



Recent developments in the Cyprus Intellectual Property tax field: Are you prepared for 30 June 2016 and 31 December 2016?

If you already own an IP box Company in Cyprus, or if engaging to one is of your interest, recent international developments at G20 / OECD / EU level, and the Cyprus Ministry of Finance [MoF] 30th December 2015 announcement, require your special attention.

As per this announcement, amendments to the current Cyprus Intellectual Property tax regime will be promoted, so that a new IP tax regime is introduced as from 1st July 2016. These changes will incorporate the recommendations of Action 5 of the Organisation for Economic Co-operation and Development [OECD], which were issued on October 5th 2015 for the Action Plan against 'Base Erosion and Profit Shifting' [BEPS], together with the Conclusions of the ECOFIN Council adopted on December 8th 2015. Further, the OECD's Action 5 report has been endorsed by the G20 and OECD countries. Additionally, it has also been endorsed by Council of the European Union which in December 2015 invited the EU's Code of Conduct Group [Business Taxation] to follow the report's approach.

Transition to the new regime and applicable time – frames:

The MoF announcement states that it is the intention of the Cyprus Authorities for the amendment of the IP legal framework to provide for the maximum transitional arrangements that are included in the revised framework.

In this way, it is expected that any IP that is benefitting from the Cyprus IP Tax Regime by the 30th of June 2016, will continue to benefit for another 5 years, i.e. up to 30th June 2021, in an effort to provide affected taxpayers a much needed stability in the medium term.

We recommend and encourage all IP owners to consider that if any of their IP is not currently benefitting from the Cyprus IP box, and such IP qualifies and is eligible, that it is introduced to the current tax system by the 30th June 2016 at the latest. This will ensure that they will take full advantage of the transitional rules to 30th June 2021.

Additionally, any IP that is acquired directly or indirectly from related parties, between 1st January 2016 to 30th June 2016, can only enjoy a transitional period to 31st December 2016, unless that IP was already benefitting from an IP tax regime.

The Nexus Approach:

Furthermore the announcement includes and addresses the approach of Action 5, namely the 'modified nexus approach'. This requires the existence of material activity which includes the clear interconnection between the rights which create the income and the activity which contributes to that income.

In other words, the benefit needs to be linked to the amount of qualifying research and development [R&D] carried out by the claimant Company. This is predicted to also bring new record keeping routines as companies will need to 'track and trace' where R&D expenditure is spent, categorized per



each individual patent, and will potentially also need to split their income in a similar manner to facilitate proof of the nexus approach being practiced.

Exchange of Information:

Additionally, although the existing tax regime continues to be available to 30th June 2021 for IP already in the regime at 30th June 2016, mandatory information exchange is now required for any new entrants to regimes after the 6th of February 2015.

Therefore, in line with BEPS Action 5 recommendations, Cyprus will be spontaneously exchanging information as per the existing international agreements, on entities which will be benefiting from the transitional arrangements if their IP entered into the current Cypriot IP box within the period 7th February 2015 to 30th June 2016.

Eurofast's take:

As the above presented news is significant and could have an impact on your existing or planned structures, here at Eurofast our tax and finance advisors are ready to assist you towards undertaking a review of your IP relevant arrangements in order to assess and evaluate the impact of the change.

Further our advisors are supporting all affected taxpayers in maintaining their conformity in line with the newly released Cyprus Ministry of Finance announcement, assessing windows of opportunities both within the current and upcoming IP tax legislation frame, and pin-pointing any need for necessary actions.

Moreover, our team recognizes that tax complexity arises when Companies are involved in international IP operations due to the multi-jurisdictional environment they function within. Nevertheless, when proper structuring is in place, such international functions can prove to provide even greater flexibility as a result! And when it comes to IP activity, being eligible to be levied with such favorable tax rates as the ones Cyprus offers, this makes the Cyprus jurisdiction Intellectual Property tax regime one of the most advantageous tax planning instruments.

Your contact for further queries is:

Christiana Nicolaou
Eurofast Taxand Cyprus
T. +357.22.699.222, E. christiana.nicolaou@eurofast.eu