What are the relevant private international law (conflict of law) rules on succession and wills, including tests of essential validity and formal validity in Cyprus?

The Wills and Succession Law, Cap 195, regulates succession to the immovable and movable property of all persons domiciled in Cyprus, and succession to the immovable property in Cyprus of all persons not so domiciled because Cyprus has adopted the principle that the devolution of immovable property is governed by the *lex situs*, not the *lex domicilii*.

The same law applies to questions of material or essential validity of a will of movables, which are always governed by the law of the testator's domicile at the time of death, and to the validity of a will of immovables which is determined in every aspect by the *lex situs*.

5.2 Are there particular rules that apply to real estate held in Cyprus or elsewhere?

See question 5.1.

6 Trusts and Foundations

6.1 Are trusts recognised in Cyprus?

Cyprus recognises private and charitable trusts under the Trustee Law, Cap 193, and English case law and doctrines of equity. They are supplemented by the International Trusts Law, 69 of 1992, which defines an international trust as a trust of which neither the settlor nor any beneficiary other than a charity is a permanent resident of Cyprus, where the trust property does not include any real property in Cyprus and there is always at least one trustee resident in Cyprus.

6.2 If trusts are recognised in Cyprus, how are they taxed in Cyprus?

Local trusts as such are not taxable, but the beneficiaries are taxable through the trustees. The income and profits of an international trust from a source outside Cyprus are exempt from all Cypriot taxation.

6.3 If trusts are recognised, how are trusts affected by succession and forced heirship rules in Cyprus?

Under the International Trusts Law an international trust can be created by any non-resident of Cyprus, and no foreign inheritance or succession law can invalidate it or affect any disposition relating to its creation. Such a trust can therefore be said to be immune from forced heirship rules.

6.4 Are foundations recognised in Cyprus?

The Charities Law, Cap 41, provides for the creation of charitable trusts for educational, literary, scientific or public charitable purposes; charitable purposes are defined by reference to English law.

6.5 If foundations are recognised, how are they taxed in Cyprus?

A trust set up for charitable purposes in Cyprus and authorised by the Council of Ministers is exempt from taxation.

6.6 If foundations are recognised, how are foundations affected by succession and forced heirship rules in Cyprus?

An international trust may be set aside only when a creditor has been defrauded by its creation.

7 Immigration Issues

7.1 What restrictions or qualifications does Cyprus impose for entry into the country?

EU citizens have the right to enter and stay for up to three months with a valid identity card or passport; family members have the same right with a valid passport and entry visa.

Third-country nationals require a valid passport and entry visa. Nationals of certain third countries do not require visas for stays of up to 90 days if they are *bona fide* visitors.

7.2 Does Cyprus have any investor and other special categories for entry?

Companies in Cyprus can apply to the Ministry of Labour and Social Insurance to employ third-country nationals to satisfy short-term needs in certain economic fields and occupations that cannot be met by the Cypriot or EU labour force.

Companies with foreign interests may employ executive directors and staff on certain conditions relating to numbers and salaries.

7.3 What are the requirements in Cyprus in order to qualify for nationality?

Cypriot citizenship can be acquired by birth, descent, registration or naturalisation.

A person born in Cyprus or another country on or after 16 August 1960 is a Cypriot citizen if either parent was, or was entitled to become, a Cypriot citizen at the time of birth, unless born between 16 August 1960 and 11 July 1999 and only entitled through their mother.

A citizen of the UK or Commonwealth who is the spouse, widow or widower of a Cypriot citizen or person entitled to become such may be registered as a Cypriot citizen subject to certain conditions.

Citizenship by naturalisation depends on length of residence or public service in Cyprus and intention to continue to reside or serve.

7.4 Are there any taxation implications in obtaining nationality in Cyprus?

The tax implications are those obligations applicable as a Cypriot resident.

8 Taxation of Corporate Vehicles

8.1 What is the test for a corporation to be taxable in Cyprus?

Liability to corporation tax in Cyprus is based on residence, which is determined by the locus of management and control. The single corporation tax rate of 10% applies to all companies managed and controlled from Cyprus.

8.2 How are branches of foreign corporations taxed in Cyprus?

If a foreign company's sole establishment is in Cyprus, but all its business activities are abroad, it may be exempt from tax in Cyprus, but it will be excluded from the double taxation treaty benefits. Certain activities are permitted to preserve the tax exemption.

The branch must be managed and controlled outside Cyprus to obtain full tax exemption. If not, the corporation's worldwide income is taxable in Cyprus, which may be useful if the corporation wishes to establish Cypriot residence for double taxation treaty purposes.

9 Tax Treaties

9.1 Has Cyprus entered into income tax and capital gains tax treaties and, if so, what is their impact?

Yes, with more than 40 countries. They provide relief from double taxation by applying the credit method to the taxation of dividends and interest. The liability of Cypriot residents for Cypriot income tax and SDC is reduced by tax paid or payable in the other country, so the taxpayer pays only the higher of the two rates and is not taxed twice on the same income.

9.2 Do the income tax and capital gains tax treaties generally follow the OECD or another model?

All the treaties are based on the OECD Model Treaty.

9.3 Has Cyprus entered into estate and gift tax treaties and, if so, what is their impact?

There are no estate or gift tax treaties.

9.4 Do the estate or gift tax treaties generally follow the OECD or another model?

See question 9.3.

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