

Amendments to the Cyprus Tax Legislation, December 2010, to extend and strengthen the anti-avoidance and anti-evasion provisions

- Income Tax Law
- Special Defence Contribution Law
- The Assessments and Collection of Taxes Law
- Value Added Tax Law

These will be put in effect 6 months after the publication of such laws in the Official Gazette of the Republic.

1. Income Tax Law

(a) Disallowed expenditure:

Any expenditure not supported by invoice or corresponding receipts or other supporting information will not be treated as deductible expenses under income tax law.

(b) Tax withheld on payments to non-Cyprus residents:

Tax withheld on payments to non-Cyprus residents should be paid to the Income Tax authorities by the end of the following month.

- (i) Copyrights for use within Cyprus at 10%;
- (ii) Rights for cinematographic films at 5%;
- (iii) Income of a physical person in respect to professional services, fees of artists and athletes at 10%.

(c) Notional interest on receivables from shareholders or directors:

Notional interest, according to section 39 of Income Tax Law, will only be imposed on debit balances or loans to shareholders or directors at the rate of 9%. If the shareholder is a company, then market rate of interest will apply as per related party transactions.

2. Special Defence Contribution Law

The following provision will enter into force 6 months after the publication of the relevant amending law in the official Gazette of the Republic.

(a) Deemed dividend distribution:

In the case of non-payment of dividends by a company within two years from the end of the financial year, the provisions of deemed dividend distribution apply where 70% of profits, after tax is deducted, is deemed to be distributed to the shareholders of the company as dividends and special defence contribution is payable at the rate of 15%.

In the case where a company disposes an asset to its shareholder (physical person not legal) for a consideration which is below the market value of the asset disposed, it will be deemed that the company has distributed dividend to its shareholder equal to the difference between the market value of the asset and the amount of the consideration. In such a case, special defence contribution is also payable at the rate of 15%.

It should be noted that the provisions of the law for deemed dividend distribution will not apply where the shareholders are not tax residents in Cyprus.

(b) Definition of "Taxation":

The definition of "Taxation" has been amended for the purpose of calculating a company' profit that is subject to special defence contribution to include the following:

- Special defence contribution
- Capital gains tax
- Foreign Taxes

(c) Capital Reduction:

Where the capital of the company is reduced, any amounts paid to the shareholders of the company in excess of the amount of the share capital that was actually paid by the shareholder will be treated as deemed dividend taxable at 15%.

(d) Voluntary Liquidation:

In the case of a company under voluntary liquidation, a deemed dividend declaration will need to be submitted (within one month from the date of the resolution for liquidation) to the relevant authorities in respect to profits of the specific year and the two preceding years.

(e) Withholding of SDC at source with respect to rents

Companies, partnerships, the Government or any local authorities that pay rents should withhold SDC at source at the rate of Companies, partnerships, the Government or any local authorities that pay rents should withhold SDC at source at the rate of 3% on 75% of the amount of the rent.

(f) Payment of SDC on dividends or interest income received from abroad

It has been clarified that the SDC on dividends or interest from sources outside the Republic is payable in two six-monthly instalments, i.e., by 30 June and 31 December of each year respectively.

Assessment to The Assessments and Collection of Taxes Law

(a) Registration with the Income Tax office:

Companies have an obligation to register with the Inland Revenue Department and obtain a tax identification code within 60 days from the date of its incorporation with the Registrar of Companies in Cyprus.

In addition companies which are already registered with tax authorities should inform the them within 60 days of any relevant amendments to their records which affect the Tax Authorities Register.

Exiting companies which are not yet registered with the tax authorities may register by 30 June 2011 without any penalties.

(b) Banking Secrecy

The Commissioner of Income Tax has the right to request from a bank to provide information in the bank's possession for a period of seven years from the date of such request. Such power can only be used provided that there is a written approval by the **Attorney General of the Republic**. As such, specific requirements need to be fulfilled by the Commissioner prior to receiving such approval.

(c) Submission of Tax Returns, Tax Assessments and Objections:

- (i) Provisions have been introduced for the submission of electronic tax returns where these have been prepared by a professional auditor. The deadline for submission in the case of electronically submitted returns is extended by three months.
- (ii) Where a person (individual or company) omits to submit a tax return within the time limit set out in the Law and if the Commissioner decides that such a person has an obligation to pay taxes, then the Commissioner can proceed with **the issuance of tax assessment for that person based on the information available.**
- (iii) Any objection submitted against a tax assessment referred to above should provide for the reasons that the assessment is incorrect, the reasons that he considers that no obligation to pay the said tax arises and provide supporting documentation. Such objection should be effected within **two** month from such assessment.
- (iv) The Commissioner has the right to request information from any civil servant to provide details in relation to any person for tax purposes.
- (v) Companies which have an obligation to keep books and records for every tax year are obliged to update them within **four months** from the date of the transactions. Further, companies are required to issue invoices within **30 days** from the date of the transaction unless a written approval has been obtained by the Commissioner.

Imposition of additional penalties

Administrative penalties equal to EUR 100 or EUR 200 will be imposed for late submission of declarations or supporting documentation requested by the Commissioner of Income Tax. In the case of late payment of capital gains or immovable property tax due, an additional tax of 5% will be imposed on the unpaid tax.

Value Added Tax

The zero tax rate applicable to foodstuff, pharmaceutical products and vaccines has been increased to 5%. Such amendments are in effect as from 10 January 2011.

The reduced VAT rate 5% also applies to supplies of prepared or unprepared foodstuffs or/and beverages that are not accompanied by support services, irrespective of whether the goods are delivered from the supplier to the customer.