
Tax law amendments enhance Cyprus' corporate and personal tax competitiveness – Other amendments

Issue N-4-2015, July 17, 2015

In brief

On July 16, 2015 a number of amendments to the Cyprus corporate and personal tax laws were published in the Cyprus Government Gazette. The main amendments are analysed in our Newsletter N-3-2015, July 17, 2015. The remaining amendments which are analysed in this Newsletter include:

Income Tax Law

- taxability of widowers' pension under general tax rules which may reduce the tax cost for individuals

Capital Gains Tax Law

- an exemption from future capital gains tax for properties (land and land with buildings) purchased by the end of 2016

Special Contribution for Defence Law

- imposition of special contribution for defence on dividends declared to a company where the interposition of the company in the structure aims at avoiding/minimising the tax cost

Land and Surveys Law

- Land transfer fees

Further we understand that bills in relation to a number of additional tax amendments have been sent to Parliament. We expect Parliament to consider these additional proposals in September following the summer recess. The main proposals to be considered in September are analysed in our Newsletter N-3-2015, July 17, 2015. The remaining proposals which are analysed in this Newsletter include:

Income Tax Law

- extension of the definition of the term «Republic» so that any business activities relating to Cyprus' natural resources carried out within Cyprus's exclusive economic zone and continental shelf are subject to income tax
- clarification that 80% of losses resulting from the leasing or sale of intellectual property registered in Cyprus, is not deductible for tax purposes
- extension of the accelerated tax depreciation available on industrial buildings and hotels (7%) and plant & machinery (20%) until the end of 2016
- the modernisation of the tax framework regarding group relief provisions
- the introduction of a fee for the issuance of tax rulings
- extension of the list of companies included in Appendix I

Capital Gains Tax Law

- determination of cost in the case of sale of separated plots

***In detail
Enacted laws***

Income Tax Law

Taxability of widowers' pension

As per the previous law such income was subject to income tax as per special rules (i.e. for income up to €19,500 the rate was 0% and for income exceeding €19,500 the rate was 20%).

The amendment gives the option to the taxpayer to either continue being taxed under the special rules as above or be taxed under the general rules (i.e. widowers' income will be included in the total taxable income net of allowable deductions).

The amendment is effective from tax year 2014 onwards.

PwC Observation

The option to be taxed under general rules could potentially reduce the tax cost of individuals.

Capital Gains Tax Law

Exemption from future capital gains tax for properties (land and land with buildings) purchased by the end of 2016

Land and land with buildings acquired at market value (excluding exchanges and donations) from unrelated parties from the effective date of the amendment (which is the date of its publication in the official gazette of July 16, 2015) until 31 December 2016 will be exempt from Capital Gains Tax upon future disposal.

The above exemption will not apply in case the above properties are acquired under foreclosure procedures based on the new foreclosure law.

The amendment is effective from the date of its publication in the Official Gazette of the Republic of July 16, 2015.

PwC Observation

This proposal aims to enhance investment in the Cyprus real estate market.

Special Contribution for Defence Law

Imposition of special contribution for defence on dividends declared to a Cyprus company

As per enacted laws analysed in our Newsletter N-3-2015, only individuals who are both Cyprus tax residents and Cyprus domiciled will be subject to the special contribution for defence.

The amendment provides that in case of dividend payment to a Cyprus company which is not 100% directly owned by a Cyprus tax resident individual and in the Commissioner's judgement the interposition of the Cyprus company receiving the dividend does not serve a real commercial/economic purpose but the aim is to avoid, reduce or postpone the imposition of special defence contribution, the Commissioner may deem that the dividend was paid to the Cyprus tax resident individual who directly/indirectly controls the Cyprus company receiving the dividend and demand the payment of special defence contribution on the dividend.

The amendment is effective from the date of its publication

in the Official Gazette of the Republic of July 16, 2015.

PwC Observation

The amendment is anti-avoidance measure for deemed dividend distribution purposes.

Land and Surveys Law

Land transfer fees

Based on the previous law, the following applied for contracts relating to immovable property that were signed and submitted to the Land Registry between the period 2 December 2011 – 31 December 2016 irrespective of the transfer date of the immovable property:

(a) no transfer fees applied if the same transaction was subject to VAT and

(b) transfer fees were reduced by 50% on the condition that the immovable property (plots, buildings or part thereof) was sold for the first time following the issue of the relevant planning or building permit.

Based on the amendment:

(a) no transfer fees apply if the same transaction is subject to VAT and (b) transfer fees are reduced by 50% for any immovable property

on the condition that:

(i) the transfer takes place by 31 December 2016 irrespective of the date of the signing of the contract or its submission to the Land Registry, or

(ii) the contract was signed and submitted to the Land Registry between the period 2 December 2011 – 31 December

2016 irrespective of the transfer date.

The 50% reduction in transfer fees will not apply in case the transfer involves immovable property acquired under foreclosure procedures based on the new foreclosure law.

The amendment is effective from the date of its publication in the Official Gazette of the Republic of July 16, 2015.

PwC Observation

This proposal aims to enhance investment in the Cyprus real estate market.

Amendments expected to be considered by Parliament in September

Income Tax Law

Definition of the term «Republic»

The definition is extended to include explicitly amongst others the exclusive economic zone (EEZ) of Cyprus and its continental shelf and any constructions or plants located in these zones.

The amendment will be effective from 1 January 2015.

PwC Observation

By extending the definition, business activities relating to Cyprus' natural resources carried out within the above zones will be subject to income tax.

Intellectual Property (IP) Regime

Currently only 20% of profits from leasing or sale of intellectual property owned by Cyprus tax resident companies (after the deduction of direct expenses) are subject to income tax.

With this proposal, it is clarified that in the case of a loss (after the deduction of direct expenses), 80% of this loss will not be tax deductible.

When the company claims notional interest deduction (NID) on new capital introduced based on the new enacted article 9B or claims a deemed deduction based on the revised article 33 (related party transactions) which is expected to be discussed in September, both these deductions will be considered as a direct expense and consequently 80% will be non-deductible.

PwC Observation

The IP regime is becoming more attractive since NID and other deemed deductions can be included in the calculation of the taxable profit/loss.

Extension of the accelerated tax depreciation available on industrial buildings, hotels and plant & machinery acquired until the end of 2016

Plant and machinery purchased in 2012-2014 benefited from 20% per annum tax depreciation. Industrial buildings and hotels purchased in 2012-2014 benefited from 7% per annum tax depreciation.

The proposal extends the period for which accelerated depreciation is available to purchases made in 2015-2016.

PwC Observation

The proposal is aimed to encourage business investment in qualifying fixed assets.

Group relief provisions

In order to harmonise and align the tax framework with European Court of Justice judgments, a Cyprus tax

resident company can include in the calculation of its taxable profits, tax losses (as computed under Cyprus tax law) of a company which is a tax resident of another EU country as long as both companies are part of the same group according to Cyprus group relief provisions.

As per the amendment, the surrendering EU company must first exhaust all possibilities available to utilise the losses in its country of residence or in the country of any intermediary EU holding company.

In addition, in order to establish whether two Cyprus tax resident companies are part of the same tax group, the interposition of a non-Cyprus tax resident company will **not** affect the eligibility for group relief as long as the interposed non-Cyprus tax resident company is tax resident:

- (a) in a EU country or
- (b) in any other country with which Cyprus has signed a Double Tax Treaty or an Exchange of Information Agreement

The amendment will be effective from 1 January 2015.

PwC Observation

The above amendment will increase the scope for application of group relief in Cyprus.

Fee for issuance of tax rulings

The fee will be set by the cabinet of ministers.

PwC Observation

It is expected that this measure will expedite the issuance of rulings by the Tax Authorities.

Extension of the list of companies included in Appendix I

The list is extended to include the below companies for which the European Council Directives apply:

- As per Bulgarian Law “събирателното дружество”, “командитното дружество”, “дружеството с ограничена отговорност”, “акционерното дружество”, “командитното дружество с акции”, “неперсонифицирано дружество”, “кооперации”, “кооперативни съюзи” “държавни предприятия” which have been established as per Bulgarian Law and are of a commercial nature.

- As per Romanian Law “societăți pe acțiuni”, “societăți în comandită pe acțiuni”, “societăți cu răspundere limitată”, societate în comandita simpla”, “societate în nume colectiv”.

The amendment will be effective from 1 January 2007 (i.e. from the date on which Bulgaria and Romania joined the EU)

PwC Observation

Inter alia this amendment means that participation in these companies qualifies for the “titles” exemption, i.e. there will be no tax in Cyprus upon disposal (unless the companies hold Cyprus located immovable property).

Capital Gains Tax Law

Plots separation

Based on current law, in the case of immovable property acquired prior to 1.1.80, which was separated into plots without new titles being issued, and one of the plots is then sold, the value of the sold

plot as at 1.1.80 will be deemed to be the market value allocable to the plot just prior to the separation of the immovable property, i.e. no capital gains tax is levied on the increase in value from the date of acquisition of the immovable property until the separation into individual plots.

Based on the amendment, the issuance or not of new titles following the separation into individual plots does not affect the above.

The amendment will be effective from the date of its publication in the Official Gazette of the Republic.

PwC Observation

The current incentive provided to immovable property owners for plots separation is further enhanced by this removal of the non-issuance of title deeds condition.

Accordingly, irrespective of whether or not title deeds are issued, taxpayers who satisfy the other conditions may benefit.

The takeaway

The amendments voted and published in the Cyprus Government Gazette as well as the proposals expected to be discussed in September aim to make the Cyprus tax system even fairer and even more competitive and should ultimately contribute positively to the local economy.

Let's talk

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

Theo C Parperis
Partner
Head of Tax & Legal
theo.parperis@cy.pwc.com

Marios S Andreou
Partner
In charge of Tax Advisory
marios.andreou@cy.pwc.com

Nicos P Chimarides
Partner
In charge of Corporate Compliance
nicos.chimarides@cy.pwc.com

Eftychios G Eftychiou
Partner
Tax Advisory
eftychios.eftychiou@cy.pwc.com

Antonis C Christodoulides
Partner
Tax Advisory
antonis.christodoulides@cy.pwc.com

Chrysilios K Pelekanos
Partner
In charge of Indirect Tax
chrysilios.pelekanos@cy.pwc.com

Christos S Charalambides
Partner
Tax Advisory
christos.charalambides@cy.pwc.com

Charalambos A Sergiou
Director
Tax Advisory
charalambos.sergiou@cy.pwc.com

Or your usual PwC contact

PwC Cyprus
Julia House
3 Themistocles Dervis Street
CY-1066 Nicosia, Cyprus
P O Box 21612
CY-1591 Nicosia, Cyprus

www.pwc.com.cy