

TRUST QUALITY™



Corporate Services

Cyprus Holding Companies

Introduction

This Briefing outlines the main domestic tax advantages enjoyed by holding companies in Cyprus.

With the introduction of reforms to its income tax legislation in 2003, Cyprus is now viewed as a favourable low tax jurisdiction that can compete with the most favourable tax regimes in the European Union. Cyprus became a full member of the EU in 2004.

General

Residence/Substance

A Cypriot company will be considered resident for tax purposes in Cyprus if “management and control” of the company is exercised in Cyprus. Although there is no definition of what constitutes “management and control” for these purposes, it is generally accepted that, if management decisions and the decision-making process are based in Cyprus, this should be sufficient to meet the management and control test; the mere fact that the company is a Cypriot company will not be sufficient evidence of residence.

If a company is to qualify for the domestic tax benefits available in Cyprus it is of the utmost importance that the majority of its board of directors are Cyprus residents and that those directors are responsible for making the company’s most important management decisions.

Corporate and Tax status

A Cyprus Holding company (“Cyprus Holdco”) is a normal commercial company, which may carry out any of the activities permitted under its corporate objects clause. Dividend distributions by the Cyprus Holdco are not subject to any dividend withholding tax in Cyprus, because Cyprus does not impose dividend withholding taxes.

Cyprus Holdcos have access to the benefits of the tax treaties concluded between Cyprus and other countries (more than 40) and under the EU Parent-Subsidiary Directive.

Profits taxes

Cyprus Holdcos are subject to Cypriot taxation at a rate of 10%, the lowest income tax rate in the European Union.

Annual net worth tax

There are no net worth taxes levied in Cyprus.

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Capital tax/Stamp duty

A Cyprus Holdco is subject to a stamp duty tax of 0.6 % on the amount of its authorised share capital. In many cases, exposure to stamp duty can be minimised by issuing a smaller number of shares and classifying the bulk of the capital as share premium or informal capital, which is exempt from stamp duty.

Register of companies

As a commercial company a Cyprus Holdco should be registered in the Cyprus register of companies. Costs are marginal.

Taxation on dividends/capital gains

Participation exemption (general)

A Cyprus Holdco may be entitled to the participation exemption. The Cyprus participation exemption slightly differs for dividends and capital gains. Note that capital losses on alienation or otherwise (e.g., liquidation or depreciation) are not tax deductible.

Dividends

According to the Cyprus Corporate Income Tax Act, dividends received by a Cyprus Holdco from its non-Cyprus subsidiary are exempt from corporate income tax, although in principle these dividends are subject to a special defence tax of 15%. There is an exemption, however, from this special defence tax where the Cyprus Holdco holds at least 1% in the non-Cyprus subsidiary and also meets one of the two following requirements:

- less than 50% of the subsidiary's profits are derived, directly or indirectly, from passive investment income; or
- the foreign tax burden on the income of the subsidiary is not substantially lower than the Cypriot income tax burden (a foreign tax burden of 5% should be sufficient for this purpose).

Group financing activities are considered trading activities and profits derived from those activities are therefore not considered passive investment income.

In addition, under the EU parent-subsidiary directive, no withholding tax is levied on dividend payments from any EU subsidiary to a Cypriot Holdco, provided that all requirements are met (e.g. minimal 15% shareholding, annual possession).

Furthermore, dividends payable by a Cypriot subsidiary to its Cypriot parent are exempt from taxation (e.g. not included in the taxable income of the parent company).

No withholding tax is levied on dividend payments from any EU subsidiary to a Cypriot Holdco, provided that all requirements are met.

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Capital gains

Capital gains made by a Cyprus Holdco on the alienation of its shares in a non-Cyprus subsidiary are fully exempt from Cypriot tax. The exemption requires no specific holding period and there are no other shareholding requirements. There is an exception to this rule where the subsidiary in question holds immovable property (land) located in Cyprus.

By the same token, capital losses are not deductible, although when the company making the loss is a member of a group, another group company can sometimes use the loss.

Liquidation/transfer of seat

No Cypriot income tax will be levied on unrealised capital gains on the liquidation of a Cypriot Holdco or on the transfer of the management and control of a Cypriot Holdco to another jurisdiction.

Withholding tax on outgoing dividends/capital gains

Domestic rate and tax treaties

Cyprus tax law does not impose a dividend withholding tax on the distribution of dividends by a Cypriot Holdco.

Other issues

Expenses

There are no thin capitalisation rules in Cyprus. As a general rule, costs are deductible in cases where the profits that are effectively connected with those costs are taxable.

Loss compensation

The losses of Cypriot companies can be offset against future income indefinitely, though no carry back is available. Furthermore, it is possible to offset the losses of one group company against the profits of another group company, provided the relevant conditions are met (e.g. both companies are residents of Cyprus).

Advance confirmation

In cases where there is doubt about the application of the above rules (e.g. whether the activities test is met), the Cyprus tax authorities are generally amenable to advance discussions.

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ATC's services

ATC can offer the full range of services needed to establish, manage and administer Cyprus companies and can also offer similar corporate services in a wide range of other financial centres worldwide (for Groups of companies).

How do I incorporate a Cypriot company?

The first stage is to contact ATC's offices in Cyprus and complete our corporate questionnaire. Before the structure is set-up, ATC, together with your preferred qualified tax advisors or lawyers, can assist you with selecting the most appropriate structure, taking into account the particular facts, circumstances and objectives of the envisaged structure.

ATC will arrange for the incorporation of the Cyprus company. The incorporation process can generally be achieved within a maximum of two weeks. For urgent and uncomplicated cases the process can be completed within a few days.

Contact ATC

For more detailed information on the use of Cyprus companies, other services that ATC provides, or more specific costs, please contact Krisje van der Poel (t: +31 20 5771150) or any of our Group offices around the world.

Disclaimer

The information contained in this memorandum is of a general nature only and should not be construed as legal or tax advice. Readers should obtain appropriate professional advice before setting up any structure. If required, ATC can refer readers to a panel of reputable legal and tax advisory firms.

Last updated: June 2009

For more information
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