CYPRUS

1. INTRODUCTION

a. Forms of Legal Entity

There are several types of companies that may be formed in Cyprus:

- Private and public limited liability companies by shares and/ or by guarantee;
- Partnerships; and
- European companies (societas europaea).

Most companies registered in Cyprus are private companies limited by shares. The memorandum of association contains the objects of the company and the statement that the company is a private one; the articles of association contain the regulations under which the company is managed as well as restrictions that satisfy the definition of "private company", namely restrictions on the right to transfer shares and prohibitions of any invitation to the public to subscribe for any shares in the company.

The liability of the shareholders is extended to the unpaid amount on the shares they hold.

Companies limited by guarantee limit their liability to the amount their shareholders undertake to contribute to the company in the event of the company being wound up. Unlimited liability companies (i.e. partnerships) do not limit the liability of their shareholders.

b. Taxes, Tax Rates

i Corporate Income Tax

The corporate tax rate for all companies is 12.5%.

In the case of insurance companies, where the corporation tax payable on the taxable profit of the life insurance business is less than 1.5% of the gross premium, the difference is paid as additional corporation tax.

ii Personal Income Tax

The income tax law in Cyprus for individuals is taxed in accordance with the progressive scale of state taxation in Cyprus as follows:

Chargeable income for the tax year €	Tax Rate %	Tax amount €	Cumulative tax €
First 19.500	Nil	Nil	Nil
From 19.501 – 28.000	20	1,700	1,700
From 28.001 – 36.300	25	2,075	3,775
From 36.301 – 60.000	30	7,110	10,885
Over 60.000	35		

iii VAT

The standard VAT rate in Cyprus is 19%. However, a reduced VAT rate is applied at a rate of 9% for goods and services related to the domestic road passenger passport, hotel accommodation, restaurants and catering cafes.

In addition, a reduced VAT rate is applied to 5% for goods and services that are related amongst others with certain foodstuffs, non-alcoholic beverages, books (excluding e-books), works of art, collectors' items and antiques.

A 0% VAT rate is taxed for intra-community and international transport and for goods purchased on international flights.

c. Common divergences between income shown on tax returns and local financial statements

In Cyprus, the values reflected in the financial statements of a company generally agrees with the tax return's balance sheet unless a valuation is required for tax purposes.

2. RECENT DEVELOPMENTS

According to the latest amendment of the Special Defence Contribution N.195 (I)/2021, dividends distributed to a Cyprus company by a foreign entity, that is considered to be a non-cooperative jurisdiction according to the EU list are subject to a 17% withholding tax. The EU list of the non-cooperative jurisdictions for tax purposes adopted by the Council on the 24 February 2022 is composed of the following countries, American Samoa, Fiji, Guam, Palau, Panama, Samoa, Trinidad and Tobago, US Virgin Islands and Vanuatu.

The 5th Anti Money Laundering ("AML") Directive was harmonised in the Cypriot legislation on 23 February 2021, pursuant to which EU Member States are required to establish a register of beneficial owners and all legal entities have the obligation to register their beneficial owners in the publicly accessible register of beneficial owners.

On 21 December 2021, an amendment to the Income Tax Law was published in the Cyprus Government Gazette whereby an additional corporate tax residency test was introduced based on incorporation. This additional test aims to capture Cypriot incorporated/registered companies that are not tax resident in any other jurisdiction. In accordance with the Corporate Income Tax Law, a company is considered to be a tax resident of Cyprus if its management and control are exercised in Cyprus. The existing corporate tax residency test will continue to apply, so that a company that has its' management and control in Cyprus will continue to be considered as a tax resident of Cyprus, (i.e. its' tax residency status will not be affected by the Law amendment). In accordance with the Law amendment the definition of a "resident in the Republic" is enhanced so that a company established or registered under any applicable Law in the Republic, which has its' management and control exercised outside the Republic, is considered to be a resident of the Republic, unless such company is tax resident in any other jurisdiction. This means that Cyprus incorporated/registered companies, with (i) management and control exercised outside Cyprus ; and (ii) which are not tax resident in any other jurisdiction will now be considered as Cypriot tax residents; as such, they will be taxed in Cyprus on their worldwide income.

3. SHARE ACQUISITION

a. General Comments

The acquisition of a company can be made either via the acquisition of its shares or via acquisition of its assets/business. With a share acquisition, no direct taxes are usually triggered for the buyer.

Where the relevant share purchase agreement is found to be subject to stamp duty in Cyprus, the tax obligation rests with the buyer unless the contract provides otherwise. A contract is exempt from stamp duty when the acquisition is affected as a result of a company reorganisation.

The stamp duty is:

- For sums EUR1- 5,000 : Nil.
- For sums EUR5,001- 170.000 : 1.5%.
- For sums exceeding EUR170.000 : 2% capped at a maximum of EUR20,000.

b. Tax Attributes

Tax losses incurred in any one year that cannot be wholly offset against other income may be carried forward for five years and set off against profits resulting in subsequent years.

However, according to the law, losses incurred by a company cannot be carried forward if:

- Within any three years, there is a change in the ownership of the shares of the company and there is a substantial change in the nature of the business of the company (a significant change can be interpreted as a drastic change in the types of activities offered by a company for example, it originally sells computers and then stops to commence trading in pharmaceuticals). or
- If at any time since the scale of the company's activities has diminished or has become negligible and before any substantial reactivation of the business, there is a change in the ownership of the company's shares.

A change in the ownership of the shares of the company occurs:

(i) if a person acquires more than 50% of the ordinary share capital of the company; or

(ii) if two or more persons jointly or severally acquire at least 5% of the ordinary share capital of the company so that all together acquire more than 50% of the ordinary share capital of the company.

There is no change in the ownership of the shares of the company if the change involves a gift made from a parent to a child, between spouses or relatives up to the second degree of kindred or to a limited company all shareholders of which are or continue to be members of the disposer's family for a period of 5 years after such gift.

Losses may be surrendered by a Company resident in Cyprus (the "surrendering company") to another Company resident in Cyprus (the "claimant company").

In order to align the Cypriot tax laws with the European Court of Justice decision the law has been amended so that a subsidiary company which is tax resident in another EU member state can surrender it's taxable losses to another group member company tax resident in Cyprus, provided the subsidiary has exhausted all the means of surrendering or carrying forward the losses in the member state of subsidiary or to any intermediary holding company.

The Law has also been amended to allow, for the purposes of considering whether two companies are members of the same group, the interposition of holding companies are members of the same group, the interposition of holding companies established in:

(a) Another EU member State;

(b) In a State with which Cyprus has concluded a double tax treaty; or

(c) In a State which has signed the OECD multilateral convention for exchange of information.

The surrendering company may surrender all of its loss or part of its loss to any other member of the group, upon a claim made by the claimant company.

c. Tax Grouping

No fiscal consolidation regime exists under the domestic law. However, companies within the same group can use the group relief provisions to offset losses. Two companies are considered to be a group for group relief purposes if:

- One company is a 75% subsidiary of the other; or
- Both companies are 75% subsidiaries of a third company.

A company is considered to be 75% controlled by another company if at least 75% of the ordinary share capital with voting rights is held directly or indirectly and the holding company is entitled to not lower than 75% of the subsidiary's:

- Distributable profits; and
- Assets of the subsidiary that would have been available for distribution to the shareholders on liquidation.

The offset of losses between group companies is only permitted where the surrendering company and the claimant company are part of the same group for the whole of the tax year.

From 1 January 2012, in cases where a company has been incorporated by its parent company during the tax year, this company will be deemed to be a member of the group for group relief purposes for that tax year.

If a payment for group relief occurs (i.e. a payment is made by the claimant company to the surrendering company for the amount of tax losses surrendered by way of group relief), such a payment:]

- Shall not be regarded in any way, as a distribution; and
- Shall be ignored in computing the taxable profits or losses of either company.

d. Tax Free Reorganisations

When a transaction falls into the definition of a "reorganisation", it is exempt from corporation tax, capital gains tax, stamp duties and transfer fees.

"Reorganisations" include mergers, demergers, partial divisions, transfer of assets, exchange of shares, transfer of registered office of a European company ("SE") or a European Cooperative company ("SCE").

Cyprus has implemented the EU Merger Directive provisions in its national income tax legislation, enabling tax neutral reorganisations. According to Cypriot Tax Law, the transfer of assets and liabilities in the course of a reorganisation does not give rise to any taxable profits at the level of the transferring company. Accumulated losses of the transferring company moved to the receiving company may be offset and the relevant provisions for the consolidation of losses are applied.

Equally, profits derived at the level of the receiving company as a result of the cancellation of its participation in the transferring company do not give rise to any taxable obligations. The issue of shares in the receiving company to the shareholder of the transferring company in consideration for the shares in the transferring company does not give rise to any taxation on the gains or losses at the shareholder level. In order to qualify for the tax exemption, the corporate reorganisation should not involve a cash payment exceeding 10% of the nominal value of the shares.

e. Purchase Agreement

The use of tax grouping can be considered (please see section 3.c).

f. Transfer taxes on share transfers (including mechanisms for disclosure and collection)

Stamp duty at nominal rates is payable on a variety of legal documents and may apply in the case of a transfer of shares. Specifically, stamp duty is governed by the Stamp Duty Law (19/ 1963), within which article 4 (1) provides that the documents specifically presented in its first schedule are subject to stamp duty if these documents concern property situated in the Republic of Cyprus, as well as matters or things to be performed in Cyprus, irrespective of the place of execution of such documents. Agreements for the purchase of shares in a Cypriot company, which are executed in Cyprus, are not required to be stamped in Cyprus and it is also the actual practice of the Stamp Duty Commissioner to exclude and exempt such documents from stamp duty. Further, the following are not required to be stamped in Cyprus:

- Instruments relating to the transfer of shares in a Cypriot Company which are executed in Cyprus;
- Agreements for the purchase of the shares in a foreign Company which are executed in Cyprus; and
- Instruments for the transfer of shares in a foreign company which are executed in Cyprus.

g. "Purchase accounting" applicable to share acquisitions

S.142 (ι) (a) CAP 113 stipulates that a Cypriot company should prepare financial statements under International Accounting Standards ("IFRS").

h. Share Purchase Advantages

One important tax advantage of a share acquisition is that the sale of shares is totally exempt from all taxes in Cyprus unless there is immovable property situated in Cyprus, which is subject to 20% capital gains tax. Gains from the sale of shares listed on a recognised stock exchange are exempt from capital gains tax.

i. Share Purchase Disadvantages

The buyer also acquires all of the historical, current, prospective and contingent liabilities, including tax liabilities. In addition, the assets in the company sold will not be revalued at market value.

4. ASSET ACQUISITION

a. General Comments

Where there is an acquisition of immovable property, the buyer is liable for a transfer fee. Transfer taxes range from 3% to 8%, depending on the value of the property. The tax is:

- 3% on amounts up to EUR85,000 of the sale price or market value.
- 5% on amounts between EUR85,001 and EUR170,000.
- 8% on any amount exceeding EUR170,000.

The above transfer fees are reduced by 50% where the purchase of the immovable property is not subject to VAT.

Immovable Property Tax was abolished as of 1 January 2017. Until the tax year 2016, the owner of immovable property situated in Cyprus was liable to pay an annual immovable property tax which was calculated on the market value of the property as at 1 January 1980, at varying rates, which applied per owner and not per property.

The agreement for the acquisition of immovable property or any other asset may also be subject to stamp duty in Cyprus. Stamp duty is imposed on contracts relating to assets located in or "things" to be done in Cyprus. If the provisions of a reorganisation are applied, as defined under Cypriot law (which is in line with the provisions of the EU Merger Directive), such a purchase can be tax neutral.

Depending on the nature of the assets transfer fees may apply. The purchase of a company's assets, unlike the purchase of shares, may be subject to VAT, currently 19%.

In terms of utilisation of tax losses, tax losses are not available for set-off in the case of a share deal and given that profits from the sale of shares are generally exempt from tax. In the case of a taxable sale of immovable property, any losses realised may be set off against similar profits that may arise in the future. The same principle applies to gains and losses resulting from the sale of other assets, where gains are taxable, the deductibility of losses may be allowed.

b. Purchase Price Allocation

There are no specific rules in Cyprus regarding the allocation of the total acquisition price of a business to individual assets. Therefore, the IFRS treatment is followed unless a detailed valuation is in place.

c. Tax Attributes

i Upon acquisition

The cost of assets acquired are recorded in the balance sheet as part of the acquisition price and they can be depreciated over their useful economic life. From a tax point of view, the depreciated rate (Wear and Tear) follows a certain percentage provided by the tax office.

ii Upon divestiture

Gains arising on the disposal of business assets are exempt from direct taxes in Cyprus. Gains from the disposal of immovable property situated in Cyprus is subject to 20% capital gains tax.

d. Tax Free Reorganisations

When a transaction falls into the definition of a "reorganisation", it is exempt from corporation tax, capital gains tax, stamp duties and transfer fees.

"Reorganisations" include mergers, demergers, partial divisions, transfer of assets, exchange of shares, transfer of registered office of a European company ("SE") or a European Cooperative company ("SCE").

Cyprus has implemented the EU Merger Directive provisions in its national income tax legislation, enabling tax neutral reorganisations. According to Cypriot Tax Law, the transfer of assets and liabilities in the course of reorganisation does not give rise to any taxable profits at the level of the transferring company. Accumulated losses of the transferring company moved to the receiving company may be offset, and the relevant provisions for the consolidation of losses are applied.

Equally, profits derived at the level of the receiving company as a result of the cancellation of its participation in the transferring company do not give rise to any taxable obligations. The issue of shares in the receiving company to the shareholder of the transferring company in consideration of shares in the transferring company does not give rise to any taxation on the gains or losses at the shareholder level. In order to qualify for tax exemption, the corporate reorganisation should not involve a cash payment exceeding 10% of the nominal value of the shares.

e. Purchase Agreement

The use of tax grouping can be considered (please see section 3.c).

A sale and purchase of assets involves the need to identify every single asset and liability of the business and to determine whether the asset or liability is to transferred to the buyer or if it will remain with the seller. Therefore, it will be essential to ensure that the sale and purchase agreement identifies, by list or by generic descriptions, exactly which assets and which liabilities are to be transferred to the buyer and which remain with the seller.

f. Depreciation and Amortisation

Goodwill is not subject to amortisation. Since Cyprus applies International Financial Reporting Standards ("IFRS"), goodwill is tested for impairment (comparing recoverability with the carrying amount) annually or whenever there is an indication of a possible reduction in value.

For impairment testing, goodwill is allocated to the relevant cash generating unit (the lowest level within the entity for internal management purposes) and this cash- generating unit is tested for impairment. An impairment loss of goodwill cannot be carried back. Goodwill does not appear on individual statutory statements; it only appears in consolidated financial statements. Trading Goodwill is subject to direct tax at the rate of 12.5%.

g. Transfer Taxes, VAT

The Cypriot Value Added Tax Law is fully harmonised with the EU Sixth Directive. In particular, the transfer of a business as a going concern is outside the scope of VAT, provided certain conditions are met. The actual end result of such transfer needs to be that a new owner is established who will be operating the business as such. Therefore, the mere sale of assets does not constitute in itself a transfer of a business as a going concern.

Where land and buildings are sold, it is recommended that professional advice is obtained on a case by case basis.

The stamp duty payable is explained in section 3.a.

h. Asset Purchase Advantages

Evaluation of assets can be effected via an independent valuation. Any increase or decrease in the value of assets is reflected accordingly.

The increase in value is recorded as a capital reserve. Generally, there is no tax obligation with respect to the sale of assets. However, depending on the nature of the assets, corporation tax or capital gains tax may be imposed in the case of sale.

Purchased goodwill is tax deductible.

No previous liabilities, including tax liabilities of the company are inherited in an asset acquisition.

The acquisition of assets provides the possibility to take on a part of the business, providing in this way greater flexibility on funding options.

i. Asset Purchase Disadvantages

A sale and purchase of assets involves the need to identify every single asset and liability of the business and to determine whether the asset or liability is to transferred to the buyer or if it will remain with the seller. Therefore, it will be essential to ensure that the sale and purchase agreement identifies, by list or by generic descriptions, exactly which assets and which liabilities are to be transferred to the buyer and which remain with the seller.

It will also be necessary to comply with all formalities for the transfer of title to each and every asset which is included in an asset.

5. ACQUISITION VEHICLES

a. General Comments

Cyprus is renowned as a jurisdiction for holding companies. In the majority of cases, its domestic legislation allows a tax free treatment of incoming dividends from foreign subsidiaries. It also allows the distribution of dividends to non-resident shareholders free from withholding taxes.

Equally, from a financing perspective, any interest payments to non-residents can also effectively be free from withholding taxes. In any case, transactions between the Cypriot company and other group companies should follow transfer pricing regulations.

Currently, there are no detailed transfer pricing rules nor any TP documentation requirements regarding transactions with related parties (except for certain intragroup financing transactions which are financed by debt). Notwithstanding the above, transactions between related and connected parties should be concluded on an arm's length basis.

It should be noted that detailed TP rules are expected to be introduced in Cyprus in the next few months with possible retroactive effect as of 1 January 2021. Based on the new rules, there will be a requirement to document all types of intercompany transactions and prepare a Local and Master File in line with the OECD TP guidelines and prepare a Summary Information table. The Local File is expected to include the documentation of transactions exceeding in aggregate the amount of EUR750,000 per category.

Further, to mitigate tax effects, in the case of acquisitions, an important parameter that should be taken into consideration is the provisions of the relevant agreement for the avoidance of double taxation (if any) between Cyprus and the country in which the subsidiary and/or parent will be located. Any additional specific issues to be considered in the case of acquisitions of Cypriot Companies by foreign investors will need to be also examined on a case by case basis, depending on the industry sector involved and the investor's jurisdictional origin.

A purchaser making use of a Cypriot acquisition vehicle in order to execute an acquisition for cash can fund the vehicle with debt, equity, or hybrid instruments that combine the characteristics of debt and equity together. Further, as a general rule, in order to ascertain a physical or legal person's chargeable income, only the outgoings and expenses that are wholly and exclusively incurred by such a person in the production of taxable income can be deducted for tax purposes.

b. Domestic Acquisition Vehicle

Resident holding companies are often used domestically and internationally for the acquisition of target companies. It should be noted, however, that in the case of a pure holding company, there is normally no taxable base from which the interest expense can be deducted, except in cases where shares are acquired directly or indirectly in a wholly-owned subsidiary.

c. Foreign Acquisition Vehicle

The use of a foreign acquisition vehicle is possible. However, it offers no real advantage.

d. Partnerships and joint ventures

Investments may be acquired via a Cypriot partnership. Partnerships are not regarded as separate tax entities and are subject to taxation on a transparency basis. Any of the profit or losses of the partners is divided according to the profit-sharing arrangements in the period of the account concerned. Once the partnership's profits for a period of account have been computed, they are shared between the partners using the profit-sharing ratio.

e. Strategic vs Private Equity buyers

This section is left intentionally blank.

6. ACQUISITION FINANCING

a. General Comments

Generally speaking, a company is not prohibited from being financed either by debt or equity. Funds may be used once available on account.

b. Equity

i Dividend distribution in Cyprus

- Dividend distributions by a Cypriot company to a foreign recipient are generally subject to 0% withholding tax.
- Dividend income is not subject to income tax, however special defence contribution ("SDC") is payable on dividends at a rate of 17% by tax resident individuals who are also Cypriot domiciled.

Non-resident individuals and generally companies are not liable to SDC.

- Dividends are exempt if received by non-resident individuals.
- Dividends distributed by a Cyprus entity to a foreign company that is considered by the EU to be in a non-cooperative jurisdiction are subject to 17% withholding tax.

ii Notional interest deduction

In 2015, Cyprus introduced a Notional Interest Deduction ('NID') in its tax law, which relates to a notional interest deduction on new equity, which can be set against taxable income generated by the company as a result of the funds from the new equity.

Under the current Cyprus NID provisions, the annual NID rate is determined by reference to the yield rate of the 10 year government bonds of the country where the funds are employed in the business of the company plus a 5% premium. The notional interest to be deducted cannot exceed 80% of the taxable income of the company for the year before the deduction of this notional interest.

c. Debt

i Limitations on the use of debt

Cypriot income tax law does not provide for any specific debt to equity ratio. However, it does provide for an interest limitation rule (see below).

ii Limitations on Interest Deductions

Cyprus has three types of limitations on the deductibility of interest on borrowings currently in force: (i) limitation related to the purpose of the expense; (ii) limitation based on transfer pricing rules; and (iii) the limitation on interest deductions provided by ATAD.

- Limitation related to the purpose of the interest expense : only expenses wholly and exclusively incurred for business purposes are tax deductible. In addition, following an amendment to the Cypriot Law in 2012, any interest expense relating to the acquisitions of shares after 1 January 2012 may be deducted from taxable income on the provision that the acquired company is directly or indirectly wholly acquired (i.e. 100% shareholding and the acquired company holds assets which are all used for business purposes).
- Limitation based on transfer pricing rules : Cypriot transfer pricing rules are defined in Section 33 of the Cypriot income tax law. Section 33 provides a legal basis for transfer pricing adjustments where associated enterprises deviate from the arm's length standard.
- Limitation on interest deduction of ATAD : As from 1 January 2019, with the implementation of the Anti-Tax Avoidance Directive ("ATAD") into the Cypriot legislation, the interest limitation rule provides that the excess borrowing cost which exceeds 30% of EBITDA is not deductible for the purpose of calculating the taxable income of a company. Losses brought forward are not taken into account for the calculation of EBITDA. The excess borrowing cost is deducted up to the amount of EUR3 millions per fiscal year, per company or Cypriot group. Where the company is a member of the Cypriot Group, the interest limitation rule is applied at the level of the group, as defined in the Corporate Income Tax Law (i.e. 75% participation group).

The interest limitation rule does not apply to:

- Financial undertakings;
- Standalone entities;
- Loans used to fund long term infrastructure projects where the project operator, borrowing cost, asset and income are all in the European Union; and
- Loans that were concluded before 17 June 2016, but the exclusion shall not extend to any subsequent modification of such loans.

iii Related Party Debt

Where the company is a member of a Cypriot Group, the interest limitation rule is applied at the level of the group, as this is defined in the Corporate Income Tax Law (i.e. 75% participation group).

Where a company is a member of a consolidated group for financial accounting purposes, it may choose for each tax year to fully deduct the amount of the excess borrowing cost if it is possible to demonstrate that the ratio of its equity over its total assets is equal to, or higher than, the equivalent ratio of the group.

iv Debt Pushdown

With a properly designed tax structure, debt pushdown can be achieved. Cypriot Companies Law specifically provides for the prohibition of financial assistance given by a company whether directly or indirectly, for the purchase or subscription of its own or its holding company's shares. In line with this, in a transaction with multiple dealings, share acquisition financing may not be linked to debt pushdown, given that this may be treated as indirect financial assistance.

However, express exclusions from the scope of this provision are included in the law. The application of the provisions of the EU Merger Directive incorporated into Cypriot Law may prove to be beneficial in achieving debt pushdown. An intermediary company may be incorporated in order to acquire the target. The intermediary company can subsequently be merged with the target company.

Expert advice should be sought. In particular, considering the latest tax developments, which outlined "substantial activity" as a core element for tax free reorganisations. Generally, if the structure and the transaction have sufficient underlying substance, any risks of avoiding taxation are effectively minimised.

d. Hybrid Instruments

Following the partial adoption of the EU Anti-Tax Avoidance Directive of 29 May 2017 ("ATAD II") in 2019, on 19 June 2020, the Cypriot Parliament voted into law the remaining provisions of the provisions of the EU Anti-Tax Avoidance Directive. The law will apply retroactively as of 1 January 2020 (with the exception of reverse hybrids which became effective as of 1 January 2022). Under the law, the hybrid mismatch rules apply to both Cypriot tax resident companies and foreign companies with a permanent establishment ("PE") in Cyprus.

The law follows but does not go beyond ATAD II mandatory "minimum standards" aiming to address these hybrid mismatches. In addition, Cyprus decided to opt-in for all possible exceptions provided by ATAD II.

A hybrid mismatch will be limited to situations arising : (i) between associated enterprises (as defined); (ii) between a taxpayer and an associated enterprise; (iii) between a head office and its PE; (iv) between two or more PEs of the same company; or (v) under a structured arrangement (as defined).

The definition of associated enterprises is based on a 25% direct or indirect participation (same definition as the one added for the purpose of applying the new interest limitation rules introduced by ATAD I). However, the 25% minimum participation threshold will apply only in the situation of hybrid mismatches arising from a hybrid financial instrument, while a 50% threshold will apply for all other mismatches, including mismatches resulting from the hybrid nature of entities. In addition, the concept of "acting together" is introduced, which leads to aggregating the voting rights or capital ownership that different persons hold in the same entity if they are considered to be "acting together."

The law also introduces a definition of the concept of a structured arrangement. This is an arrangement involving a hybrid mismatch where the mismatch outcome is priced into the terms of the arrangement or an arrangement that has been designed to produce a hybrid mismatch outcome unless the taxpayer or an associated enterprise could not reasonably have been expected to be aware of the hybrid mismatch and did not share in the value of the tax benefit resulting from the hybrid mismatch.

Reverse hybrid mismatch rules

From 1 January 2022, the reverse hybrid mismatch rules are effective as part of the EU Anti-tax Avoidance Directive 2017 ("ATAD 2"). A reverse hybrid is an entity that is transparent under the laws of the jurisdiction where it is established but as a separate entity (i.e. non-transparent/opaque) under the laws of the jurisdiction of the investor.

The income of a reverse hybrid therefore may not be taxable in its establishment jurisdiction (as the income is deemed to be allocated to the investor) nor would it be taxable in the residence state of the investor (where the income of the opaque entity is generally not included in the taxable income of the investor). As a result, a deduction with no inclusion mismatch may arise.

Based on the new provisions, the reverse hybrid mismatch rule will impact transparent companies registered in Cyprus (e.g. partnerships) that are viewed as taxable persons by one or more non-resident associated entities holding directly or indirectly at least 50% of the voting rights, capital ownership or profit interest in the hybrid entity. The corrective action will be for Cyprus to regard such hybrid entities as residents of Cyprus and to tax their income accordingly.

The provision does not apply to a collective investment vehicle which means "an investment fund or vehicle that is widely held, holds a diversified portfolio of securities and is subject to investor-protection regulation in Cyprus".

e. Other Instruments

Preference shares are usually considered as equity instruments and are typically used for private equity investments.

f. Earn-outs

Earn-outs are treated as part of the sales price for income tax purposes and are subject to Cypriot transfer tax. No special tax treatment is available for earn-outs. The time at which taxes on earn-outs are due to be paid depends on the case specific circumstances.

7. DIVESTITURES

a. Capital Gains Taxation of Cypriot residents

Capital Gains Tax is imposed (when the disposal is not subject to income tax) on gains from the disposal of immovable property situated in Cyprus, including shares of companies not listed on a recognised Stock Exchange which own immovable property situated in Cyprus, at a flat rate of 20%.

Further, as per the recent amendment to the relevant law, from 17 December 2015, the definition of “property” was extended so that Capital Gains Tax is also levied on the sale of shares that directly or indirectly participate in other companies that in turn hold immovable property in Cyprus, on the provision that at least 50% of the market value of the shares that are sold is derived from that immovable property in Cyprus.

Further, a favourable exemption has also been in place as from July 2015, under which gains derived from the sale of immovable property are 100% exempt from Capital Gains Tax when:

- They were acquired between the day the new law came into effect, being 16 July 2015, up to 31 December 2016 inclusively; and
- They were acquired from an independent non-related party at market value, via an ordinary purchase/purchase agreement and not through a donation or gift either by way of exchange, trade or in settlement of debt and the sale must not be related to any foreclosure agreement either.

b. Capital Gains Taxation of non-Cypriot residents

Capital gains tax in Cyprus is levied only on immovable property situated in Cyprus. In particular for the (i) sale of immovable property located in Cyprus, irrespective of whether the immovable property is owned by Cypriot tax residents or not, (ii) on the sale of shares of companies that directly own immovable property located in Cyprus and (iii) gains from the sale of shares of companies which indirectly own immovable property in Cyprus (ie through another company). No other capital gains are taxable in Cyprus.

8. FOREIGN OPERATIONS OF A DOMESTIC TARGET

a. Worldwide or territorial tax system

Cyprus applies a worldwide tax system. Any income of a resident company that arises in Cyprus or abroad is taxed in Cyprus unless there is a different provision in the double tax convention between Cyprus and the other county.

Permanent establishments of non-resident companies are subject to taxation in Cyprus, only on the income that is attributable to that permanent establishment.

It is notable to state that profits realised by Cypriot companies from operations outside Cyprus, if there is a permanent establishment, are generally exempted from tax in Cyprus, provided the active/passive test is met and that there are no CFC issues as described below.

b. CFC Regimes

A CFC is a low taxed non-Cypriot tax resident company in which the Cypriot Corporate Income Tax taxpayer, alone or together with its associated enterprises, holds a direct or indirect interest of more than 50%. A CFC is also a low-taxed foreign PE of a Cypriot tax resident company that is exempt from tax in Cyprus (exempt foreign PE).

A non-Cypriot tax resident company (or an exempt foreign PE) is considered to be low taxed if the actual foreign corporate tax paid by it on its profits is lower than 50% of the corporate income tax charge that would have been payable in Cyprus under the Cypriot Corporate Income Tax rules had it been a company tax resident in Cyprus.

Exceptions:

The CFC rule does not apply to companies which are not tax resident in Cyprus (or exempt foreign PEs):

- With accounting profits of no more than EUR750,000 and non-trading income of no more than EUR75,000; or
- Of which the accounting profits amount to no more than 10% of their operating costs for the tax period. For the purposes of this exception, operating costs do not include the cost of goods sold outside the country where the non-Cyprus tax resident company (or the exempt foreign PE) is tax resident and payments to associated enterprises.

Targeted income:

When a company which is not tax resident In Cyprus (or an exempt foreign PE) meets the definition criteria of a CFC, the Cypriot CIT taxpayer must include in its taxable profit the non-distributed income of the CFC to the extent such income arises from non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax advantage.

The non-distributed income of the CFC is defined as the after-tax accounting profit of the CFC, which has not been distributed to the Cyprus CIT taxpayer during the Cypriot tax year in which the CFC profits are included, or within the next seven months.

Different reliefs are provided for avoidance of double taxation on CFC income.

c. Foreign branches and partnerships

In the case of a Cypriot tax resident company with operations in another country through a permanent establishment abroad, such profits of the branch are exempt from Cypriot income tax, provided that (i) the permanent establishment engages directly or indirectly more than 50% in activities which lead to investment income and (ii) the foreign tax burden is not substantially lower than the tax burden in Cyprus.

Losses of a permanent establishment may be relieved against other income, whereas losses of a foreign subsidiary cannot be utilised against the parent company's profits and profits of other group companies in Cyprus.

Profits/losses of the permanent establishment are included in the profits for deemed distribution rules purposes, whereas profits/losses of a foreign subsidiary are not included in the profits of the Cypriot parent company for deemed distribution rules purposes.

Partnerships are not regarded as separate tax entities and are subject to taxation on a transparent basis. Any of the profit or losses of the partners is divided according to the profit-sharing arrangements in the period of the account concerned. Once the partnership's profits for a period of account have been computed, they are shared between the partners using the profit-sharing ratio.

d. Cash Repatriation

Dividends distributed by a Cypriot company to non-residents are not subject to withholding tax since there is no such a provision under the domestic law in Cyprus.

9. OTHER GENERAL INTERNATIONAL TAX CONSIDERATIONS

a. Special Rules for Real Property, including Shares of "Real Property-Rich" Corporations

Cypriot tax legislation does not provide for any rules on "real-property-rich" companies.

However, according to Cypriot Tax Legislation, a capital gains tax at the rate of 20% may be triggered by the sale of shares in companies that derive their value from real estate situated in Cyprus, unless these are first acquired between 16 July 2015 and 31 December 2016. Where capital gains tax potentially applies, the possible application of a Double Taxation Treaty ("DTT") should be considered, especially when the treaty includes favourable provisions for the taxation of capital gains. Capital gains tax will be triggered only when such shares derive their value from real estate situated in Cyprus. The capital gains tax is not extended to immovable property situated outside Cyprus. Therefore, when a Cypriot company acquires a foreign subsidiary owning real estate situated outside Cyprus and in turn, sells the shares of that subsidiary, no taxes should be triggered in Cyprus. In some cases, a DTT allows for the taxation of such gains at the level of the subsidiary. Acquisition of real estate property by non-Cypriot residents, other than those coming from EU countries, requires the approval of the Ministry of the Interior, a process which takes between one and four months. In the case of a transfer of immovable property, applicable transfer taxes are a liability of the buyer. Transfer taxes between 3% and 8% may apply (whilst certain discounts and exemptions exist). It should also be noted that as of 1 January 2017, immovable property taxes in Cyprus have been abolished.

b. CbC and Other Reporting Regimes

In Cyprus, there are country by country (“CbC”) requirements. Multinational (“MNE”) groups with consolidated revenue exceeding EUR750 million are required to prepare a CbC report and file it with the Cypriot Tax Authorities within 12 months of the last day of their reporting fiscal year.

Additional reporting regimes include, among others, mandatory reporting under the common reporting standard (“CRS”), mandatory automatic exchange of information on tax rulings and advance pricing agreements.

Cypriot taxpayers may also be subject to other reporting obligations which are based on tax treaty provisions dealing with exchange of information upon request or the anti-money laundering rules.

Finally, additional reporting obligations apply following the implementation of the 6th Directive on administrative cooperation (“DAC6”), which introduces a mandatory and automatic exchange of information in the field of taxation in relation to reportable cross border arrangements.

10. TRANSFER PRICING

To date, Cyprus has had no detailed transfer pricing (“TP”) legislation included in its income tax law. Currently, the arm’s length principle is codified in section 33 of the Cyprus Income Tax Law (L.118(I) of 2002, as amended (“CITL”) with wording similar to that of Article 9 of the 2017 OECD Model on Associated Enterprises and therefore the Cypriot Tax Authorities (“CTA”) follow the arm’s length principle. As a result, the Cypriot TP rules require that transactions between associated persons should take place at arm’s length.

On 30 June 2017, the CTA issued a circular with respect to the new rules for the taxation of intragroup financing arrangements, which apply from 1 July 2017. The new circular provides for the application of transfer pricing methodology to such activities based on the arm’s length principle as advocated by the OECD. The application of the circular is limited to intragroup financing activities (the granting of loans or cash advances) that are financed by debt instruments, regardless of whether related or third parties are the source of the funding.

It should be noted that detailed TP rules are expected to be introduced in Cyprus in the next few months with possible retroactive effect as of 1 January 2022. Such rules are expected to be aligned with the 2017 OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. The circular regarding intragroup financing arrangements noted above is expected to be repealed. Based on the new rules, there will be a requirement to document all types of intercompany transactions and prepare a Local and Master File in line with the OECD TP guidelines, as well as to prepare a Summary Information table. The Local File is expected to include the documentation of transactions exceeding in aggregate the amount of EUR750,000 per category. As a consequence, following the ratification of the draft TP bill all intragroup transactions must be at arm’s length and taxpayers should have sufficient documentation to substantiate the arm’s length nature of their transactions.

11. POST-ACQUISITION INTEGRATION CONSIDERATIONS

a. Use of Hybrid Entities

Hybrid entities are not commonly used in Cyprus. The main categories of legal entities that are used in Cyprus are companies and partnerships. Further, following the implementation of the anti-hybrid rules of ATAD in Cyprus, using hybrid entities will not be an option.

b. Use of Hybrid Instruments

As with hybrid entities, hybrid instruments are not used in Cyprus. Further, following the implementation of the anti-hybrid rules of ATAD in Cyprus, using hybrid instruments will not be an option.

c. Principal/ Limited Risk Distribution or Similar Structures

Cyprus does not have specific rules on such operations and shall be treated as any other business as long as the return of the company is consistent with the arm's length principle. Notably, Cyprus is often used as an ideal gateway for business activities and investments to the region; European Union, Eastern Europe, Russia, CIS, Middle East and Africa.

d. Intellectual Property (licencing, transfers, etc.)

Cyprus has a very favourable regime for Intellectual Property ("IP") companies. In particular, it has the so called "IP Box Regime". Generally, the Cyprus IP box allows for a deductible notional expense calculated as 80% on qualifying profits from qualifying IP. The corporation tax in Cyprus is 12.5%, resulting in a rate of up to 2.5%.

The Cyprus patent box is fully in line with the recommendations of Action 5 of the Organisation for Economic Co-operation and Development ("OECD"). Under the patent box, qualifying intangible assets refer to assets that were acquired, developed or exploited by a person in the course of his business (excluding intellectual property associated with marketing) and which pertains to research and development activities for which economic ownership exists. Specifically, these assets are patents as defined in the Patents Law Computer Software.

From 1 July 2016, new rules have applied for taxpayers wishing to obtain a benefit under the so called "IP Box Regime". The rules and conditions, which are applicable for assets that are developed after 1 July 2016, are summarised below.

The Cyprus IP box regime is as follows:

- 80% of the qualifying profits earned from qualifying intangible assets are deemed to be a tax-deductible expense.
- The new IP box adopts the "nexus approach". This means that for an intangible asset to qualify for the benefits of the new regime, there must be a direct connection (i.e. nexus) between the qualifying income and the qualifying expenses contributing to that income.

Qualifying taxpayers:

- Cyprus tax resident persons.
- Cyprus permanent establishments of non-Cyprus tax resident persons.
- Overseas permanent establishments that elect to be subject to tax in Cyprus.

Qualifying intangible assets include assets which:

- Are acquired, developed or exploited for business purposes;
- Are the result of R&D activities; and
- Are either legally or economically owned.

Qualifying intangible assets include:

- Patents.
- Computer software.
- Utility models.
- IP which provides protection to plants and genetic material.
- Orphan drug destinations.
- Extensions of patent protection.
- Other non-obvious, useful and novel IP, that are certified as such by a designated authority, and from which the taxpayer's annual IP income does not exceed the EUR7.5 million (50 million in case of a group of companies), using a 5 year average.

Qualifying assets exclude:

- Trademarks, tradenames, brands.
- Image rights.
- Other marketing related IP.

Qualifying profits, effectively under the nexus approach:

- A fraction is applied to the overall IP income based on the taxpayer's R&D activity;
- The higher the amount of R&D undertaken by the taxpayer, the higher the nexus fraction;
- Profits eligible for the 80% tax deduction depending on the level of R&D expenditure carried out by the taxpayer to develop the qualifying intangible assets.

Overall IP income includes, the gross profit earned from qualifying intangible assets in a tax year (gross IP income) and includes, but is not limited to:

- Royalties and licensing income.
- Insurance or compensation received (e.g. damages awarded for IP infringement).
- Trading income from the disposal of qualifying intangible assets, excluding capital gains. This Is fully exempt from income tax.
- IP income embedded in the sale of goods, provision of services or use of any processes directly related with qualifying intangible assets.

Direct costs include:

- All expenditure incurred wholly and exclusively for the production of income.
- Amortisation of the acquisition or development costs of qualifying intangible assets over their useful lives in accordance with accepted accounting principles, up to a maximum of 20 years.
- Notional interest deduction regarding new equity used to fund the acquisition/ development of qualifying IP.
- Deemed expense granted under the corresponding transfer pricing adjustment.
- If the tax department increases a taxpayer's taxable income pursuant to the provisions of the arm's length principle, an amount equal to the deemed income is granted as a deductible expense to the other party of the transaction which gave rise to the deemed income.

Qualifying expenditure includes:

- The total R&D expenditure incurred in the tax year:
- wholly and exclusively for the development, enhancement or creation of qualifying intangible assets;
- That is directly related to such assets and includes, but is not limited to:
- Wages and salaries.
- Direct costs.
- General expenses for installations used for R&D.
- Commission costs associated with R&D.

Qualifying expenditure excludes:

- Acquisition cost for intangible assets.
- Interest.
- Acquisition.
- Costs related to R&D outsourced to related parties.
- Costs which cannot be directly connected to a specific qualifying intangible asset.
- Costs relating to R&D outsourced to non-related parties, and general expenses for R&D which cannot be allocated to specific qualifying intangible assets.
- Qualifying expenditure is included in the nexus fraction in the year in which the expenditure is incurred, irrespective of its accounting or tax treatment.

The tax benefits are as follows:

- An 80% deduction from qualifying profits is granted as a deemed deductible expense.
- Remaining 20% of qualifying profits is part of the chargeable income subject to income tax.
- A qualifying taxpayer may elect to not to claim all or part of the available 80% deduction for a particular tax year.
- If net IP is at loss then only 20% of tax loss can be utilised. It may be set off against the same year chargeable the income from other sources. Any unrelieved loss may be carried forward to be set off against chargeable income of the next 5 years.

e. Special Tax Regimes

Cyprus does not have special tax regimes and has moved away from ringfencing companies. However, as noted above, in 2015, Cyprus introduced a notional interest deduction ("NID") in its tax law. The notional interest deduction on new equity can be set against taxable income generated by a company as a result of the funds from the new equity. The NID to be deducted cannot exceed 80% of the taxable income of the company for the year before the deduction of this notional interest.

12. OECD BEPS CONSIDERATIONS

Cyprus is not a member of the OECD. However, to a large extent, Cyprus follows the guidance provided by the OECD. For example, Cyprus signed the Multilateral Convention to Implement Tax Treaty Related Measures ("MLI") to Prevent Base Erosion and Profit Shifting ("BEPS") on 7 June 2017 (Cyprus has committed to the OECD minimum standards). Subsequently, Cyprus ratified the MLI on 23 January 2020. Further, Cyprus is an early adopter of the Common Reporting Standard ("CRS") on automatic exchange of financial account information. To this end, the OECD's Global Forum has approved Cyprus peer review (second round) on Transparency and Exchange of Information for Tax Purposes, placing Cyprus as widely compliant with the international standard on transparency and exchange of information for tax purposes. On 1 November 2016, Cyprus signed the Multilateral Competent Authority Agreement on the automatic exchange of country-by-country reports in accordance with BEPS Action 13 Report.

Nevertheless, the majority of the BEPS action points have been taken on board by the EU and found themselves in EU Directives, such as ATAD1 and ATAD2, Cyprus had to adopt the EU Directives. As a result, Cyprus is adopting the majority of the OECD BEPS action points.

Following the publication of the Instrument of Ratification and the MLI in the Official Gazette of the Republic on the 22 January 2020, Cyprus deposited its instrument of approval with the Organisation for Economic Co-operation and Development ("OECD") in January 2020, which came into force on 1 May 2020.

The Cypriot Government has adopted only the minimum standards of the MLI and has chosen to apply the following articles of the MLI:

- Article 6 : introduces language to the preamble of a Covered Tax Agreement, in order to express the common intention of the contracting parties to eliminate double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance, including through treaty this treaty shopping arrangement.
- Article 7: articulates the Principal Purpose Test ("PPT") that denies the treaty benefits when considering all relevant facts and circumstances, obtaining that benefit is one of the principal purposes for entering into a specific transaction or arrangement that resulted directly or indirectly in that benefit, unless if granting that benefit is not contrary to the object and purpose of the relevant provisions of the respective CTA.
- Article 16 : requires countries to include in their tax treaties the provisions on the mutual agreement procedure to improve dispute resolution. As a result, Cyprus follows the improved procedures as set out in the MLI.

13. ACCOUNTING CONSIDERATIONS

a. General

The fundamental concept is that the profits of a business must be calculated in accordance with generally accepted accounting principles. These profits are subject to any adjustment specifically required for income tax purposes. There is no explicit general rule in the CITL providing how the income is to be determined. However, if no tax rule provides otherwise, tax accounting follows commercial accounting based on International Accounting Standards.

Section 38 of the CITL provides that: any accounts and any computations of chargeable income produced to the Commissioner or accompanying any return of income submitted to the Commissioner may not be considered if they have not been audited by a person holding the qualifications to be appointed an auditor of a company under the Companies Law.

b. Compulsory auditing of financial statements by auditors

Section 142 (1) (a) of the Companies Law CAP. 113 provides that the directors shall cause to be made, for every company, a complete set of financial statements, as this set is prescribed by the International Accounting Standards ("IAS") and International Financial Reporting Standards ("IFRS") in force at the time, as well as related texts, which are issued under the general supervision of the International Accounting Standards Board ("IASB") and as adopted by the European Union in accordance with the provisions of Regulation (EC) No. Regulation (EC) No 1606/ 2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards, as amended or replaced from time to time.

Section 152A (1) of the Companies Law CAP. 113 stipulates that, in accordance with the provisions of the Auditors and Statutory Audits of Annual and Consolidated Accounts Law, 2009, the following companies must submit their financial statements to an auditor for auditing:

- Every private limited liability company;
- Every company required by this law to prepare consolidated financial statements; and
- Every public limited liability company.

14. OTHER TAX CONSIDERATIONS

a. Distributable Reserves

Article 169 of the Companies law states that a public company may not distribute dividends to its shareholders if its net assets (as shown in the annual accounts) are less than the sum of the issued capital and reserves. If part of the issued share capital remains unpaid, this part is not treated as an issued share capital.

Reduction of capital : Distributable equity and premium on shares are distributable reserves. Share capital is tied-up capital, which may not be distributed. Distributions other than paid-in capital will be taxable as dividends.

b. Substance Requirements for Recipients

A company is resident in Cyprus if its management and control is exercised in Cyprus. There is no definition in the Cypriot tax legislation of what the management and control requirements are and no detailed guidelines have been issued by the Cyprus Tax Authority ("CTA"). However, the CTA will ask for a directors' declaration confirming that the effective management and control is in Cyprus before issuing a tax residence certificate. It is generally accepted and in line with international tax principles that the following conditions should be considered to determine if a company qualifies as a resident for tax purposes of Cyprus:

- All strategic (and preferably also day to day) management decisions are taken in Cyprus by the directors exercising their duties from Cyprus. This is usually achieved by having meetings of the Board of Directors take place in Cyprus and signing written resolutions, contracts, agreements and other relevant company documents relating to the management, control and administrative functions of the company in Cyprus;
- The majority of the directors of the company are tax resident in Cyprus and exercise their office from Cyprus;
- An actual (administrative) office is maintained in Cyprus, where the actual management and control of the business of the company shall be exercised;
- Hard copies of commercial documentation (agreements, invoices, etc) are stored in the office facilities of the company;
- Accounting records of the company are prepared and kept in Cyprus;
- Bank accounts of the company are operated from Cyprus, even if the accounts are maintained with banks established outside Cyprus.

As a result, when Cyprus is used for holding company, financing company, IP company or property company, a sufficient level of substance is required in Cyprus in order to make sure that the general anti-abuse rule ("GAAR") of the EU Parent Subsidiary Directive, or the ATAD, or the principal purpose test or the recent "beneficial ownership" case law of the European Court of Justice will not apply.

On 21 December 2021, an amendment to the Income Tax Law was published whereby an additional corporate tax test is introduced. In accordance with the Law amendment, the definition of a "resident in the Republic" is enhanced so that the company established or registered under any applicable law in the Republic, which has its management and control exercised outside the Republic, is considered to be a resident in the Republic, unless such company is tax resident in any other jurisdiction. This means that Cyprus incorporated/registered companies, with (i) management and control exercised outside Cyprus; and (ii) not tax resident in any other jurisdiction will now be considered as Cyprus ta residents as such, taxed in Cyprus on their worldwide income.

c. Application of Regional Rules

Cyprus is a member of the European Union, and therefore is subject and has implemented into its internal law all EU Directives in tax matters (e.g. EU Parent Subsidiary Directive, Interest & Royalty Directive, EU Merger Directive, ATAD I and 2, the EU Directives on administrative cooperation in tax matters, so called "DAC" 1 to 6, etc.).

d. Tax Rulings & Clearances

The Cyprus Tax Authority ("CTA") will issue (upon application by the taxpayer or his tax advisor) written advanced tax rulings on the tax treatment of specific transactions. As a result, Cyprus provides taxpayers with the opportunity to obtain certainty in advance about their tax position. In principle, the tax authorities honour such rulings, provided the actual facts of the case are the same as the ones described in the application for the issue of the respective ruling. A number of tax circulars have been issued in the last couple of years, which describe the procedure and the conditions for issuing such tax rulings.

To obtain a tax clearance certificate, the financial statements must be filed with the relevant income tax return to the CTA, and after the CTA examines and agrees with these and any tax liability settled, a tax clearance certificate will be issued.

15. MAJOR NON-TAX CONSIDERATIONS

Mergers and acquisitions in Cyprus are stipulated in the Cyprus Companies law, Chapter 113. According to the legislation, mergers and acquisitions could take various forms. Under section 201 of Chapter 113, they could be achieved either by the acquisition of one or more companies by another company or by the dissolution of all the companies without liquidation, and the establishment of a new company or could even be achieved by division. Merger and acquisition by division arise once the company that is about to be dissolved transfers its assets and liabilities to one or more than one existing companies (the benefiting companies). Once the assets and liabilities are transferred to the benefiting companies, shares are issued in favour of the dissolved company's shareholders in the share capital of the existing benefiting companies. The shareholders who obtain the shares in those benefiting companies subsequently receive the corporate contributions resulting from the division and any offsetting amount in cash.

To be effective mergers and acquisitions need approval by the court. Once the court approves the merger plan, the acquired company's assets and liabilities are transferred to the acquiring company. Subsequently, the company's shareholders that are absorbed (the acquired company) by the other company become shareholders of the acquiring company (and or the newly established company).

Cyprus has also implemented the EU Directive 2005/ 56/ EU, which deals with cross border mergers between limited liability companies, which are established within the EU.

16. APPENDIX I – TAX TREATY RATES

Jurisdiction	Dividends % [1]	Interest % [1]	Royalties	Footnote Reference
Andorra [15]	0	0	0	[15]
Armenia	0	0	5	
Austria	0	0	0	
Bahrain	0	0	0	
Barbados	0	0	0	
Belarus	0	0	5	
Belgium	0	0	0	
Bosnia [7]	0	0	5 / 10	[7] [5]
Bulgaria	0	0	5 / 10	[5]
Canada	0	0	0 / 5 / 10	[4] [5]
China	0	0	0	[5]
Czech Republic	0	0	0	[11]
Denmark	0	0	0	
Egypt	0	0	5 / 10	[5]
Ethiopia	0	0	5	
Estonia	0	0	0	
Finland	0	0	0	
France	0	0	0/ 5	[3]
Georgia	0	0	0	
Germany	0	0	0	
Greece	0	0	0	[5]
Guernsey	0	0	0	
Hungary	0	0	0	
Iceland	0	0	5	
India	0	0	5 / 10	[5]
Iran	0	0	5 / 6	[5]
Ireland	0	0	0/ 5	[5]
Italy	0	0	0	

CYPRUS

RETURN TO CONTENTS PAGE

Jurisdiction	Dividends % [1]	Interest % [1]	Royalties	Footnote Reference
Jersey	0	0	0	
Kuwait	0	0	5	
Kazakhstan [18]	0	0	0 / 5 / 10	[18]
Latvia	0	0	0 / 5	[12]
Lebanon	0	0	0	
Lithuania	0	0	5	
Luxembourg [14]	0	0	0	[14]
Malta	0	0	5 / 10	[5]
Mauritius [14]	0	0	5	[14]
Moldova	0	0	5	
Montenegro	0	0	5 / 10	[5]
Norway	0	0	0	
Poland	0	0	5	
Portugal	0	0	5 / 10	[5]
Qatar	0	0	5	
Romania	0	0	0 / 5	[10]
Russia	0	0	0	
San Marino [14]	0	0	0	[14]
Serbia	0	0	5 / 10	[5]
Seychelles	0	0	5	
Singapore	0	0	5 / 10	[5]
Slovakia [9]	0	0	0/ 5	[9][10]
Slovenia	0	0	5	
South Africa	0	0	0	
Spain	0	0	0	
Sweden	0	0	0	
Switzerland	0	0	0	
Syria	0	0	5 / 10	[5]
Thailand	0	0	5 / 10	[6]

CYPRUS

RETURN TO CONTENTS PAGE

Jurisdiction	Dividends % [1]	Interest % [1]	Royalties	Footnote Reference
Ukraine [17]	0	0	5 / 10	[17][8]
United Arab Emirates	0	0	0	
United Kingdom	0	0	0	
United States of America	0	0	0	

Footnotes:	
[1]	Under Cyprus legislation, there is no WHT on dividends and interest paid to non-residents of Cyprus. Further, there is also no WHT on royalties paid to non-residents of Cyprus for rights not used within Cyprus.
[2]	Royalties earned on rights used within Cyprus are subject to WHT of 10% (except royalties relating to cinematographic films, where the WHT rate is 5%).
[3]	A WHT rate of 5% is applicable on cinematographic films, including films and videotape for television.
[4]	WHT 0% on literary, dramatic, musical, or artistic work (excluding motion picture films and works on film or videotape for use in connection with television).
[5]	The WHT rate of 5% is applicable on cinematographic film royalties.
[6]	5% WHT applies for any copyright of literary, dramatic, musical, artistic, or scientific work
[7]	Bosnia, Montenegro, and Serbia apply the Yugoslavia/ Cyprus treaty.
[8]	A 5% WHT rate will be levied on payment of royalties in respect of any copyright of scientific work, any patent, trademark, secret formula, process, or information concerning industrial, commercial, or scientific experience and cinematographic films.
[9]	The Cyprus-Czechoslovakia treaty applies with the Slovak Republic.
[10]	5% WHT rate applies for patents, trademarks, designs or models, plans, secret formulas, or processes, or any industrial, commercial, or scientific equipment, or for information concerning industrial, commercial, or scientific equipment, or for information concerning industrial, commercial, or scientific experience.
[11]	10% WHT rate applies for patent, trademark, design, or model, plan, secret formula or process, computer software or industrial, commercial, or scientific equipment, or for information concerning industrial commercial, or scientific experience.
[12]	0% WHT rate applies if the payer is a company that is a resident in Cyprus and the beneficial owner of the income is a company (other than partnership) that is a resident in Latvia. 5% WHT rate applies for all other cases.
[13]	The treaty came into effect as of 1 January 2019 for Cyprus.
[14]	The treaty/ amendments to the treaty is effective as of 1 January 2019.
[15]	The treaty came is effective as of 1 January 2020.
[16]	5% WHT rate applies in the cases of royalty payments for the use of, or the right to use, industrial, commercial, or scientific equipment. 8% WHT rate applies for all other cases.
[17]	New protocol to the DTT with Ukraine is effective as of 1 January 2020.
[18]	The treaty is effective as of January 2021.

17. APPENDIX II - GENERAL CORPORATE ENTITY TAX DUE DILIGENCE REQUESTS

The Cyprus tax process is one of self-assessment. Following the filing of a tax return, the CTA has six years from the end of the relevant tax year to raise an enquiry (12 years in cases of established fraud or wilful default). Tax returns, notices and assessments should be reviewed back through the six year periods in which CTA have a right to raise an enquiry, unless the year was closed and finally tax assessment was issued.

Nº.	Category	Sub-Category	Description of Request
1	Tax Due Diligence	General	Contact administrator/ client officer manager and put in place the tax related question/ matter(s).
2	Tax Due Diligence	General	Request diagram structure of the legal entity and/ or any legal entity included in the structure, request corporate certificates (including memorandum and articles of association) of each legal entity and confirmation of ownership percentages.
3	Tax Due Diligence	General	Request the latest audited financial statements and copies of the tax provision workpapers supporting the Company's financial statements.
4	Tax Due Diligence	General	Request previous IR4 Forms (Corporation Tax).
5	Tax Due Diligence	General	Request copies of all agreements, details of any significant acquisitions and/ or dispositions accompanied with supporting documentation.
6	Tax Due Diligence	General	Request a schedule of gains, losses and liabilities.
7	Tax Due Diligence	General	Request a schedule of related party transactions including the amounts and description of each, to the extent not reflected in the financial statements Intercompany transactions shall be reported as well.
8	Tax Due Diligence	General	A summary description of any significant tax incentives or negotiated tax arrangements granted to the Company or an affiliate.
11	Tax Due Diligence	Value Added Tax	VAT returns and a schedule of jurisdictions where the Company files VAT returns. The schedule should contain specific amounts.
12	Tax Due Diligence	Value Added Tax	Schedule detailing sales by period as either taxable or not taxable for the previous year. Specific reference. Explanations for which sales are not taxable.
13	Tax Due Diligence	Value Added Tax	List all countries in which the legal entities are registered or licensed to operate.
14	Tax Due Diligence	Value Added Tax	Details regarding any amount falling under exempt income and any expenses not eligible for VAT refund.
15	Tax Due Diligence	Payroll Tax	Request the payroll list.
16	Tax Due Diligence	Payroll Tax	Details regarding the use of independent contractors, including the amount spent on independent contractors annually and the responsibilities of the Company and Independent Contractors. If applicable, the rationale for treating such workers as independent contractors instead of employees.
17	Tax Due Diligence	Payroll Tax	Request IR7 and IR59 Forms for the years in concern.
18	Tax Due Diligence	Immovable Property Tax	Request previous payments and applicable rates.

FOR MORE INFORMATION CONTACT:

Costas Savva
+35 7 99 300 462
csavva@cy.taxand.com

Christos Theophilou
+35 7 99 328 846
ctheophilou@cy.taxand.com

Demis Ioannou
+35 7 99 550 023
dioannou@cy.taxand.com

Niki Antoniou
+ 35 7 22 875 719
nantoniou@cy.taxand.com