

Recent changes to the Cyprus tax legislation

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Cyprus has undertaken a series of reforms to secure Troika financial support. The following article considers the latest reforms in detail.

In November and December 2012 Cyprus enacted a number of changes to its corporate, taxation and financial regulatory laws in order to streamline its administration and demonstrate its commitment to the reforms proposed by the “troika” (the European Commission, the European Central Bank and the International Monetary Fund) negotiating a financial support package for the island. The legislative package included measures ranging from straightforward increases in tax rates to more complex adjustments to arrangements for exchange of tax information and the introduction of a new licensing regime for fiduciary and corporate service providers, as well as changes to indirect taxes, pensions and other government expenditure. In the following paragraphs we set out the main changes regarding business taxation, which, unless otherwise specified, took effect on January 1, 2013.

I. Amendments to the Assessment and Collection of Taxes Law of 1978

Law 163(I) of 2012 and Law 197(I) of 2012, enacted in November and December 2012 respectively, amend the Assessment and Collection of Taxes Law of 1978 regarding payment of taxes, record keeping and exchange of information with overseas tax authorities.

A. Payment of provisional tax liability

The provisional self-assessment tax return must be submitted by July 31, of the tax year, together with a remittance for half the estimated tax payable. The other half must be paid before December 31. Previously the provisional return had to be submitted by August 1 and estimated tax paid in three instalments.

B. Tax returns and supporting documentation

Where returns are submitted by electronic means and the submission of full supporting documentation is

dispensed with, the documents concerned must be retained for at least six years (previously seven) from the end of the tax year to which they relate.

The retention period for accounting books and records and any other documentation supporting amounts or information reported in the return has also been shortened to six years from the end of the tax year to which the records relate. Corresponding amendments have also been made to the Companies Law.

All persons who have income derived from interest and dividends are now required to maintain adequate accounting records.

Companies incorporated in Cyprus but not tax-resident there are now required to submit a summary annual tax return so that information is available in the event of a request from an overseas tax authority (see section II below).

C. Employers' returns

Annual employers' returns of remuneration (Form IR 7) for 2012 onwards must be submitted by electronic means. The due date for submission is July 31 in the following year.

II. Exchange of information with overseas tax authorities

Prior to the enactment of the 2012 amendments the Inland Revenue Department was not authorised to disclose information to an overseas tax authority except under a double taxation agreement. The Department may now exchange information with any country with which Cyprus has signed an agreement to exchange tax information as well as in the context of Council Directive 2011/16/EU of February 15, 2011 on administrative cooperation in the field of taxation.

Article 6 of the Assessment and Collection of Taxes Law empowers the Inland Revenue Department to re-

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quire any person to make available any information, records, books or any other document which they consider necessary to be disclosed under a double tax agreement to which Cyprus is a party. The 2012 amendments have extended the scope of this power to allow the Department to require information or documentation to be made available for the purposes of a tax information exchange agreement or under the provisions of Council Directive 2011/16/EU, which obliges taxation authorities of EU member states to comply with requests for information on taxation matters received from their counterparts in other member states within specified time limits and provides for automatic exchange of information in specified circumstances.

Article 6(b) of the Assessment and Collection of Taxes Law previously required the Inland Revenue Department to inform persons who were the subject of any tax investigation process. They may now refrain from disclosure if they consider that it might jeopardise the effectiveness of the investigation.

III. Carry forward of tax losses

Trading losses may be carried forward for relief against future trading profits for a maximum of five years. Previously there was no limit on the period for which losses could be carried forward.

IV. Changes to stamp duty

The Stamp Duty Law of 1963 to 2007 was also amended to rationalise rates and provide round-sum base amounts following the change from the Cyprus pound to the euro in 2008. The changes took effect from March 1, 2013. From that date, the rates of stamp duty are as follows:

- on transactions with a consideration up to EUR 5,000 no stamp duty is payable;
- on transactions with a consideration between EUR 5,000 and EUR 170,000, stamp duty of EUR 1.50 for every EUR 1,000 or part thereof is payable;
- on transactions with a consideration in excess of EUR 170,000 stamp duty of EUR 2.00 for every EUR 1,000 or part thereof is payable. Where no amount of consideration is specified in the contract the stamp duty is EUR 34.
- the maximum stamp duty payable on a contract is capped at EUR 20,000.
- for a transaction which is evidenced by several documents stamp duty is payable on the main contract and ancillary documents are charged at a flat rate of EUR 2.

The wording of the law indicates that the rate of stamp duty is determined by the aggregate value of the contract and applies to the entire consideration, whereas previously the appropriate rate was applied to each tranche of the consideration. Discussions with the relevant authorities indicate that they intend to continue to apply the old method of calculation in practice. In any event, the difference is less than EUR 300. A number of categories of documents remain exempt from stamp duty, including documents relating to corporate reorganisations (which are exempt from all forms of taxation) and ship mortgage deeds or other security documents. Stamp duty must be paid within 30 days from the date of execution of the relevant documents or, if they are executed abroad, within 30 days after they are received in Cyprus. If stamp duty is paid late, a surcharge of approximately 10 percent of the unpaid amount is payable if payment is made within six months after the due date; otherwise the surcharge is twice the unpaid amount.

V. Annual levy on bank deposits

The levy on deposits held by banks and other credit institutions has been increased from 0.095 percent to 0.11 percent and the previous cap of 20 percent of taxable profits has been abolished.

VI. Regulation of fiduciary and corporate service providers

A new law governing the provision of fiduciary and corporate services, which was published in draft form for consultation as long ago as 2006, has also been enacted. It introduces a system of licensing and supervision of commercial providers of fiduciary services and other services relating to the administration or management of trusts and companies in or from Cyprus. The principal objectives of the new law are to regulate the provision of relevant services and to establish and impose licensing procedures for and supervision of such services, offering security to clients and strengthening confidence in the sector.

The new law provides that relevant services may be offered only by persons or legal entities that hold a licence from the Cyprus Securities and Exchange Commission ("CySEC") or who are specifically exempted from the licensing requirement. Lawyers and accountants regulated by their respective professional bodies are exempt from the need to obtain a licence.

CySEC will maintain a register of licence holders and licences may be issued on such terms and conditions as CySEC considers appropriate. In order to obtain a licence, providers of relevant services must comply with certain criteria regarding their professional and academic qualifications, experience and their internal procedures.

Contravention of the law is a criminal offence punishable on conviction by imprisonment of up to five years, a fine of up to EUR 350,000 or both. If the offence was committed by a legal person, then any of its directors, managers or responsible auditors may be liable if it is proved that he or she agreed or assisted in the commission of the offence. CySEC may also impose an administrative fine of up to EUR 500,000 (or up to EUR 1 million for repeat offences), depending on the seriousness of the offence.

VII. Effect of the changes

The changes introduced by the legislative package streamline administration and improve regulation, and should have a positive effect on Cyprus's competitiveness as international financial and business centre. The limit of the carry-forward period for loss relief should not affect most companies and the strong taxpayer safeguards contained in the Assessment and Collection of Taxes Law mean that investors should have nothing to fear from the provisions facilitating exchange of information. Requests for exchange of information are dealt with exclusively by a specialist department of the Department of Inland Revenue and direct informal exchange of information between tax officers is prohibited. Requests for information must be supported by a detailed justification, ruling out speculative enquiries and so-called "fishing expeditions". As a final safeguard, the written consent of the Attorney General is required before any information can be released to an overseas tax authority. The improved regulation of fiduciary and corporate service providers should weed out any rogue operations and provide a level playing field to attract the largest and most reputable trust service providers.

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