

Article

BUSINESS HEADQUARTERING IN CYPRUS

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Cyprus's corporate, legal and regulatory environment alongside its wide network of tax treaties with EU and third countries are just some of the reasons why it is considered an attractive jurisdiction to locate corporate headquarters. In addition to the above the government has adopted a new action plan under the name *Strategy for Attracting Businesses for Activities or/and Expansion of their Activities* which aims at attracting both international investments and talent. The plan includes a series of actions and reforms in several areas of intervention, aiming to enhance Cyprus position as an international high-growth business centre.

In this article we shall examine the new regime/incentives for relocating and headquartering in Cyprus.

A. BUSINESS FACILITATION UNIT

As from 1st January 2022, a Business Facilitation Unit (**BFU**) has been introduced by the Ministry of Energy, Commerce and Industry, which is being used as a single point of contact between eligible companies and the relevant Authorities in Cyprus.

The purpose of the BFU is the facilitation of the establishment and/or the expansion of the existing activities of foreign companies in Cyprus. The BFU offers services pertaining to the establishment of a company in Cyprus including company registration, registration with the social insurance registry and the employer's registry, registration with the VAT registry and to income tax, licensing facilitation for establishment and operation of companies, facilitation for the issuance of residence and employment permits in Cyprus.

Eligible companies can register with the BFU, as *foreign companies*, in a fast and efficient manner. Once this registration is completed, the relevant companies may proceed through the fast-track process with the submission directly to the Civil Registry and Migration Department (**CRMD**) of applications for the issuance of residence and employment work permits in respect of their third country employees.

Important note: Companies already registered with the CRMD as companies of foreign interest, will not have to re-register with the BFU, as the new policy automatically applies to these companies.

B. REVISED POLICY FOR THE EMPLOYMENT OF THIRD COUNTRY (NON-EU) NATIONALS

The new governmental policy contains clear and simplified criteria as to the eligibility of the companies entitled to employ third country nationals and of the criteria of the prospective employees.

Important note: the requirement for foreign companies to open a bank account in Cyprus and remit to that account from abroad the sum of €200,000 has been abolished.

Eligibility criteria for registration with the BFU as a foreign company

(i) Eligible businesses must meet one of the following conditions:

- Foreign companies/undertakings operating or intending to operate in Cyprus in which the majority of the company's shares (i.e. >50%) is owned by third-country nationals. It is noted that in case where the percentage of the foreign participation in the share capital of the Company is equal to or below 50% of the total share capital, the Company can still be considered as eligible, if the foreign participation in the share capital represents an amount equal to or greater than €200.000. **OR**
- Public companies registered in any recognised stock exchange. **OR**
- International business companies (ex-offshore companies that were operating in Cyprus under an older policy by approval of the Cyprus Central Bank and the particulars of which are held by the Central Bank).
- Cypriot shipping companies. **OR**
- Cypriot companies of high technology / innovation. **OR**
- Cypriot pharmaceutical companies or companies operating in the fields of biogenetics and biotechnology. **OR**
- Companies which belong by majority to persons who have obtained Cypriot citizenship on the basis of economic criteria provided such persons are in a position to show that they still meet the conditions under which they had obtained Cypriot citizenship.

AND

(ii) Eligible businesses must have offices in Cyprus

Eligible businesses must operate from independent offices in Cyprus, in suitable premises, separate from any private housing or other office, except in the case of business co-habitation.

Eligible Employees

The new governmental policy differentiates between highly skilled employees and non-highly skilled employees.

- (i) Employment of third country **highly skilled** nationals is subject to the following conditions:
- a minimum gross monthly salary of €2,500.
 - That they hold a university degree or diploma or equivalent qualification or confirmation of relevant experience in a corresponding employment position of at least 2 years duration.
 - submit an employment contract of not less than two years.

Important note: The maximum number of third-country nationals that can be employed is set at 70% of all employees over a period of 5 years, from the date of joining the BFU. After the lapse of 5 years if it is not possible to employ 30% of Cypriot workers, the matter will be re-examined on a case-by-case basis

- (ii) Employment of third country nationals **support staff** is subject to the following conditions:
- a gross monthly salary of less than € 2,500 determined by current legislation.
 - an employment contract between the third country national and the employer duly validated by the competent authority in accordance with current legislation

Important note: employment of third country nationals as support staff cannot exceed 30% of the total support staff.

Additional criteria that apply to both highly skilled and support staff are:

- valid passport for at least 2 years;
- legal residence in the Republic of Cyprus;
- an employment contract duly ratified where required;
- qualifications to practice the profession;
- suitable accommodation;
- medical tests and health insurance;
- clear criminal record certificate;
- a personal declaration undertaking responsibility for the costs of repatriation.

Important Note: The duration of work permits for both highly skilled employees and support staff are issued within 1 month and for a period of up to 3 years.

Right for Family reunification of third country nationals

The spouses of highly skilled employees have an immediate right to free access to the labour market. The aforementioned right is not afforded to the spouses of support staff.

C. PERMANENT RESIDENCY PROGRAM

Regulation 6(2) of the Aliens and Immigration Regulations allow non-EU investors to apply for permanent residency in the Republic of Cyprus on a fast-track basis provided that certain criteria are met. The main requirement used to be real estate investment in Cyprus worth at least €300,000 but as a result of certain amendments which entered into force on 24th March 2021, third country national investors have now available a variety of investment options and can explore more

business opportunities combining those business opportunities with immigration options.

In particular the investment criteria have been expanded to include investment options that do not relate to acquisition of real estate. The amended program now allows an investment worth a minimum of €300,000 in the share capital of a Cypriot company which (i) has a physical presence/operates in Cyprus and (ii) employs at least five employees in Cyprus. Additionally, investments in units of a Cyprus Collective Investment Organization (type AIF, AIFLNP, RAIF) are also an eligible form of investment.

Thus, a third country national investor may invest in his/her own company, become employed by his/her company as director and hold a permanent residency permit which is not subject to any renewals the only obligation being to visit Cyprus at least once every two years.

Additional Requirements

- Proof of residence in Cyprus

The applicant, may, by way of confirmation of residence in Cyprus, present a contract of sale or a rental agreement of a dwelling home.

- Declaration of *No intention to work in Cyprus*

It has been a requirement under the programme that when applying under Regulation category 6(2), the applicant and his/her spouse had to sign a declaration that they did not intend to work in Cyprus.

Important Note: although this continues to be the case, it is to be noted that under the amended regulations, the declaration is not required in the cases where the applicant chooses to be a director of the company in which he/she has invested.

- Ability to hold shares in Cyprus companies

The applicant and/or the applicant's spouse may hold shares in Cyprus companies (other than a company in which the main investment has been made). The income (by way of dividends) derived from such shareholding shall not prevent the approval of the applicant's permanent residency application.

- Secure Annual Income

It continues to be the case that, in addition to making the investment, the applicant should be able to demonstrate that he/she has at his/her disposal a secure income of at least €30,000 per annum with an increase by €5,000 for each dependent family member and €8,000 for each dependent parent of the applicant or his/her spouse.

Where the applicant invests in a dwelling home, the applicant must demonstrate that his/her income emanates from external funds.

Important Note: it is to be noted that were the applicant's investments is in the additional permitted investments, the applicant's source of income may be derived from sources from activities within Cyprus.

- Clean Criminal Record

The applicant and all adult members of his/her family must provide a certificate of clean criminal record from their country of residency.

D. DIGITAL NOMAD VISA

The Cyprus Digital Nomad Visa Scheme allows nationals from non-EU and non-EEA countries who can perform their work location-independently using telecommunications technology, to reside temporarily in Cyprus and work for an employer registered abroad or perform work through telecommunications technology for companies or clients located abroad.

The Scheme's goal is to strengthen Cyprus as a center for the provision of electronic services.

Eligibility

Third-country nationals that are self-employed professionals or salaried employees, working remotely with the use of information and communication technologies with employer /clients outside Cyprus for a duration of at least 12 months.

Important Note: it is a residence permit in Cyprus and not a work permit. There is a maximum ceiling of 500 beneficiaries.

Residence status

Eligible applicants will be granted the right to reside in Cyprus for a period up to one year, with the right of renewal for another two years. Eligible applicants can be accompanied by their family members, who are granted, upon request, a residence permit that is co-terminus to that of the eligible applicant. During the stay in Cyprus, the spouse or partner and the minor members of the family are not allowed to engage in any form of economic activity in the country. If they reside in Cyprus for one or more periods totalling more than 183 days within the same tax year, they shall be considered tax residents of Cyprus, provided that they are not tax residents in any other State.

Conditions of issuance:

- a declaration, stating the digital nomad's intention to reside in the country with a residence permit for the purposes of carrying out work remotely and his/her commitment not to engage in work activities or provide services to an employer based in Cyprus;
- a contract of employment or proof of an employment relationship with an employer who is established outside of Cyprus of an indefinite period or in the case of a fixed-term contract with the remaining duration covering the period of the residence permit granted, **or** information on the status of the applicant in the business, as well as information on the business name, place of business, field of activity and corporate purpose of the business in case the third-country national is self-employed running his own business, which is located outside of Cyprus;
- evidence that he/she has sufficient funds, in terms of a stable income level to cover his/her living expenses during his/her stay in the country, without recourse to the national social welfare system. The amount of sufficient funds is set at €3,500 per month which can be proven as follows: (i) employment or works contract or proof of employment, in the case of dependent work or (ii) funds in a bank account. If sufficient funds come from paid services of dependent work, services or works, the above minimum level refers to net income after payment of required taxes in the country of employment (iii) the above amount shall be increased by (20%) for the spouse or civil partner and by fifteen percent (15%) for each child.
- medical insurance;
- certificate of clear criminal record.

E. TAX INCENTIVES**Extension and expansion of tax exemption for investment in innovative companies**

The tax incentives for natural persons investing in an innovative small and medium-sized enterprise (SME) either directly or indirectly through an investment fund or through an alternative trading platform for venture capital investment have been extended until 31/12/2023.

Tax deduction for research and development expenditure

The existing regime of 50% exemption for investments in an approved innovative company by an individual or through an investment fund or through an alternative trading platform which was terminated on 30/6/2021 has been extended by 31/12/2023.

Incremental tax allowance on research and development expenditure

Eligible research and development expenditure will be deducted from taxable income at 120% of the actual expenditure.

Expanding of the existing tax benefit applicable to non-domicile employees

Exemption of 50% from personal income tax for 10 years from the year of employment to new non-domicile employees with employment income of €55,000 and above. This exemption will also be granted to existing employees with employment income between €55,000 and €100,000. The exemption is not applicable in respect of an athlete's income.

Exemption of 50% from personal income tax to existing non-domicile employees (that are in Cyprus), with income of €100,000 and above for an extended period of 17 years.

Note: Domicile status

Domicile status is defined in the Special Contribution for Defence Law, (L.117(I)/2002) (**SDC**). According to the said definition an individual is considered domiciled in Cyprus in accordance with the provisions of the Wills and Succession Law (Cap. 195) which distinguishes between domicile of origin (i.e., the domicile received by an individual at birth) and domicile of choice (i.e., the domicile acquired by an individual by establishing a home with the intention of a permanent residence).

A person who has a domicile of origin in Cyprus will be treated as *domiciled in Cyprus* with the exception of:

- an individual who has obtained and maintained a domicile of choice outside Cyprus under the provisions of the Wills and Succession Law (Cap. 195), provided that this individual was not a Cyprus tax resident for a period of at least 20 consecutive years, or
- an individual who was not a Cyprus tax resident for a period of at least 20 consecutive years immediately prior to 2015.

Additionally, irrespective of his/her domicile of origin, an individual who has been a tax resident of Cyprus for at least 17 years out of the last 20 years shall be considered as deemed domiciled in Cyprus.

F. OTHER INCENTIVES

In addition to the above the *Strategy for Attracting Businesses for Activities or/and Expansion of their Activities* includes the following incentives:

Naturalisation

Right to submit an application for naturalization after 5 years of residence and work in Cyprus or after 4 years if the applicant fulfils the criteria for holding a recognised certificate of success in very good knowledge of Greek language.

Securing the right to social security

Securing the transfer of social insurance contributions, by intensifying the efforts for concluding Bilateral Agreements with third countries that will be determined

by the Ministry of Labour and Social Insurance, so that when a third country national who has paid social security contributions in Cyprus, returns to his/her country for permanent residence, he/she will be allowed to transfer the contributions paid, on the condition that with these contributions he/she did not acquire any right to a pension for old age, disability, etc.

Work permits under category E

Simplification and speeding up of the procedures for granting work permits under category E.

Infrastructure

Upgrading the infrastructure for information and communication technologies and broadband connectivity.

The above-mentioned factors together with the high quality Mediterranean lifestyle demonstrates that Cyprus is a viable substance-oriented jurisdiction for business headquartering and relocation.

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.

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