

# Corporate Tax Alliance

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## The Intellectual Property Regime in Cyprus

by Aspen Trust Group



Cyprus implemented in the beginning of 2012 an IP regime that is expected to stimulate the growth driving sectors of IP exploitation. Resting on a sound legal system based on Common Law principles, together with the conclusion of International Conventions on the Protection of Intellectual Property, Cyprus' IP Regime guarantees maximum protection and certainty for IP owners. Below are the main points of the new IP regime:

1. *An 80% exemption on royalty income and capital gains upon disposal of IP*

80% of the profit earned from the use of intangible assets is exempt for tax purposes. Since any dividend income generated and paid to non-resident shareholders is exempt from Cyprus tax of any sort, a Cyprus company can be used to generate royalties under licensing or similar arrangements with third parties and to distribute profits to its shareholders by way of dividends with minimal tax leakage.

80% of any profit resulting from the disposal of relevant intangible assets is also exempt from tax purposes.

2. *No recapture system for previously generated losses – losses can be carried forward indefinitely*

3. *Gross IP income reduced by expenses incurred for the production of IP income with no limitations*

4. *Competitive amortization provisions over a 5 year period*

The cost of acquisition or development of an IP right may be capitalised and amortised on a straight line basis over five years, giving an annual writing down allowance of 20%.

This is a considerable acceleration compared to the previous amortisation regime, where rates were determined by reference to the estimated useful life of the underlying asset. For example, if a patent had a validity of 20 years its useful life would be deemed to be 20 years and the annual writing down allowance would be 5%. The acceleration of writing down allowances will result in substantial cash flow benefits by reason of the deferral of tax liabilities, especially where the value of the IP asset is substantial.

5. *Wide range of qualifying IP rights*

The law covers the following types and categories of intangible assets:

- Trademarks
- Patents
- Copyrights (scientific work including computer software programs, literary work, musical work, artistic work, movies, database, recording, broadcast, publications)

6. *Effective Tax rate of 2.5% or less*

The amount subject to tax under the new rules is calculated by deducting the writing down allowance, the costs (including interest) of financing the acquisition or

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development of the assets and any other direct expenses from the revenue earned, and dividing the resulting amount by five. Applying the Cyprus corporate income tax rate of 12.5% produces an effective tax rate of two and half per cent of the net income. Given that generous deductions are available against gross income, the effective rate should generally be well below 2.5%. This rate compares very favourably with the competition: the United Kingdom's optional new "patent box" regime gives an effective rate of 10% on relevant income. The Irish scheme is more complex, and it is not possible to directly compare rates, but it will generally produce a rate close to the UK rate. The Luxembourg and Netherlands schemes are somewhat better, with effective tax rates of

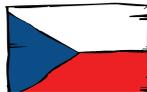
5.7% and 5% respectively, but they are both considerably less beneficial than Cyprus.

The Cyprus IP regime provides very attractive opportunities for structuring the exploitation of IP assets – in particular through the use of Cyprus-resident IP owners, especially in the context of Cyprus's extensive network of double tax treaties under which foreign withholding taxes on royalty income are either eliminated altogether or substantially reduced.

*For more information, contact [info@aspenrust.com](mailto:info@aspenrust.com) to discuss these topics in more detail.*

## Transfer of apartments

by KSB Tax Services



### Value Added Tax

The re-enactment of Czech private law which took effect in January 2014 has a substantial impact on the real estate sector and many tax implications, including on apartments.

The VAT Act introduced special rules for "delivering" selected immovables, including, but not limited to, apartments, which – as defined for the purposes of the Act – include a share in the common premises of the building. If the ownership of the land is attached to the apartment, the apartment is deemed to include a share in such land. If a cellar, utility room or parking place in a garage which constitutes a portion of the common premises of the building is being transferred together with the apartment, such premises will be subject to the same tax procedure as the apartment. This situation has a business context which may not meet the real need of the parties to the transaction.

There are several solutions, each with different tax implications, and it will be necessary to review the application of VAT separately on case-to-case basis.

### Tax on Acquisition of Immovables

The tax on an acquisition of immovables, which replaced the real estate transfer tax as of 1 January 2014, does not apply, among other things, to the first pecuniary acquisition of the right of ownership to an apartment. However, the apartment must not include any non-residential space other than a garage, cellar or utility room, and these must be used together with the apartment. Moreover, the apartment must be in a new residential building, new extension or must result from a structural change to the residential building.

Special attention will have to be paid to how the tax should be applied to non-residential premises when acquired with the "residential" apartment. Especially, it must be resolved whether such premises constitute an independent non-residential unit or a part thereof.

Please note that transfers of titles to immovables consummated after 1 January 2014 are subject to new immovables acquisition tax forms. One should also keep in mind that the prefix of the account for the tax on acquisitions of immovables is 7691 and differs from the prefix for real estate transfer tax (7763).

## The Individual Investor Programme

by Antoine Naudi



### Citizenship by investment

Recent amendments to citizenship laws and regulations now make it possible for high-networth individuals of impeccable standing and repute, as well as their spouses and eligible dependants, to apply for Maltese citizenship upon fulfilment of a number of criteria.

The total investment to be made by main applicants amounts to €1.15 million excluding contributions for spouses and dependants

### Criteria

The formal and substantive criteria to be met by applicants may be summed up as follows:-

1. Main applicant must be at least eighteen years of age
2. Main applicant must undertake to make the following contributions
  - A €650,000 for main applicant
  - B €25,000 for main applicant's spouse
  - C €25,000 for each and every child (either of the main applicant or of the spouse) below 18 years of age
  - D €50,000 for each and every unmarried child (either of the main applicant or of the spouse) between 18 and 26 years of age that lives with and is wholly supported by the main applicant
  - E €50,000 for each and every dependant parent or grandparent (either of the main applicant or of the spouse) above 55 years of age that lives with and is wholly supported by the main applicant

A non-refundable payment of €10,000 shall be remitted as a non refundable deposit upon submission of the application. Within five days from approval of application, the main applicant shall be instructed to remit the balance of the contribution fee to Identity Malta within twenty days of such instruction.
3. Main applicant must undertake to provide proof of residence in Malta and to acquire and hold a residential immovable property in Malta having a minimum

value of €350,000, or to take on lease a residential immovable property in Malta for a minimum annual rent of €16,000. Proof that this criterion is satisfied must reach Identity Malta within four months of approval of application by means of submission of the contract of sale or lease. The property must be retained by the main applicant for a minimum period of five years.

4. Main applicant must undertake to make such other investments in Malta amounting to €150,000, in stocks, bonds, debentures, special purpose vehicles or other investment vehicles as may be identified from time to time by Identity Malta and to retain the said investments for a period of not less than five years. Proof that this criterion is satisfied must reach Identity Malta within four months of approval of application.

### Grant of identity card and ordinary residence status

A certificate of naturalisation as a Maltese citizen is only granted after the applicant provides proof that he or she has been a resident of Malta for at least twelve months immediately preceding the date of issuing of the said certificate.

### Certificate of naturalisation as a Maltese citizen

Within two years but not less than six months from the date of application and subject to verification that the conditions of the Letter of Approval in Principle have been satisfied including the one-year residence status, a certificate of naturalisation will be issued in the name of the applicant. An oath of allegiance is then taken by the applicant in Malta following which an application for a Maltese passport is made.

On 29 January 2014, the European Commission formally approved the Individual Investor Programme

### Benefits conferred by Maltese citizenship

Maltese citizenship confers various benefits including but not limited to access to the Schengen Area as well as citizenship of the European Union.

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