
DOING BUSINESS IN CYPRUS:
CYPRUS COMPANY & TRUST FORMATION

PREFACE

G Vassiliou law office has prepared this outline in order to assist any individuals or businesses that might be considering Doing business in Cyprus. The material within the outline is only intended to provide a summary form; hence it should not be read as a comprehensive guide in its scope. The contents herein below are believed to be true at the time of publication however alterations may occur by subsequent changes in practice or legislation. Our office strongly recommends that individuals and businesses seek legal advice and guidance before attempting to implement any statements contained within this outline.

Even though G Vassiliou law office has prepared the material contained within this outline with the outmost of care, in the unlikely situation of an inaccuracy we shall not be held liable.

INTRODUCTION

The island of Cyprus is situated at the crossroads of Europe, Asia and Africa, more specifically near the trade routes of each continent, thus Cyprus is located at a strategic position which appeals to businessmen around the world and that amongst other favourable factors, as will be explained in more detail herein below, developed the island into an international business center.

Moreover, the island's coherent legal system which is a mixture of legislative statutes and case law based upon the English Common Law, the low cost of living, the high quality of professional services and labour force, greatly generous tax incentives due to its favourable tax regime and its wide network of double tax treaties contribute determinedly in creating a supreme business environment, as demonstrated accordingly by the substantial increase within the island of International Business Companies (IBCs) and Cyprus holding companies formerly known as offshore companies.

The term International Business Company refers to a corporation whose beneficial ownership and activities lie outside of Cyprus. Nonetheless, since Cyprus' accession to the EU on May 1st 2004, there is new legislation aiming to equalize IBCs with local companies, hence the term has no further significance.

More specifically on January 1st 2003 following the implementation of new tax legislation in order to conform with European Union Law as well as the EU Code of Conduct there is no longer a distinction between local companies and IBCs.

Nevertheless, even with the new legislation Cyprus still remains and enhances its competitiveness as an international business and financial center.

Furthermore Cyprus' 41 double tax treaties remain in force providing legally reduced overall taxes for individuals and businesses as well as the favourable tax regime in Cyprus which provides many tax exemptions such as inter alia, profits from the sale of shares and securities, dividend income and royalties.

LEGAL SECURITY

The rights of a company either owned exclusively by Cypriot citizens or foreigners located in Cyprus, ownership, possession and related rights (such as freedom of contract and the practicing of any profession as well as carrying on any trade or business etc) are guaranteed legal security by the Constitution of Cyprus as well as International Treaties ratified by Cyprus that subsequently form parts of its Laws. Furthermore, due to the nature of the Constitution of Cyprus and other relevant laws the aforementioned fundamental rights are guaranteed to all individuals regardless of their nationality; thus no discrimination between Cypriot citizens and foreigners.

In addition to the above the legal security of a Cyprus IBC, the following are also comprised entitlements; protection by the State and support by the Government and other State organs on an international level.

TAXATION

(a) Corporation Tax

The tax rate on corporate profit as of January 1st 2005 is 10% which makes it the lowest rate in the European Union after Ireland (12.5%).

For tax purposes a company to be resident in Cyprus and to be considered a Cypriot company its management and control must be in Cyprus. Hence incorporation in Cyprus is insufficient to establish residence in Cyprus.

Legally there is no definition of management and control, nonetheless it is generally accepted as being the place where the directors of the company reside and board decisions are taken.

Non-resident companies in Cyprus are subject to tax only on their income derived in Cyprus; therefore only their profits arising from their permanent establishment in Cyprus will be taxed. The term "permanent establishment" includes an office, a branch, a factory or laboratory, a mine, an oilfield or a construction site for a project exceeding three months. However, irrespective of the existence of permanent establishment, hence would be taxable regardless, are rentals from immovable property located in Cyprus and profit from sale of goodwill in Cyprus.

Under the Cyprus Income Tax Law, dividends are exempt. However, those may be taxed under the Special Contribution for Defence Tax (SCDT).

(b) Withholding Tax (Special Contribution for Defence Tax / SCDT)

Every resident person who receives any dividend is liable to SCDT at the rate of 15%, however the following are exempt:

Dividends paid from one Cyprus resident to another.

Dividends received from an overseas company by a resident company of Cyprus, or by a company which is not resident of Cyprus but has a permanent establishment in Cyprus, holding directly at least 1% of the share capital of the overseas company. This exemption does not apply if the company paying the dividend engages in more than 50% of its activities that produce investment income, and if the foreign tax burden on the income of the company paying the dividends is substantially lower than the Cypriot tax burden.

Furthermore, there is no withholding tax imposed on payments of royalties when the royalty is paid for use outside of Cyprus, nevertheless, if the royalty is to be used in Cyprus then a 10% withholding tax applies.

Lastly, in regard to rents earned by a Cyprus resident there is a 3% withholding tax after a deduction of 25% thus ultimately concerned with the 75%.

(c) Capital Gains Tax (CGT)

Capital gains tax is imposed on profits arising from the disposal of immovable property situated in Cyprus; thus not applicable for capital gains arising from the sale of immovable property outside of Cyprus. The tax rate imposed on the net profit is that of 20%. The net profit is calculated as the disposal proceeds less the greater of the cost or market value on January 1st 1980, adjusted for inflation. Inflation is calculated using the official Retail Price Index.

Exempt from taxation is the sale of shares in a company if they do not hold any immovable property in Cyprus.

(d) Value added Tax

As from January 1st 2003 the standard VAT rate is 15%.

Because of the new legislation, as seen above, that there is no distinction between local and IBC companies then the IBC companies are subject to the same registration procedures as any local company would; in the majority of cases this could only benefit the IBCs.

(e) Taxation of employees

As from 2003 all residents in Cyprus, locals and expatriates resident in Cyprus are taxed at the following rates:

<u>Tax Year 2011</u>	
<i>Chargeable Income (euro)</i>	<i>Tax Rate</i>
Between €00,000 to €19,500	0
Between €19,501 to €28,000	20
Between €28,001 to €36,300	25
Income over €36,301	30

If expatriates are employed outside Cyprus then there is no taxation. However, if they are employed in Cyprus for 183 days or more then taxed on all income from employment, if less than 183 days then they are taxed on the salary attributable to the employment in Cyprus.

For individuals that are non residents within Cyprus but are taking up employment in Cyprus then a unique exemption income tax applies for the first 3 years of their employment in Cyprus amounting to 20% of the income earned or €8.555 per year, depending on which one of the two is lower.

(f) Interest

Any sort of trading interest received by a Cyprus Company is subject to 10% income tax on net profits. Nonetheless, the income in question is exempt from defence tax.

Passive interest received by a Cyprus Company is exempt from income tax but it is subject to defence tax at the rate of 10%.

(g) Securities

The term 'Securities' includes the following: shares, bonds, debentures, founders' shares as well as other legal securities of companies and other legal persons and options thereon.

Furthermore, any profits that may arise from the disposal or trading of securities are not subject to income tax.

Residence – Employment Permits

(a) Eligible Companies

For a company in order to be eligible to employ third country nationals in Cyprus they must fall within the following categories:

1. Must be a member of the groups that have transparent ownership and sources of capital and moreover their ultimate shareholders must be approved by the Civil Registry and Migration Department or to public corporations quoted on any recognised stock exchange.
2. Must also operate from their self-contained office:
 - Which is not part of a private residence or another office hence it is located in suitable distinct premises,
 - Must be equipped with the appropriate communications as well as office facilities,
 - And it must operate during normal office hours and should have full time staff.
3. Lastly they should comply with the conditions of their permit and should prove based on their annual financial statements, that they are financially sound, credit worthy and that they are continuously operating during normal office hours.

(b) Employee Classification

Provided that the companies are eligible as stated above then they may employ third country nationals in executive positions in Cyprus. However the maximum number of such executives is three (3), unless the company satisfies the Director of the Civil Registry and Migration Department that a greater number is rightly justified.

The following criteria must be met by a third country wished to be employed in an executive position in Cyprus:

- Must be at least 24 years of age
- Have the appropriate/suitable qualifications
- Receive the appropriate salary

The minimum annual salary that is acceptable for newly appointed executives is €41.000.

DOUBLE TAX TREATIES

As mentioned above the availability of double tax treaties, 41 to be exact, is one of the main reasons that contributed towards the making of Cyprus to the International Business Center it is today.

The Cyprus double tax treaties as they have been drafted in such a way which is so closely to the Organisation in Economic Cooperation and Development Model Treaty (OECD) that aim the avoidance of double taxation of income earned in these countries which is achieved by either exempting the income from tax, by providing a tax credit for the amount of tax paid in other contracting country or by a reduced withholding tax.

SUMMARY OF WITHHOLDING TAX RATES						
COUNTRY	PAID FROM CYPRUS			PAID IN CYPRUS		
	DIVIDENDS %	INTEREST %	ROYALTIES %	DIVIDENDS %	INTEREST %	ROYALTIES %
Non-treaty Countries	0(1)	0(2)	10(3)	-	-	-
Treaty Countries						
Austria	10	0	0	10	0	0
Belarus	5(18)	5	5	5(18)	5	5
Belgium	10(24)	10(25)	0	10(24)	10(25)	0
Bulgaria	5(19)	7	10	5(19)	7	10
Canada	15	15(4)	10(5)	15	15(4)	10(5)
China	10	10	10	10	10	10
Czech Republic	10	10(6)	5(7)	10	10(6)	5(7)
Denmark	10(8)	10(6)	0	10(8)	10(6)	0
Egypt	15	15	10	15	15	10
France	10(9)	10(10)	0(3)	10(9)	10(10)	0(3)

Germany	10(8)	10(6)	0(3)	10(8)	10(6)	0(3)
Greece	25	10	0(12)	25(11)	10	0(12)
Hungary	0	10(6)	0	5(8)	10(6)	0
India	10(9)	10(10)	10(16)	10(9)	10(10)	15(15)
Ireland	0	0	0(12)	0	0	0(12)
Italy	0	10	0	15	10	0
Kuwait	10	10(6)	5	10	10(6)	5
Malta	15	10	10	0	10	10
Mauritius	0	0	0	0	0	0
Norway	0	20(2)	0	0(13)	0	0
Poland	10	10(6)	5	10	10(6)	5
Romania	10	10(6)	5(7)	10	10(6)	5(7)
Russia (new treaty)	5(17)	0	0	5(17)	0	0
Singapore(21)	0	10(20)	0	0	10(20)	0
Slovakia	10	10(6)	5(7)	10	10(6)	5(7)
South Africa	0	0	0	0	0	0
Sweden	5(8)	10(6)	0	5(8)	10(6)	0
Syria	0(8)	10	10	0(8)	10(4)	10
Thailand	0	10(22)	5(23)	10	10(22)	5(23)
United Kingdom	0	10	0(3)	15(14)	10	0(3)
United States	0	10(10)	0	5(9)	10(10)	0
U.S.S.R. (old treaty)	0	0	0	0	0	0
Yugoslavia	10	10	10	10	10	10

Please note that the number contained within each bracket refers to the explanatory notes below.

Explanatory notes:

1. If the treaty rate is higher than that for non treaty countries, then the lower latter rate shall prevail.
2. If the treaty rate is higher than that for non treaty countries, then the lower latter rate shall prevail.
3. If the treaty rate is higher than that for non treaty countries, then the lower latter rate shall prevail.
4. When paid to a Government or for export guarantee then there is nothing to pay.
5. There is nothing to pay on literary, dramatic, musical or artistic work.
6. When paid to the Government of the other state then there is nothing to pay.
7. For literary, artistic or scientific work, film and TV royalties, the relevant non-treaty rate applies.

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- 8.** When received by a company controlling less than 25% of the voting power then there is a 15% charge.
- 9.** When received by a company controlling less than 10% of the voting power then there is a 15% charge.
- 10.** There is nothing to give/pay if paid to a Government, bank or financial institution.
- 11.** The treaty provides for withholding taxes on dividends but Greece does not impose any withholding tax in accordance with its own legislation.
- 12.** There is 5% on film royalties.
- 13.** When received by a company controlling less than 50% of the voting power then there is a 5% charge.
- 14.** This rate applies to individual shareholders regardless of their percentage of shareholding. Companies controlling less than 10 per cent of the voting shares are also entitled to this rate.
- 15.** There is 10% per payments of a technical, managerial or consulting nature.
- 16.** Treaty rate 15%, thus it is restricted to Cyprus legislation rate.
- 17.** There is a 10% where the dividend is paid by a company in which the beneficial owner has invested less than US\$100.000.
- 18.** (i) There is a 10% where the dividend is paid by a company in which the beneficial owner has invested less than ECU200.000 and (ii) There is 15% if received by a company controlling less than 25% of the voting power.
- 19.** When received by a company controlling less than 25% of the voting power then there is a 10% charge.
- 20.** If the interest is received from a bank then there is a 7% charge.
- 21.** Comes into effect on 1 January 2002.
- 22.** 15% in certain instances.
- 23.** 10% and 15% in certain instances.
- 24.** When received by a company controlling less than 25% of the voting power then there is a 15% charge.

25. It is exempt in certain instances.

TYPES OF LEGAL ENTITIES THAT MAY BE ESTABLISHED IN CYPRUS

- Any company with limited liability private or public (by shares or guarantee) registered under the Companies Law, CAP 113, in Cyprus.
- Partnerships either general or limited registered in Cyprus under the Cyprus Partnership Law, CAP 116. Partnership profits are exempt from local taxes.
- Branches of overseas companies can be established in Cyprus under Section 347 of the Companies Law, CAP 113.
- Investment firms of Cyprus regulated under the Investment Firms Act 2002, to be more exact under Law 148(1)/2001.
- Trusts.

TRUSTS

A trust is established by an individual called the 'settlor'. The property of trust is held by one or a maximum of 4 persons and those persons are known as the 'trustees'. The trustees hold the property for the benefit of another or others (no restricting number of people) that are known as the 'beneficiaries'.

Even though the trustees are the legal owners of the property held on trust they are obliged to deal with the trust in accordance with the law and the directions within the trust to ensure the best interest of the beneficiaries, hence the beneficiaries are the 'true' owners.

(a). International Trust

For a trust to be considered as an international trust the following must be fulfilled:

- The settlor must not be a resident in Cyprus
- One of the trustees must be a resident of Cyprus (International Business Companies are considered residents of Cyprus)
- The trust property must be located outside of Cyprus
- The trustees must be non residents.

In addition an international can last for up to 100 years unless there is a contrary intention enclosed within the trust.

(b). International Trustee Services Companies (ITCS)

Solely for the purposes of acting as a private or professional trustee an overseas company, a Cyprus Company as well as an international partnership could register with the Central Bank.

(c). International Financial Services Companies (IFSCS)

As above, an overseas company, a Cyprus Company as well as an international partnership can be granted a license by the Securities and Exchange Commission in order to commence providing 'financial services'.

The definition of the term is as follows:

"Dealing in investments, managing in investments, providing investment advice or establishing and operating collective investment schemes. Only branches, subsidiaries or associate companies with a good international reputation and established in countries where there is adequate financial supervision will be licensed by the Cyprus Securities and Exchange Commission to offer 'financial services' to the public".

REQUIREMENTS OF REGISTERING A COMPANY IN CYPRUS

(1) INFORMATION

(a). Name of the Company

After the client puts forward the name of the company then it is passed on to the Registrar of Companies for approval. The Registrar will reject a specific name which is too similar to the name of a company operating abroad however if a letter of consent is obtained by the specific company then it can be accepted.

(b). Objects of the Company

In order for the Memorandum and Articles of Association to draw up for submission the main activities that the Company will be carrying on must be provided.

(c). Bank Reference

A letter from a bank in reference to each beneficial owner/shareholder/director stating that they are of good standing.

(d). Passport Copy

A certified copy of the passports of each beneficial owner/shareholder/director will be needed; a passport can be certified as being a true copy by a lawyer, a notary public or the Cyprus Embassy of each individual's country of origin.

(e). Utility Bill

An up to date (no later than 3 months old) utility bill of each owner/shareholder/director in order to verify the each of the relevant persons address.

(2) STRUCTURE OF THE COMPANY

(a). Shareholders

The minimum number of shareholders required is one (1) in order for the shares to be registered onto their name(s). Nevertheless, complete anonymity of the beneficial owner(s) is also an option but in that situation then nominee companies can be used to hold the shares on trust in order for their names to be kept in private.

(b). Directors

The minimum number of Directors required is one (1) although more can be appointed. In order for an individual to undertake a Director's position (s)he must provide the following: Their full name and address, country of origin(nationality), profession and a certified copy of their passport (as emphasized above). The nationality of the Director is of no importance, hence could be a Cypriot or a foreigner.

(c). Secretary

For practical reasons under Company Law it is required for each company to have a secretary in order to keep the Company's Statutory Registers and to perform ministerial functions of non-executive character, acting always under the control and instructions of the Directors.

(d). Registered Office Address

Another legal requirement is for every company to have a registered office in Cyprus in order for the necessary official documents to reach the Company. Companies established in Cyprus have the option of choosing between the following; whether to operate from their lawyers or accountants offices or they could set up their own offices if they wish to do so.

(3) FURTHER INFORMATION / REQUIREMENTS

(a). Share Capital

Even though not compulsory it is strongly recommended every newly formed company's authorised and issued share capital it is comprised from at least 1000 shares 1 euro each. Moreover the number of the shares can be altered for a nominal fee.

The company is allowed to issue to the shareholders the authorised or nominal capital which is the total capital.

The part of the authorised capital which has been issued and paid by the shareholders is the paid up capital.

(b). Period needed for registration of a Company

The period needed for a company to be registered is approximately between 7-10 days.

OTHER TYPES OF CYPRUS COMPANIES

Even though the most common type of company incorporated in Cyprus is a limited Company also the following of companies are forms of companies which are also utilized by foreign investors:

- International Business partnership which is an agreement between two or more natural or legal persons to continue with a business together with ultimate aim of making profit. There are two types of partnerships; General Partnerships and Limited Partnerships.
- International Business Branches as mentioned above (page 9) concerning the necessary criteria for registration.
- International Collective Investment Schemes (ICIS) under Cyprus legislation introduced in May 1999, with the sole aim of collective investment of funds of unit holders.
- Open-Ended Undertakings for Collective Investments in Transferable Securities (UCITS) to be exact Law 20(1)/2004 provides the legal framework for the registration as well as the regulation and marketing of local and foreign funds in Cyprus.
- Cypriot Investment Firms (CIF's) are concerned with investment services (including non core services) which can be found in the Investment Firms Act 2002 which also provides the legal framework for registration, regulation of operations and supervisions of CIFs.

Any of the following services amount to investment services:

1. Reception and transmission, on behalf of investors, of orders and execution of such orders
2. Dealing for own account
3. The managing of investment portfolios
4. Underwriting

In addition, any of the following services amount to non core services:

1. Safekeeping Services
 2. Safe Custody Services
 3. Granting of credits or loans to clients
 4. Financial advice
 5. Services connected to underwriting
 6. Investment advice
 7. Foreign-exchange services.
- Societas Europea (SE) in Cyprus are public limited companies governed by Community law directly applicable in all member states. Under the SE, companies carrying out business in different Member States have the opportunity of acting as one company under unified rules.

Moreover, under the SE by consolidating different companies that are in different regions then the competition advantages are strengthened and more economical and psychological advantages are generated.

REGISTRATION OF A FOREIGN COMPANY

It is possible for a foreign company to be registered in Cyprus which will result in the making of two companies which amount to separate legal entities.

Preferably both companies will have to prepare accounts, if not both then the Cyprus entity should, and then the company could become resident for tax purposes in Cyprus and subsequently would take advantage of the Double Tax Treaties; vice versa concerning the alternate country of registration and subject to certain tax laws, then the company will only be liable for tax in Cyprus.

MERGE OF A FOREIGN COMPANY WITH A CYPRUS COMPANY

The end result of merging a foreign company with a Cyprus company is that the foreign company will be dissolved at the end and the assets will be transferred to the Cyprus Company.

CONTINUING REPORTING REQUIREMENTS

The following basic reporting requirements should be complied with by Companies of Limited Liability registered in Cyprus:

- Annual audited accounts should be prepared by accountants that are practicing their profession in Cyprus and should be filed with the Department of Inland Revenue. Even though it is annual there is the exception if concerned with the first audited accounts then it may cover the first eighteen (18) months of the Company's life.

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- An annual report must state the share capital and the registered shareholders, the directors, the secretary and the registered moreover it must be filed with the Registrar of Companies.

INCORPORATION AND ADMINISTRATION SERVICES

Any legal advice is available from our comprehensive team of qualified and professional lawyers in order to ensure the appropriate standards and requirements for incorporation are met as well as any administrative services for companies in Cyprus.