



Cyprus introduces Exit Tax

14 July 2020 – On 19 June 2020, the Cyprus Parliament voted a law implementing the provisions of the European Union Anti-Tax Avoidance Directive (ATAD I) with respect to exit taxation rules, as well as the provisions of the amending Directive (ATAD II) with respect to hybrid mismatch rules.

The Law came into force on 3 July 2020 when it was published in the Official Government Gazette. Notwithstanding the date of publication in the Gazette though, the provisions regarding exit taxation rules and hybrid mismatch rules will apply retroactively as of 1 January 2020, with the exception of reverse hybrids which will go into effect on 1 January 2022.


This alert will mainly analyse the exit tax provisions which are applicable as of 1 January 2020.

Exit Tax

The new law stipulates that corporate taxpayers that move assets or their tax residency out of Cyprus will be subject to tax at an amount equal to the market value of the transferred assets at the time of exit, less their value for tax purposes, in any of the following circumstances:

- (a) A Cyprus tax resident company transfers asset(s) from its head office in Cyprus to its Permanent Establishment (PE) in another Member State or in a third country. After the transfer is completed, Cyprus will no longer have the right to tax the transferred assets.
- (b) A non-Cypriot tax resident company with a PE in Cyprus transfers assets from its PE in Cyprus to its head office or another PE in another Member State or in a third country. After the transfer is completed, Cyprus will no longer have the right to tax the transferred assets.
- (c) A Cyprus tax resident company transfers its tax residence from Cyprus to another Member State or to a third country, except for those assets which remain effectively connected to a PE in Cyprus. Those assets are taxable in Cyprus.
- (d) A non-Cyprus tax resident company with a PE in Cyprus transfers the business carried on by its PE from Cyprus to another Member State or to a third country. After the transfer is completed, Cyprus will no longer have the right to tax the transferred assets.

Market value is defined as the amount for which an asset can be exchanged, or mutual obligations can be settled between unrelated parties.



Temporary transfers of assets falling within the above mentioned categories may be excluded from the scope of the exit taxation provisions (under conditions).

Exemptions

At the time of the transfer, the taxpayer is deemed to have transferred the assets at an amount equal to their market value at that time, such that any profit thereon is calculated as the difference between that market value less their value for tax purposes. Such profit is subject to the provisions of the Income Tax Law, including the relevant exemptions provided under the Income Tax Law. For example, a pure investment holding company should not be subject to the exit taxes since the profit from the disposal of shares is anyway exempt from taxation.

Under certain circumstances and conditions, a taxpayer has the right to defer the exit taxation payment by paying it in instalments over five years, but relevant interest and penalties will incur until full settlement.

As always, the Taxation Department of Costas Tsielepis & Co Ltd is at your disposal should you require any further information or clarifications on this or any other tax issue.