

Cyprus: The Ultimate Location for intellectual property structures?



The amendments to the Cyprus Income Tax passed in May 2012 brought about a new dimension to intellectual property structures. The amended Law introduces a so-called 'IP Box' regime, which further enhances the competitiveness of Cyprus Intellectual Property structures and allows Cyprus to be shortlisted alongside other jurisdictions such as Luxembourg, the UK, Switzerland, Netherlands and Ireland offering comparable incentives.

This regime is available to Cyprus companies owning qualifying intellectual property (IP) and is extended to profits arising from its use or from its subsequent sale.

These provisions are effective retrospectively as from 1 January 2012.

The efficient use of Cyprus in intellectual property structures

Legal framework

The Cypriot legal system is based on the English legal system and follows the principles of common law and equity. Cyprus law specifically protects and safeguards IP rights at a national level while European and international protection is also afforded as a result of the islands membership to the European Union as well as the conclusion of a number of international conventions.

Patents are expressly protected under the Patent Law 16(I)/98. This law enables any person or organisation to apply to the Registrar of Companies for registration and protection of new inventions. Respectively, a national patent certificate is issued. Equally, patents granted by the European Patent Office can also be registered through the Cyprus Registrar of Companies and receive a European patent certificate accordingly.

Trademarks, service marks and designs are protected and registrable under the Trademarks Law, Cap 268. Pan-European and international protection is also afforded by virtue of EU regulations and international conventions implemented and concluded respectively.

Copyright national protection is available under the Protection of Intellectual Property Law 59/76. Cyprus is also a signatory of the Berne Convention.

Tax framework

The efficient use of Cyprus companies in international tax planning has long been established. The Cyprus IP-box regime goes a step further in setting the foundations for a Cyprus Intellectual Property Company by providing for a

most favourable trademarks, service marks and designs and copyrights. treatment of profits Expense deductibility provisions and favourable deriving from patents, amortisation allowances are also available.

Intellectual Property related profits

A deemed/notional expense of 80% of the profit arising from the use and from any gain from the sale of qualifying intellectual property is allowed, while the balance forms part of the taxable profits of a Cyprus company and is taxed at the applicable corporate income tax rate currently set at 12.5%.

Deductibility of Intellectual Property related expenses

Expenses incurred for the purchase or development of the IP or other expenses incurred wholly and exclusively for the production of the IP related income are tax deductible.

Amortisation allowance

IP acquisition or development expenses being of a capital nature are subject to a tax deductible amortisation allowance at the rate of 20% per year commencing from the year of acquisition.

Sale of IP Company shares

Gains from the sale of shares are exempt from Cyprus tax.

Other considerations

VAT

Cyprus VAT registration by the Cyprus Company may be required. Royalty income is perceived as a service within the provisions of the Cyprus VAT legislation. It is noted that the place of supply of intellectual property/royalty related services for business-to-business

transactions is the place where the supplier is situated. Depending on the nature of the transactions performed, a Cyprus VAT registration may arise supported by the need to make monthly VIES declaration. Registration may also be obligatory on the acquisition of the IP by a Cyprus Company.

Proper structuring of the activities of a company should not result in a VAT cost for a Cyprus Company. Administration formalities though shall result as a consequence thereof.

Withholding tax

Royalty payments are not subject to withholding tax provided that the IP right is used and exploited outside Cyprus.

Foreign withholding taxes may be reduced and/or eliminated by the provisions of an applicable double tax treaty. It is noted that Cyprus has concluded an extensive network of tax treaties. Click here for the list of tax treaties.

Use of Cyprus International Trusts

The use of a Cyprus International Trust (CIT) in combination with a Cyprus IP-owning company could infer added benefits.

A CIT could serve as a holding or financing vehicle, where effectively dividend income and/or interest income will be received without any tax leakage, provided that the beneficiaries are not residents of Cyprus for tax purposes.

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