THE MULTI FAMILY OFFICE

Executive Summary

CYPRUS New Tax Regime in 2015

On 1st of July 2015, the Council of Ministers approved a series of bills, which provide significant amendments to the current tax laws without altering the long established competitive and transparent character of the Tax system in Cyprus.

The amendments include alignment of the Cypriot tax legislation with the recent amendments made in the European Union, ensuring at the same time the compatibility of the relevant measures with the BEPS[1] regulations of OECD.

These changes further establish Cyprus' international effectiveness as a location of choice for multinational companies that operate on a global scale. From a tax perspective compelling advantages are offered regarding the creation of business substance for both individuals and companies.

Within a global, ever challenging financial environment, Cyprus now stands out as a certain player, to pave the way for businesses to thrive and innovate through financial reengineering, facing effectively the challenges of the Global Transparency and Exchange of Information.

1. BEPS is the Base Erosion and Profit Shifting package equips governments with domestic and international instruments to address tax avoidance and ensure that profits are taxed where economic activities generating the profits are performed and where value is created

1. The introduction of the Non-Domicile rules for individuals

The new Non-Domicile tax status exempts all non-Cypriot domiciled individuals from the Special Contribution for the Defence (SDC) Tax, irrespective of where the income is generated from or remitted to. As a result Non-Domiciled individuals do not pay tax on dividends, rent of interest.

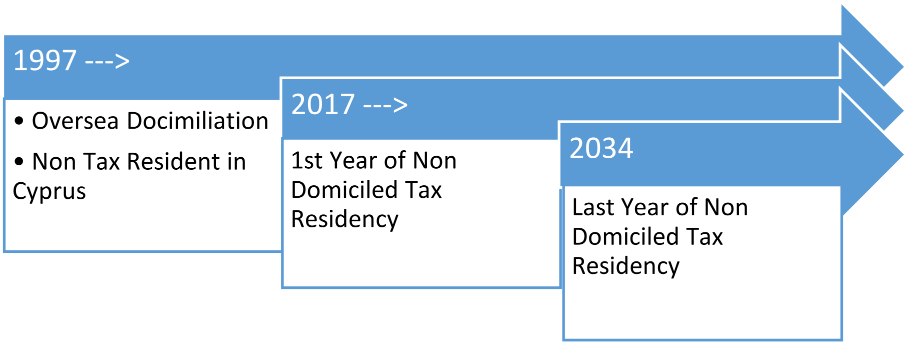
The Special Contribution for the Defence of the Republic (SDC) results in a tax on certain categories of income such as interest, rents or dividends. However, starting form 16 July 2015, this tax is no longer applicable to the dividends, interests and rental income (whether actual or deemed) of non-domiciled individuals, regardless of whether such income is derived from sources within Cyprus and regardless of whether such income is remitted to a bank account or economically used in Cyprus, even if they are tax residents of Cyprus. Furthermore there is no tax imposed on individuals under Income Tax Law in regard to interest and dividend income.

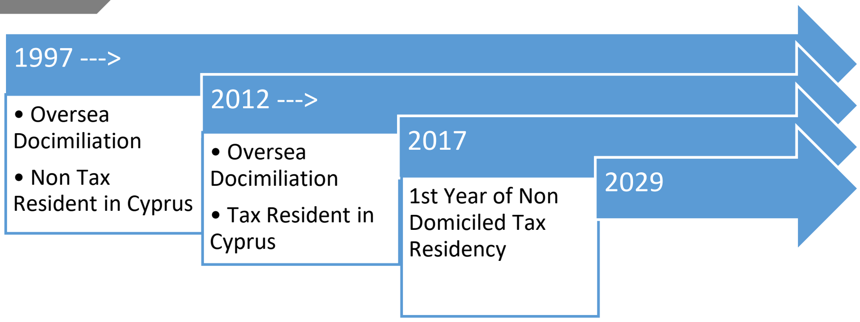
The amendments imply that an individual will only be subjected to the SDC tax if he/she is physically present in Cyprus for a period or periods exceeding in aggregate 183 days during the calendar year and provided such individual is considered to be domiciled in Cyprus.

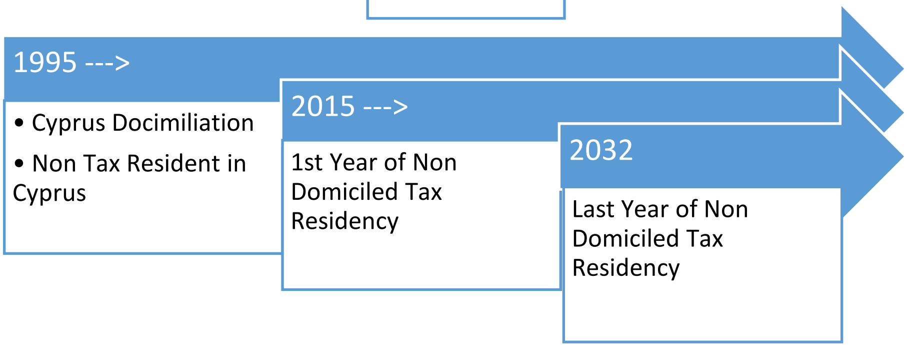
The definition of Residence and Non-Domicile for SDC Purposes

According to the Wills and Succession Law, the term "Domiciled in Cyprus" has been defined either as an individual who has a Cypriot domicile of origin or an individual who has obtained a domicile of choice outside of Cyprus, provided that he/she has not been a tax resident in Cyprus for at least 20 years prior to the relevant tax year.

Notwithstanding the above, any individual who has spent 17 of the last 20 year, prior to the relevant tax year, as a Cyprus tax resident will be considered domiciled in Cyprus.







2. Extension of the available exemptions to individuals with tax residency in Cyprus

The personal tax exemption for high earners (>€100.000 per year) which was already available from 1st of January 2012 will now be granted for 10 years instead of 5 years.

Individuals taking up residency in Cyprus while having an annual employment income exceeding €100.000, receive a 50% exemption on their personal income tax.

This exemption, however, will not be apply to individuals that were Cyprus tax Residents for a period of 3 out of 5 Years preceding the year of employment. Neither to individuals who were Cyprus Tax residents in the year preceding the year of commencing their employment.

If the individual's annual salary does not exceed the €100.000 threshold, the income tax law provides a 20% exemption for remuneration from employment in Cyprus subject to a maximum amount of €8.500. This exemption applies for a period of 3 years starting from the tax year following the commencement of employment. For employments which initiated during or after 2012, the 3 year period is extended to 5 years and the last year for which it will be available is 2020. Standard income tax rates in Cyprus are as follows:

€ 0	-	€ 19.500	→ 0%
€ 19.501	-	€ 28.000	→ 20%
€ 28.001	-	€ 36.300	→ 25%
€ 36.300	-	€ 60.000	→ 30%
Exceeding € 60.000			→ 35%

Please note that those eligible for the 50% exemption cannot claim the 20% exemption.

1. Notional Interest Deduction on equity

The introduction of the Notional interest Deduction on Equity (NID) has been initiated by the government for the encouragement of using equity capital into corporate structures. Hence any distortions between equity and debt finance have been levelled out since now both will be entitled to tax reduction.

Conform the amended law, corporate entities (Including permanent establishment of foreign companies) will be entitled to a NID on 'New Equity' contributed and paid to Cypriot Companies from 2015 onwards. It will be calculated based on the 'New Equity' and a 'Reference Interest Rate'.

New Equity refers to any equity introduced in the business on or after 1st of January 2015 in the form of issued share capital and share premium. It does not include amounts that have been capitalized and which are the result of a revaluation of movable or immovable property.

Reference Interest Rate refers to the interest rate of the 10 year government bond yield of the country in which the new equity is invested, increased by 3% (a minimum rate applies).

The bond yield is the one applicable as of 31st of December of the tax year preceding the relevant tax year.

Please note that the NID granted on new equity cannot exceed 80% of the taxable profit before allowing the NID. In the event of losses, the NID will not be applicable. Effectively this means that the NID cannot create taxable losses to be carried forward.

Taxpayers can elect not to claim the NID or claim part of it for each tax year. Furthermore the legislation includes specific anti abuse provisions and is effective from 1st January 2015.

	Activity 1	Activity 2	Activity 3	Activity 4
New Capital	500.000	1.000.000	1.000.000	100.000
Reference Interest	8%	10%	10%	10%
NID before the max allowed (80%)	40.000	100.000	80.000	10.000
Taxable Profit	100.000	100.000	100.000	0 (exempted)
80% of taxable profit (max)	80.000	80.000	80.000	0 N/A
NID	**40.000**	**80.000**	**80.000**	**0 N/A**

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2. Implementation of the amendments made to the EU Parent Subsidiarity Directive

In the aftermath of harmonisation with the amended Parent Subsidiary Directive, Cypriot Income Tax Law has undergone some fundamental changes, which will be in effect on 1st of January 2016.

The unconditional exemption from the Corporate Income tax (CIT) on dividends will however become restricted in the following situations:

- When the relevant dividend received by a Cypriot tax resident company is allowed as a tax deduction in the jurisdiction of the foreign paying company; or

- When an arrangement or a series of arrangements have been set up between the dividend paying company and the receiving Cypriot company, which can be categorized as "not genuine" whilst considering all relevant facts and circumstances.

The labelling «not genuine" refers to arrangements that are not substantiated with valid commercial reasons that reflect their economic reality.

The existing (standard) percentage of 12,5% Corporate Income tax (CIT) on dividends remains unaltered, which allows Cyprus to rank among the lowest onshore tax jurisdictions within Europe. Furthermore, when subjected to this standards rate, dividends are automatically exempt from the Special Defence Contribution.

3. Tax neutrality of gains or losses resulting from Foreign Exchange (FOREX)

Foreign exchange gains of losses will no longer be taxable nor deductible for tax purposes. This stands irrespective of whether they are realized or unrealized in nature.

The tax neutrality of FOREX discrepancies consist of a fundamental change while providing certainty to taxpayers as it confirms that foreign currency results should be disregarded for tax purposes.

Please note that notwithstanding any of the above, companies or individuals specifically involved with FOREX Trading (FX currencies, FX currency options and derivatives) will be subjected to a taxable/deductible exception.

4. Limitation of loss carried forward on IP activities

The existing 80% deemed deduction available on the net profit generated from the business use or disposal of a qualifying IP asset has been fine-tuned.

While establishing Cyprus as a renowned IP location, the Cyprus Intellectual Property (IP) Regime was initiated in 2012. However, the recently amended provisions within the law have now established a corresponding limitation in case the activities are lossmaking for tax purposes. Hence only 20% of the resulting loss will be allowed.

5. Extension of Group Loss Relief provision

The current law has been amended concerning the harmonisation with the jurisprudence of the European Court of Justice.

The group loss relief provisions are now applicable in situations where the surrendering company is registered in – and is a tax resident of - another EU Member State on condition that it has exhausted all the available means for the usage of losses in its respective country of tax residency or in the country where its intermediary holding company has its legal seat.

6. Amendments to the Arm's length Principle for related parties' transactions

The current wording of the law regarding Transfer Pricing (TP) and its specific documentation requirements, have been amended to provide that not only profits but also expenses and losses will be adjusted and treated as deductible for the party which incurs the expense or loss.

In concrete terms, such an amendment allows taxpayers to apply a downwards TP adjustment unilaterally in their tax return e.g. when a company receives an interest free loan from a related party.

Furthermore, the law includes provisions for negative TP adjustments in relation to transaction concluded between two entities which are subject to tax in Cyprus.

If the tax authorities make a TP adjustment increasing the taxable profit of one entity, a corresponding (negative) TP adjustment should be made to the taxable profit of the other entity.

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A series of tax proposals have been approved by the Council of Ministers aiming at providing real estate incentives. Please find below a structured overview of the announced initiatives of which several have already been adopted by the House of Parliament.

1. Capital Gains Tax Law changes

Under the current legislation, the Capital Gains Tax (CGT) is applied only in regard to capital gains derived from the disposal of immovable property situated in Cyprus as well as from the disposal of shares of companies which own immovable properties in Cyprus. The proposed Law has now included within its scope the indirect sale of property.

The main turning points within the law are the following:

No CGT will be imposed on property which has been acquired between de amendment law comes into force and 31 December 2016.

CGT will be imposed on the sale of shares, which directly or indirectly participate in other companies which hold immovable property in Cyprus, provided that at least 50% of the market value of the shares sold is derived from property situated in Cyprus.

Any trading nature profits derived from the sale of shares of companies, which directly or indirectly own immovable property in Cyprus will be subjected to CGT in case such profit is exempt under Income Tax Law.

When shares, which directly or indirectly hold property in Cyprus, are being disposed, the disposal income, which is subject to CGT will be restricted to the market value of the immovable property held directly or indirectly by the company from which the shares are being sold.

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2. Transfer Fees

The proposed legislation entails a 50% Reduction in Transfer fees compared to the current legislation.

CURRENT SCHEME

Value per Plot (€)	Rate (%)	Fees (€)	Accumulated fees (€)
0 – 85 000	3%	2.550	2.550
85.001 – 170.000	5%	4.250	6.800
Exceeding 170.000	8%		

PROPOSED SCHEME

Value per Plot (€)	Rate (%)	Fees (€)	Accumulated fees (€)
0 – 85 000	1.5%	1.275	1.275
85.001 – 170.000	2.5%	2.125	2.125
Exceeding 170.000	4%		

3. Immovable Property Tax rate

Introduction of a single property tax on the basis of a single low tax rate (1%) based on the 2013 Department of Lands and Surveys of the Government. The immovable property tax for 2015 will be calculated based on 1980 valuations, the same as in 2014.

4. Municipal and Community Tax Rates

Currently the amount payable depends on the size and market value of the property based on 1980 rates. The rate is determined by each municipality or communal board. However, with the new legislation, the aforementioned municipal and community taxes on all properties will be abolished.

5. Capital Allowances

Extension until the end of 2016 of the increased capital allowance for machinery, installations and buildings.

Cyprus international trust (CIT) may offer asset protection in a very effective legal way by placing assets beyond the reach of future potential claimants as well as to be used for tax planning, estate planning, for wealth management, investment, for charitable purposes and other. Furthermore, the law provides a duty of confidentiality on the trustee or any other person concerned as regards the identity of the settlor / beneficiary, the accounts and the assets of the trust. These information can only be revealed by a court order related to a civil or criminal proceeding, when the court is convinced that such information is material to the outcome of proceedings.

Conditions of a CIT

I. The Settlor is a non-tax resident of Cyprus during the year preceding the year in which the trust was formed.

II. No prohibition on settlors relocating to Cyprus after the establishment of the CIT as well as the Beneficiaries may also relocate to Cyprus after a year following the trust creation.

III. The trust property can include all kinds of assets situated anywhere in the world and it can comprise of real estate property located in Cyprus.

IV. At least one of the trustees must be a resident of Cyprus.

CIT benefits

Tax benefits

I. Income, gains and profits from non-Cyprus sources are exempt from income tax, capital gains tax, special defense contribution or any other taxes in Cyprus.

II. Worldwide income, profit and gains are taxable in Cyprus only where the beneficiary is a Cyprus tax resident.

III. Dividends, interest or royalties received by a CIT from a Cyprus international business company are not taxable and not subject to any withholding tax.

IV. Trust capital received in Cyprus by a foreigner resident or retired in Cyprus from trusts not resident in Cyprus is not taxable on the trustee.

V. No estate duty or inheritance tax in Cyprus.

Asset Protection

I. The CIT may be used to protect assets from risks arising in relation with transactions of the Settlor. Types of claims may include negligence, breach of contract, claims of spouses or former spouses, expropriation, breach of statutory duty and so on.

II. A transfer of trust assets may only be set off by the settlor's creditors in court proceedings in cases with the intention to defraud creditors.

Confidentiality and reporting

I. Registration of the CIT is optional and therefore confidentiality is safeguarded.

II. No reporting requirements in Cyprus for the CITs.

III. The trust may hold shares of a Cyprus company with Cypriot nominee shareholders who will hold the shares of the company for the real owner, i.e. the trust.

Other benefits

I. The CIT is ideal for high net-worth individuals with complicated family structures such as divorced spouses and children from different weddings.

II. No limitation upon the CIT`s duration.

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ABOUT BKMS

With over a decade worth of experience and a prominent network of international clients, BKMS has established a reputation that speaks for itself. BKMS is covering a broad spectrum of industries, taking into account the required accounting treatment and tax implications as well as the challenging international regulatory framework. Client Trust and loyalty are the very fundament of every commitment undertaken by BKMS. Adherence to a strict policy of professionalism therefore results in continuously successful developments. BKMS is regulated by Cyprus Securities and Exchange Commission Registration No 96/196.

MULTI FAMILY OFFICE SERVICES

Administrative Services

Tax Planning

Wealth Planning

Corporate Consulting

Legal Services

BKMS Limited

201 Strovolos Avenue

Off. 201-202, 2nd Floor

2049 Nicosia, Cyprus

info@bkmsgroup.com

Tel. +357 – 22 265 360

Fax. +357 – 22 265 361