

CYPRUS – THE ULTIMATE ROYALTY AND HOLDING STRUCTURE JURISDICTION

A. Introduction

In May 2012, the House of Representatives voted new amendments to the Income Tax Law with the aim to make Cyprus the ultimate royalty and holding structure jurisdiction. The new tax regime provides for favourable tax treatment of the income generated from any type of qualifying intellectual property rights, patents and trademarks ("IP Rights") as well as providing for generous capital allowances for acquisition and development of such rights.

All amendments have retrospective effect as from the 1st January 2012.

The Cyprus Royalty Company – Maximum effective tax rate of 2.5%

Tax Treatment of Royalty Profits

Prior to May 2012 amendment, any income from IP Rights was taxed under the normal corporate tax rate of 12.5% on any resulting net profits. As a result of the amendment, 80% of the "Royalty" profit generated from such IP Rights will be exempt from corporation tax and the remaining 20% will be taxed under the normal corporate tax rate of 12.5%. For the purpose of determining the "Royalty" profit the law allows the deduction from the royalty income of all expenses incurred wholly and exclusively for the generation of royalty income.

It is important to highlight that under the new legislation, 80% of the profit generated from a possible sale of the IP Right will be corporation tax exempt and only the remaining 20% will be subject to the normal corporation tax rate of 12.5%. This is very important as it allows the owners of the IP Rights not only to enjoy generous tax benefits on the income generated from the use of IP Rights but also provides them with a tax efficient exit route when the IP Rights are sold.

Capital Allowances

In addition to the above, a Company with IP Rights will be able to enjoy capital allowances of 20% straight line for the first five years of use of the IP Right. The capital allowances are tax deductible, which makes the tax benefits of the first five years for the Cyprus Royalty Company even more attractive.

In conclusion, the effective tax rate applicable on the Cyprus Royalty Company will never be higher than a maximum of 2.5% on its "Royalty" profits. The effective tax rate can be further reduced by the deduction of the above capital allowances.

B. Other Tax Amendments

Group Relief

Prior to the May 2012 amendment, Group Relief (set-off of losses of one company with the profits of another company in the same tax group) was allowed only when the two companies were part of the same tax group for the whole financial year in which the relief was claimed.

Under the new amendment, a company acquired any time during a tax year will now be considered as part of the group from the beginning of the year for group relief purposes, therefore allowing group relief to be claimed from the year of acquisition.

Generally, two companies are considered to be members of the same tax group for group relief purposes if one is a 75% subsidiary of the other or both are 75% subsidiaries of a another company. A company is considered to be 75% controlled by another, if at least 75% of the subsidiary's voting shares, distributable profits and assets in the case of winding up are held directly or indirectly by the holding company.

Tax treatment of Interest Income and Interest Expense

Before the May 2012 amendment, any interest on a loan received for the purchase of non-business assets (i.e. shares in other companies) was not considered as tax deductible. The new amendment abolishes the restrictions on the deductibility of the interest expense on loans obtained for the purchase of shares in a directly or indirectly, 100% owned subsidiary provided that this subsidiary does not own assets that are not used in the business. In case the subsidiary holds such non-business assets, the deductibility of interest expense will be restricted to the percentage of the assets used in the business.

Further, before the amendments, any loans between a Cyprus holding company and its fully owned Cypriot subsidiary should have borne interest, in accordance with Article 33 of the Income Tax Law, based on the prevailing market rates. With the amendment of the law the provisions of Article 33 will not apply in such situations which means that these loans can now be granted even interest free, provided that the company receiving the loan is a 100% direct subsidiary of the lender and the other conditions for the establishment of a tax group, as analysed above, apply.

Capital allowances

The amendment also provides for an increase of capital allowances to 20% on plant and machinery purchased during the tax years of 2012 to 2014. Capital allowances on plant and machinery that prior to the amendments enjoyed a rate of over 20% are not affected. The law also provides for an increase of capital allowances at the rate of 7% on industrial and hotel buildings purchased during the tax years of 2012 to 2014.

DISCLAIMER

This publication has been prepared for information purposes only and is not a substitute for professional advice. One must not rely on it without receiving independent advice based on the particular facts of his/her own case. No responsibility can be accepted by CCP Professional Services for any loss incurred by acting or refraining from acting on the basis of this publication.



Our Firm

CCP Professional Services is a dynamic, fast growing firm of chartered accountants dedicated to providing a wide range of services, such as auditing, accounting, international tax planning, tax and VAT compliance and financial advisory.

Our team of UK and EU-qualified accountants, auditors and tax consultants provides efficient and high quality services and is capable of meeting the current demanding challenges of the local and international business environment.

If you would like to receive further information the services we offer, please do not hesitate to get in touch with us.

Contact Us

CCP Professional Services
33 Climentos Street, Office 302
Nicosia, 1061, Cyprus
Tel: + 357 22 250865 – Fax: + 357 22 256573
E-mail: info@ccp.com.cy – Web site: www.ccp.com.cy