CY FIDUCIARY services

CyF Publications

Cyprus Tax:

Income from Intellectual Property

February 2017

Delivering results on time …

P & V CY Fiduciary Services Ltd

P.O.Box 30021,
5340 Ayia Napa, Cyprus

Tel. +357 23 721 070
Fax +357 23 721 125

info@cyfiduciary.com
www.cyfiduciary.com

Cyprus favourable IP tax regime, together with the protection offered by its status as an EU member state and by all major IP treaties and protocols, offer an ideal tax efficient base for IP owners.

IP Protection

All relevant EU Directives and Regulations have been introduced into the domestic legislation, therefore, IP rights registered in Cyprus enjoy full protection in all EU Member States.

On an international level Cyprus is signatory to the European Community Trademarks, the Convention Establishing the World Intellectual Property Organization (WIPO), the Madrid Agreement, the Patent Cooperation Treaty, the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, the WIPO Performance and Phonograms Treaty, the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, the Trademark Law Treaty and the WIPO Beijing Treaty on Audiovisual Performances.

Cyprus New IP Tax Regime

A new IP regime has been introduced that is in line with the latest international developments in the tax treatment of IP income and OECD’s action plan on fighting base erosion and profit shifting (BEPS).

The old regime will still apply until 30 June 2021 in the case of existing IP which:

- Was subject to the old regime before 2 January 2016
- Was acquired (subject to certain conditions) or was self-developed between 2 January 2016 and 30 June 2016.

This publication is for general information purposes only and should not be used for decision making. No responsibility for any loss occasioned to any person acting or refraining from acting as a result of material in this publication is accepted.

© All rights reserved

Below we summarise the main provisions of the new IP regime which is based on the NEXUS approach:

P & V CY Fiduciary Services Ltd

P.O.Box 30021,
5340 Ayia Napa, Cyprus

Tel. +357 23 721 070
Fax +357 23 721 125

info@cyfiduciary.com
www.cyfiduciary.com

- **Application**: IP rights acquired, developed or exploited by a person/company which are a result of R&D expenditure and for which the person is the economic owner. These are called "Qualifying Assets".

- **Exclusions**: Any IP rights relating to marketing (trade names, brands, trademarks, image rights, etc.).

- **Capital allowances**: The capital cost of all intangible assets (excluding goodwill and assets subject to the old IP regime but including non-qualifying assets) will be tax deductible as a capital allowance spread over the useful life of the asset (with a maximum useful life of 20 years).

- **Tax rate**: 12.5% corporation tax, however, up to 80% of the IP income can be tax exempt, therefore, reducing the effective tax rate to as low as 2.5%. The actual percentage is calculated using the Nexus formula.

- **Foreign tax credits**: any tax withheld abroad offsets Cyprus tax

- **Capital gains**: Capital gains arising from the disposal of a Qualifying Asset are fully exempt from tax.

- **Tax withheld (WHT) on dividends:** 0% if paid to a non-Cyprus tax resident

- **Tax withheld (WHT) on interest:** 0% if paid to a non-Cyprus tax resident

- **Tax withheld (WHT) on royalties:** 0% if paid to a non-Cyprus tax resident for royalties used outside Cyprus

This publication is for general information purposes only and should not be used for decision making. No responsibility for any loss occasioned to any person acting or refraining from acting as a result of material in this publication is accepted.

© All rights reserved

P & V CY Fiduciary Services Ltd

P.O.Box 30021,
5340 Ayia Napa, Cyprus

Tel. +357 23 721 070
Fax +357 23 721 125

info@cyfiduciary.com
www.cyfiduciary.com

- **Tax exemption:** 80% of the Qualifying IP Income is tax exempt

  The Qualifying IP Income is calculated using the Nexus formula. In general, the higher the proportion of Research & Development expenses incurred by the company over the total cost of the IP, the higher the exemption. There are two extreme cases:

  (1) If the IP is 100% researched and developed by the company (either directly or indirectly via outsourcing to unrelated parties) then the whole IP income qualifies for the 80% tax exemption.

  (2) If the IP is 100% acquired with no R&D expenses incurred then none of the IP income qualifies for the exemption

  Every other case is in the middle of the above two cases

Example 1

An EU subsidiary of a Cyprus Company pays €100,000 royalties to its Cyprus parent company for an IP which was researched and developed fully by the Cyprus company.

Subsidiary level

- ✓ €100,000 tax deductible expenses
- ✓ 0% WHT on royalties (EU Interest & Royalties Directive)

Cyprus level

- ✓ 80% exemption applies, therefore, only €20,000 will be taxed at 12.5% resulting in €2,500 tax (effective tax rate 2.5%)
- ✓ 0% capital gains tax arising from the disposal of the IP
- ✓ No tax withheld (WHT) in Cyprus on dividends paid to non-Cyprus tax residents

* Please note that restrictions or conditions might apply

This publication is for general information purposes only and should not be used for decision making. No responsibility for any loss occasioned to any person acting or refraining from acting as a result of material in this publication is accepted.

© All rights reserved

Example 2

P & V CY Fiduciary Services Ltd

P.O.Box 30021,
5340 Ayia Napa, Cyprus

Tel. +357 23 721 070
Fax +357 23 721 125

info@cyfiduciary.com
www.cyfiduciary.com

An EU or treaty company pays €100,000 royalties to an unrelated Cyprus IP Company for an IP which was researched and developed partly by the Cyprus company. Using the Nexus formula the percentage of the Qualifying Income over the Total Income is found to be 70%.

EU or treaty company level

- ✓ €100,000 tax deductible expenses
- ✓ 0% or low WHT on royalties (due to treaties)

Cyprus level

- ✓ 80% exemption applies to the 70% of the total income. Therefore:
  Qualifying income = €100,000 X 70% = €70,000
  Exempted income = €70,000 X 80% = €56,000
  Corporation tax = (€100,000 – €56,000) X 12.5% = €5,500
  Effective tax rate: 5.5%
- ✓ Tax credits for any tax withheld abroad offset Cyprus tax
- ✓ 0% capital gains tax arising from the disposal of the IP
- ✓ No tax withheld (WHT) in Cyprus on dividends paid to non-Cyprus tax residents

* Please note that restrictions or conditions might apply

Our View: The new IP regime will help strengthen the reputation of Cyprus as a reputable jurisdiction for international business. Furthermore, together with the extensive network of double tax treaties under which foreign withholding taxes on royalties are either eliminated or reduced, it offers excellent opportunities for tax efficient IP structures with immediate benefits.

This publication is for general information purposes only and should not be used for decision making. No responsibility for any loss occasioned to any person acting or refraining from acting as a result of material in this publication is accepted.

© All rights reserved