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CORPORATE AND TRUST - TAX AND LEGAL - BUSINESS ADVISORY - ACCOUNTING - FINANCIAL MANAGEMENT

## IP AND ROYALTIES

Royalties are the payment of licence fees or commissions by one individual or entity to another for the use of intellectual property (IP). Intellectual property can take several forms:

- patents that protect inventions or new processes
- trademarks that relate to the names of products and perhaps also their design and packaging
- copyright, which attaches to any original creative idea expressed in words or pictures
- image rights

The aim is to generate the income arising from these rights in the most tax efficient manner possible.

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### The strong case for IP in Cyprus

When choosing where to set up the intermediary company, it is important to consider several issues. It is important, for example, to study the applicable corporate taxes, double tax treaties, the cost for setting up the company and any capital requirements.

Many licence holders choose to use Cyprus for royalty routing structures because it offers the following tax advantages:

- no withholding taxes on payment of royalties when distributed out of Cyprus, provided that the holder is not a Cyprus-resident and his property is used outside of Cyprus
- tax is only paid on the licence fee retained by the Cyprus company
- Cyprus has a vast worldwide network of double tax treaties

- the EU Directive on Interest and Royalties providing for nil withholding taxes between EU countries and which of course extends also to Cyprus.
- Cyprus corporate tax rates are at 10 per cent which is the lowest within the EU
- The licence fee retained by the onshore intermediary company will typically be 5 per cent

Other advantages of Cyprus include:

- competitive fees
- fast incorporation
- low capital requirements

## A practical example

- an Austrian software company is developing software for which it intends to register the patent rights
- the company registers the patent not under its own name but under the name of a 100 per cent owned offshore company
- the offshore company registered in, for example, the British Virgin Islands, then enters into a licence agreement with a Cypriot company for the offshore company's European patent rights
- the Cyprus company now has the exclusive ability to exploit these rights in Europe
- the Cypriot company then enters into contracts with European customers, through which it exploits the rights which it now owns
- contract 1 is with an Italian software company for the right to subscribe to the software rights
- contract 2 is with the Austrian company for the same rights
- the income passes fully to the Cypriot company without withholding taxes in any EU country
- contract 3 is with a Russian software company for the same rights. The income passes fully to the Cypriot company from Russia without any withholding company in accordance with the double tax treaty
- the Cypriot company retains a 5 per cent licence fee and pays tax on this income but it will be able to pass 95 per cent to the offshore company where no further tax will be levied

## If the Austrian company had negotiated these contracts directly it could have suffered up to 34 per cent income tax on the income.

Also, the Austrian company will pay the Cyprus company for the right to utilise the patent. This will be considered as an expense for the Austrian company and consequently the taxable profit will be reduced. Further, if the Austrian company sells the rights, any gains will be taxed at 34 per cent. However, if the offshore company sells the rights, the capital gains tax is nil.

## What we can do

- advise on royalty structures
- formation of Cypriot companies
- administration of the structure
- nominee and office facilities
- invoicing and accounting
- virtual office





## RESIDENT PERMITS

There is a new Parliamentary policy in Cyprus in relation to resident permits for non-EU nationals.

The Cyprus government has issued a new policy with a view to simplify and uncomplicate the process of applying and consideration of work permit applications from non-EU nationals.

The main features of the new policy purport to achieve the following:

- simplification of procedures and conditions
- reduction of time spent in examining applications
- possibility to provide indefinite work and resident permits to management and key employees

- reducing documentation
- multi-entry visa for frequent flyers and visitors

The policy has been given effect immediately and steps taken to inform Officers and improve staff levels and resources. A permanent Special Committee is being established to examine complex applications, to resolve problems and submit proposals for improvement of the policy and procedures.

Russian's close ties with Cyprus, under the new arrangements, will be enhanced. Senior management who reside mainly in Cyprus will be able to apply to permanent residence permits and a fast-track



## EURO ZONE AS OF 2008

Following its accession to the EU in 2003, Cyprus has achieved its goal of joining the euro zone on 1 January 2008.

After discussions and evaluations of all the facts by Cyprus' Council of Ministers, the proposal to adopt the euro on January 1, 2008 has now been adopted and Cyprus is committed to adopting the euro as all the so called Maastricht criteria have been fulfilled.

The bill prepared by the Cyprus government for the introduction of the euro stipulates that there will be a period of a few months before and after the adoption of the euro where they will be a legal requirement to have "dual – display" of monetary amounts in both Cyprus pounds and euro. This is done to facilitate familiarisation with the euro and enhance measures against fraud and deceit of the public.

The European Commission concluded on 16 May 2007

that Cyprus has achieved a high degree of sustainable economic convergence with the euro area member states and that it fulfils the necessary conditions to adopt the euro. On the basis of this positive Convergence Report, the Commission proposes to the Council that Cyprus adopts the euro on 1 January 2008.

" Cyprus has achieved a high degree of economic convergence with the euro area and is ready to adopt the euro in January 2008. However, in order to ensure that euro adoption will be a truly successful story, Cyprus must continue to implement stability-oriented policies in order to safeguard its external competitiveness. In addition, Cyprus must also speed up and finalise the crucial practical preparations to ensure that the changeover takes place smoothly, as was the case in Slovenia at the beginning of this year" said Joaquin Almunia, European Commissioner for Economic and Monetary Affairs.



## DOUBLE TAX TREATIES

Paid to Cyprus	Dividends	Interest	Royalties
	%	%	%
Austria	10	-	-
Belarus	10/5	5	5
Belgium	10/5	10	-
Bulgaria	5/10	-/7	10
Canada	15	-/15	-/10
China	10	10	10
Czech Republic	10	-/10	-/5
Denmark	10/15	-/10	-
Egypt	15	15	10
France	10/15	-/10	-/5
Germany	10/15	-/10	-/5
Greece	25	10	-/5
Hungary	5/15	-/10	-
India	10/15	-/10	10/15
Ireland	-	-	-/5
Italy	15	10	-
Kuwait	10	-/10	-/5
Lebanon	-/5	-/5	-
Malta	-	-/10	10
Mauritius	-	-	-
Norway	-/5	-	-
Poland	10	-/10	5
Romania	10	-/10	-/5
Russia	5/10	-	-
Singapore	-	7/10	10
Slovakia	10	-/10	-/5
South Africa	-	-	-
Sweden	-/15	-/10	-
Syria	-/15	-/10	10/15
Thailand	10	10/15	5/10/15
United Kingdom	15	10	-/5
United States	5/15	-/10	-
USSR	-	-	-
Yugoslavia	10	10	10

### Paid to Cyprus

No withholding taxes exist for dividend, interest or royalty payments which are made to non tax residents of Cyprus

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