

## ***The Ministry of Finance announce planned amendments to the Cyprus IP tax regime in line with the OECD BEPS Action 5 with maximum transitional periods***

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### ***In brief***

The Ministry of Finance (MoF) announced on 30 December 2015 that it will promote amendments to the current Cyprus Intellectual Property (IP) tax regime in order to introduce a new IP tax regime as from 1 July 2016. The new IP tax regime will be fully aligned with the conclusions of the OECD's Base Erosion and Profits Shifting (BEPS) Action 5 report released in October 2015.

The MoF announcement states that maximum possible transitional arrangements are intended. Therefore, it is expected that IP already benefitting from the current Cyprus IP tax regime by 30 June 2016 will continue to receive the current benefits for a further 5 years, i.e. until 30 June 2021. A much shorter transitional period to 31 December 2016 is expected in the case of IP which is acquired, directly or indirectly, from related parties at any time in the first six months of 2016, unless at the time of acquisition such IP was already benefitting from an IP tax regime.

Under the new IP tax regime a narrower range of IP assets will qualify as compared to the current IP tax regime.

The current Cyprus IP tax regime leads to a competitive effective corporate tax rate of 2,5% (or lower) for qualifying incomes earned on a broad range of qualifying IP assets. Although not referred to in the MoF announcement it is expected that the planned new Cyprus IP tax regime will retain the benefit of the competitive effective corporate tax rate of 2,5% (or lower) but only a portion of the income will qualify. The qualifying portion of the income is expected to reflect the research and development (R&D) expenditure undertaken by the IP owner itself (or outsourced to unrelated parties) as compared to the total R&D expenditure required to develop the asset.

### ***In detail***

The MoF announced on 30 December 2015 that it will promote amendments to the current Cyprus IP tax regime in order to introduce a new IP tax regime as from 1 July 2016. The new IP tax regime will be fully aligned with the conclusions of the OECD's BEPS Action 5 report released in October 2015. The OECD's Action 5 report has been endorsed by the G20 and OECD countries and further

endorsed by the Council of the European Union which in December 2015 invited the EU's Code of Conduct Group (Business Taxation) to follow the report's approach.

The MoF announcement states that maximum possible transitional arrangements are intended. Therefore, it is expected that IP already benefitting from the current Cyprus IP tax regime by 30 June 2016 will continue to receive the current benefits for

a further 5 years, i.e. until 30 June 2021. A much shorter transitional period to 31 December 2016 is expected in the case of IP which is acquired, directly or indirectly, from related parties at any time in the first six months of 2016, unless at the time of acquisition such IP was already benefitting from an IP tax regime.

The current Cyprus IP tax regime leads to a competitive effective corporate tax rate

of 2,5% (or lower) for qualifying incomes earned on qualifying IP assets. Qualifying income currently includes royalties, gains on disposal of IP and IP infringement compensation. Qualifying assets are currently broadly defined and include, for example, copyrights (which may take any of the following forms: literary works, dramatic works, musical works, scientific works, artistic works, sound recordings, films, broadcasts, published editions, databases, publications, software programmes), patented inventions, trademarks (and service marks) as well as designs and models that are used or applied on products. A narrower range of IP assets will qualify under the new IP tax regime as compared to the current IP tax regime, expected to include patents and computer software.

Although not referred to in the MoF announcement it is expected that the planned new Cyprus IP tax regime will retain the benefit of the competitive effective corporate tax rate of 2,5% (or lower) but only a portion of income will qualify. The qualifying portion of the income is expected to reflect the R&D expenditure undertaken by the IP owner itself (or outsourced to unrelated parties) as compared to the total R&D expenditure required to develop the asset.

In line with BEPS Action 5 recommendations it is expected that Cyprus will spontaneously exchange information (under existing international agreements) on taxpayers who benefit from the transitional arrangements of the current IP tax regime if the IP entered the

current IP tax regime in the period 7 February 2015 – 30 June 2016.

### ***The Takeaway***

Given the political agreement at EU level, such a move by the Cyprus Authorities to amend the current IP tax regime to be in line with the OECD's BEPS Action 5 was expected.

We welcome the Cyprus Authorities intention to provide for the maximum possible transitional arrangements (until 30 June 2021, the latest) so as to give taxpayers stability in the medium term.

Taxpayers should consider whether there is IP not currently benefitting from the current Cyprus IP tax regime which they wish to introduce to the current IP tax regime by 30 June 2016 in order to take advantage of the transitional rules until 30 June 2021, should the IP be eligible.

We expect that in the coming months more detail will be announced by the Cyprus Authorities on the new IP tax regime.

### ***Let's talk***

For an in-depth discussion of how these proposals might affect you or your business, please contact:

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