

Article

The Cyprus Non-Domiciliation Rules

Authors: Thomas Keane, Christina Vgenopoulou & Loukiana Protopapa

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Introduction

In an effort to improve the competitiveness of Cyprus's tax regime and attract foreign capital, in 2015 the Cypriot Government introduced the concept of "Non-Domiciled". The concept was proposed through the amendment of the Special Contribution for the Defence of the Republic of Cyprus Law N.117(I) of 2002, as amended from time to time (the "SDC Law"). The SDC Law essentially draws a distinction between tax residents of Cyprus who are domiciled in Cyprus and those who are not.

The "non-domiciled" rule allows such individuals to benefit from certain exemptions to existing tax liabilities regardless of whether they are tax residents of Cyprus. This amendment to the island's tax framework, has elevated Cyprus to one of the most attractive European countries for thousands of both EU and Non-EU investors in selecting their business and/or residential destination.

Qualifying for Tax Residency in Cyprus

The 183-day rule:

As a general rule an individual may be deemed a tax resident in Cyprus if he/she is physically present in Cyprus for a period exceeding 183 days during a tax year (i.e., from the 1st January to the 31st of December).

The 60-day rule:

As of 1st January 2017, the Cypriot Parliament introduced an additional test under which individuals may still qualify as tax residents of the country even if they have spent less than 183 days on the island, provided that all the following conditions are met:

- ✓ They do not spend more than 183 days in any other country
- ✓ They are not tax residents of any other country
- ✓ They spend at least 60 days in Cyprus
- ✓ They maintain a permanent home in Cyprus (owned or rented)
- ✓ They exercise a business and/or are employed by a Cyprus company and/or hold an office in Cyprus with a tax resident Cyprus company for the same calendar year.

The calculation of the days an individual spends in Cyprus is as follows:

Scenario	Outcome
Day of departure from Cyprus	Is a day outside of the Cyprus
Day of arrival in Cyprus	Is a day in the Cyprus
The arrival in Cyprus and the departure from Cyprus in the same day	Is a day in the Cyprus
Departure from Cyprus and the arrival in Cyprus in the same day	Is a day outside the Cyprus

Domiciliation Explained

Pursuant to the provisions of the Wills and Succession Law Cap. 195, there are two occasions where an individual can be considered as a “Domicile”:

- a. **domicile by origin** - acquired at birth and generally applied to an individual with a Cypriot-domiciled father, or
- b. **domicile of choice** – acquired by establishing physical presence in a particular place and by demonstrating sufficient intention to make it the place of permanent residence.

Individuals who have been tax residents in Cyprus for at least 17 out of the last 20 years prior to the tax year in question, will be deemed to be domiciled in Cyprus for the purposes of the SDC Law.

However, a Cyprus domiciled individual by origin could lose his/her domiciliation if they have acquired and maintain a domiciliation of choice outside Cyprus.

This is provided that they were not tax residents in Cyprus for any continuous period of at least 20 consecutive years prior to the tax year in question or if they were not tax residents in Cyprus for a period of at least 20 consecutive years immediately prior to the entry into force of the non-domicile provisions.

Benefits of Non-Domiciliation

Non-domiciles benefit from a number of tax advantages, which include having their dividends and interest completely tax exempt. In Cyprus Special Defence Contribution tax is imposed on dividends and interest income earned by individuals who are tax residents and domiciled in Cyprus at the rates of 17% and 30% respectively irrespective of the source of income. Also subject to taxation is rental income at the rate of 3% on 75% of the gross rental income.

Domiciled Tax Resident

Income Type	Income Tax	SDC Tax
Dividends	Exempt	Taxed at 17%
Interest ¹	Exempt	Taxed at 30%
Rental Income	Taxable	Taxed at 3% on 75% of gross income

These types of income, however, are completely exempt for non-domiciled individuals:

Non-Domiciled Tax Resident

Income Type	Income Tax	SDC Tax
Dividends	Exempt	Exempt
Interest	Exempt	Exempt
Rental Income	Taxable	Exempt

It should be noted that the SDC Law provides that when a Cyprus-domiciled person transfers assets to a non-domiciled relative (up to the third degree), it is then up to the Commissioner to decide whether the transfer was performed for tax avoidance, in which case the income deriving from the said assets will be subject to defence tax.

Cyprus, a Prime Tax Destination

Cyprus was not the first country to apply the “Non-Domiciled Individual” concept. Countries such as Ireland, Malta and the United Kingdom have also adopted similar tax concepts. For example, while in Cyprus one can only uphold the “Non-Domiciled” status for up to 17 years, Malta and Ireland do not impose a restriction as to the period for which one can be considered as non-domiciled.

¹ Exempt if it is not earned in the ordinary course of business.

Similarly, Malta does not require non-domiciled individuals to declare their status on their tax return or even declare any income that is not transferred in the country.

Despite the intense competition in the European tax arena, Cyprus is still considered as a prime tax destination. Foreign nationals continue to choose the island because of the abundance of tax advantages it can offer. These advantages include generous entitlements and concessions for expatriates, along with the following non-exhaustive list of benefits:

- Exemption on remuneration for salaried services rendered outside Cyprus for more than 90 days in a tax year to a non-Cyprus resident employer
- Exemption on lump sum repayments from life insurance schemes or approved provident funds
- Exemption on inheritance, gift and wealth taxes
- Exemption on immovable property taxes
- Advantageous double-tax treaties with over 65 countries
- Exemption on capital gains tax deriving from real estate situated outside Cyprus

The combination of a very favourable tax regime, the country's richness of promising investment and business opportunities, along with a welcoming attitude towards foreigners and an enviable lifestyle, renders Cyprus an ideal place for individuals looking to optimize their financial position.

The foregoing should not be read or construed or relied upon as legal advice in any specific or individual circumstance.

In the event of any query or need for clarification please contact the undersigned.

Keane Vgenopoulou & Associates LLC

For further information, please contact:

Thomas Keane

Partner

Tel: +357 25 25 7900

Email: tkeane@kvlaw.eu

Christina Vgenopoulou

Partner

Tel: +357 25 25 7900

Email: cvgenopoulou@kvlaw.eu

Loukiana Protopapa

Associate

Tel: +357 25 25 7900

Email: lprotopapa@kvlaw.eu