

Guide to Cyprus Non – Domicile Tax Residents

Become a Cyprus Tax Resident and Enjoy:

- ✓ no tax on gains arising from the disposal of investments (shares, bonds, etc.)
- ✓ no withholding tax on the repatriation of income as dividends, interest and royalties
- ✓ extensive double tax treaty network
- ✓ income tax exemptions for taking up employment in Cyprus up to fifty percent of the remuneration for 10 years for employment income of more than €100,000 per annum
- ✓ low social insurance contributions
- ✓ no tax on worldwide dividend and interest income for non-domiciled individuals for 17 years
- ✓ no tax on retirement gratuity and special tax regime on foreign pension income
- ✓ no estate duty, wealth tax, gift tax or inheritance tax

The non-domicile rules

In July 2015, in an effort to enhance the competitiveness, fairness and simplicity of the Cyprus Tax system and make it more attractive to High Net Worth Individuals (HNWI), the Cyprus Government passed among others the introduction of “Non-Domicile Individuals” concept through an amendment to the Special Contribution for the Defence of the Republic of Cyprus Law of 2002 as amended (hereinafter referred to as the ‘SDC Law’).

Amended Law Provisions

Prior to the amendments, Cyprus tax resident individuals earning Cyprus or foreign sourced income in the form of dividends or “passive” interest, were subject to SDC, at the rate of 17% on dividends, 30% on interest and 2.25% effective tax rate on rental income, irrespective of their domicile status.

With these aforesaid amendments, individuals who have non-dom status are no longer subject to SDC. Coupled with the income tax exemptions existing for such income, these amendments result in non-dom’s being exempt from taxation in Cyprus on their dividends, “passive” interest and rental income, irrespective of whether such sources of income are earned in Cyprus or abroad.

Furthermore, for rental incomes, whether Cyprus or foreign sourced, Cyprus tax resident individuals who have non-dom status are now only subject to income tax on rental income.

For the purposes of the SDC Law, an individual is domiciled in Cyprus if he/she is either:

1. an individual who has a domicile-of-origin in Cyprus *(please note below exceptions) or
2. an individual who is a resident of Cyprus for a period of at least 17 years out of the last 20 years prior to the tax year of assessment.

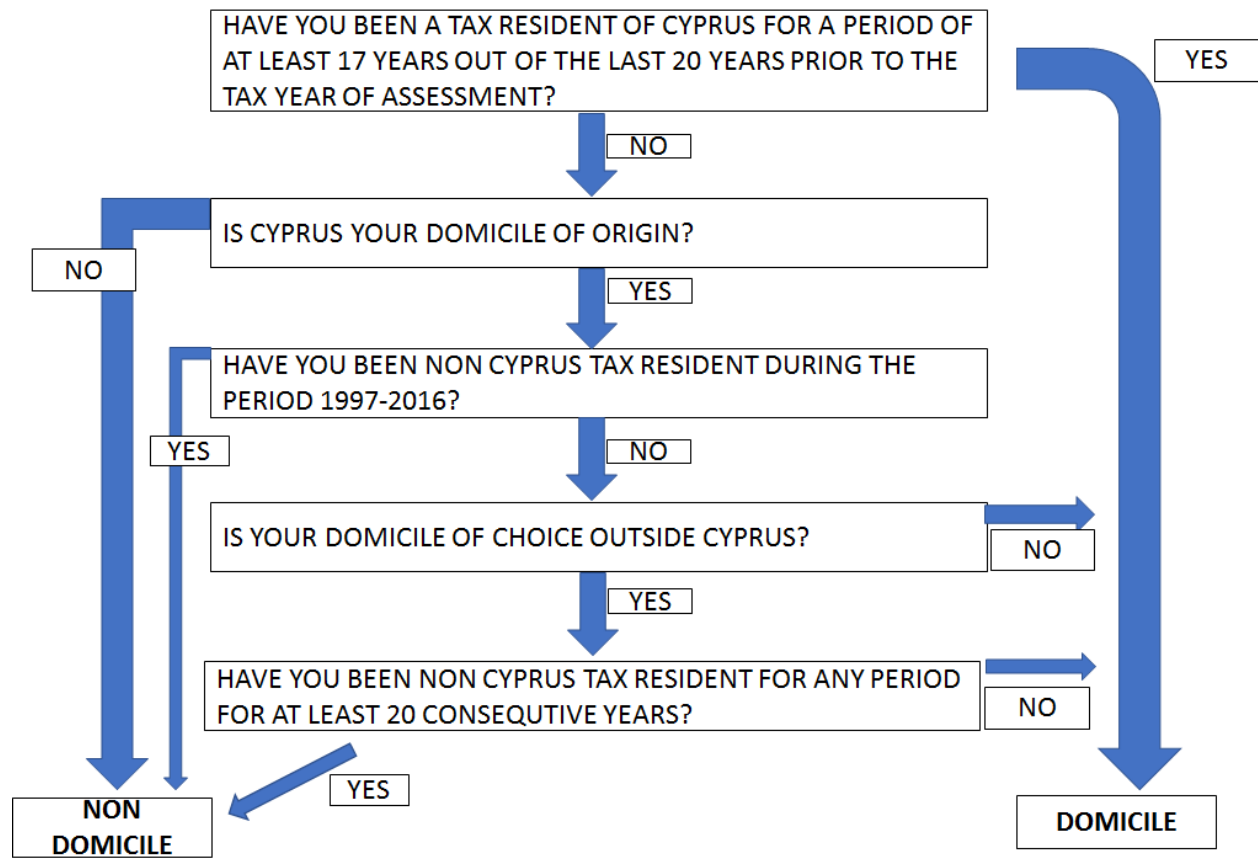
*Exceptions to point 1 above:

- an individual who has acquired and maintains a domicile-of-choice outside Cyprus and was not a tax resident of Cyprus, as per the Income Tax Law for any period of at least 20 consecutive years prior to the tax year of assessment; or
- an individual who was not a resident of Cyprus for a period of at least 20 consecutive years immediately prior to these amending provisions enter into force.

The amendment introduces anti-avoidance provisions which restrict its application in cases where domiciled individuals transfer assets to non-doms in order to take advantage of these provisions of the SDC law.

Practical Application – Helpful Diagram

Assessment Year 2017



Conclusion

HNWIs can now relocate their tax residency to Cyprus and enjoy 17 years of full exemption on the following sources of worldwide income: dividends, interest, and rents. Furthermore, all Cyprus tax residents are exempt from gains on the disposal of securities, such as shares, bonds, derivatives etc.

Criteria for Individuals to be considered as Cyprus Tax Residents

According to Section 2 of the Income Tax Law, an individual is resident in Cyprus, if he/she resides therein for a period or more which in aggregate exceed 183 days in a tax year. A tax year commences 1 January and ends 31 December.

In order to calculate the period of residence in Cyprus for tax purposes

- the day of departure from Cyprus counts as a day of residence outside Cyprus
- the day of arrival in Cyprus counts as a day of residence in Cyprus
- arrival and departure from Cyprus on the same day counts as one day of residence in Cyprus
- departure and arrival in Cyprus on the same day counts as one day of residence outside Cyprus

On 14 July 2017, the Cyprus Parliament approved the law amending Section 2 of the Income Tax Law retroactively as of 1 January 2017. Under the amended law an individual is considered as a tax resident of Cyprus if the individual satisfies either the “183 day rule” or the “60 day rule” for the tax year.

The amended “60 day rule” for Cyprus tax residency applies to individuals who in the relevant tax year:

- reside in Cyprus for at least 60 days, and
- do not reside in any other single state for a period exceeding 183 days in aggregate, and
- are not tax resident in any other state, and
- have other defined Cyprus ties. (See below)

To satisfy “other defined Cyprus ties” the individual must:

- carry out any business in Cyprus and/or be employed in Cyprus and/or
- hold an office (director) of a company tax resident in Cyprus at any time in the tax year, provided that such is not terminated during the tax year.
- maintain in the tax year a permanent residential property in Cyprus which is either owned or rented by the individual.

The law is further amended to clarify that an individual that cumulatively meets all the above conditions shall not be treated as a Cyprus tax resident in the tax year if, during that year the exercise of any kind of business in the Republic and/or employment in the Republic and/or holding of an office with a tax resident person in the Republic is terminated.

Tax Residency Certificates – 183 days rule

The Cyprus Tax Department (CTD) has issued a Circular in mid-March 2017 regarding the issuing of tax residency certificates for individuals. According to the Circular, it is now possible for Cyprus tax resident individuals to request and obtain a tax residency certificate at any time during the tax year for which the certificate is requested.

The purpose in mind is to facilitate Cypriot tax residents who wish to benefit from the provisions of Double Tax Treaties between Cyprus and third countries, so as not to suffer withholding tax at source upon receipt of income from sources outside Cyprus.

Individuals can apply for a certificate of tax residence at any time. A certificate will be issued even if the applicant has not yet completed the 183 days of physical residence in Cyprus in the relevant year as long as he or she is registered with the Tax Department and has been issued with a tax identification number (TIN), on condition that he or she provides an affidavit stating that he or she intends to stay in Cyprus for one or more periods which exceed 183 days in total in the tax year.

The Circular goes further to clarify that if, for any reason, the applicants fail to become Cyprus tax residents during the tax year, they are obliged to inform the CTD accordingly, so that the certificate will be revoked.

Tax Residency Certificates – 60 days rule

The Cyprus Tax Department (CTD) has issued a Circular in mid-October 2017 regarding the issuing of tax residency certificates for individuals. According to the Circular, it is now possible for Cyprus tax resident individuals to request and obtain a tax residency certificate at any time during the tax year for which the certificate is requested.

The purpose in mind is to facilitate Cypriot tax residents who wish to benefit from the provisions of Double Tax Treaties between Cyprus and third countries, so as not to suffer withholding tax at source upon receipt of income from sources outside Cyprus.

Individuals can apply for a certificate of tax residence at any time. A certificate will be issued even if the applicant has not yet completed the 60 days of physical residence in Cyprus in the relevant year as long as he or she is registered with the Tax Department and has been issued with a tax identification number (TIN), on the following conditions:

- he or she meets all the requirements of the 60-day rule
- the application for the issuance of the certificate relates to the receipt of dividends and interest from sources outside the Republic and the relevant evidence is provided to the CTD together with the application
- the tax authority or organization that the certificate will be provided should be specified.

Personal Income Tax

The main types of direct taxes applicable to an individual in Cyprus are:

- income tax
- special defence contribution on dividend, interest and rental income
- capital gains tax on gains from the sale of Cypriot real estate

An individual working in Cyprus is also subject to social insurance and other contributions.

An individual is subject to income tax and/or special defence contribution depending on his/her tax residency and domicile status, a concept introduced in the Cyprus tax law in July 2015.

Basis of Taxation:

An individual who is tax resident in the Republic of Cyprus is taxed on income accruing or arising from sources both within and outside the Republic.

An individual who is not tax resident in the Republic, is taxed on income accruing or arising only from sources within the Republic.

Personal income tax rates:

Taxable Income €	Tax Rate %	Tax €	Cumulative Tax €
0 – 19.500	0	0	0
19.501 – 28.000	20	1.700	1.700
28.001 – 36.300	25	2.075	3.775
36.301 - 60.000	30	7.110	10.885
60.001 and over	35		

Foreign pension income is taxed at the flat rate of 5% on amounts over €3.420. The taxpayer can however on an annual basis elect to be taxed at the normal tax rates and bands set out above.

Foreign taxes paid can be credited against the personal income tax liability.

Tax incentives/exemptions

Individuals who are Cyprus tax resident – whether this is determined under the “183 day rule” or under the “60 day rule” – are subject to tax in Cyprus on their worldwide income but certain **exemptions** apply.

The whole amount

- Dividend income (Note 1)
- Interest income (Notes 1 and 2)
- Gains arising from disposal of securities (Note 3)
- Remuneration from salaried services rendered outside Cyprus for more than 90 days in aggregate in the tax year for a non-Cyprus tax resident employer/foreign permanent establishment of a Cyprus tax resident employer.
- Profits of a foreign permanent establishment under certain conditions (Note 4)
- Lump sum received by way of retiring gratuity, commutation of pension or compensation for death or injuries.
- Capital sums accruing to individuals from any payments to approved funds (e.g. provident funds)

50% of the remuneration

- Remuneration from any employment exercised in Cyprus by an individual who was not a resident of Cyprus before the commencement of the employment, exemption applies for a period of 10 years for employments commencing as from 1 January 2012 provided that the annual remuneration exceeds €100.000. For employments commencing as from 1 January 2015 the exemption does not apply in case the said individual was a Cyprus tax resident for 3 (or more) tax years out of the 5 tax years immediately prior to the tax year of commencement of the employment nor in the preceding tax year. In certain cases it is possible to claim the exemption where income falls below €100.000 per annum. (Note 5)

20% of the remuneration with a maximum amount of €8.550 annually

- Remuneration from any employment exercised in Cyprus by an individual who was not a resident of Cyprus before the commencement of the employment. For employments commencing during or after 2012 the exemption applies for a period of 5 years starting from the tax year following the year of commencement of the employment with the last eligible tax year being 2030. This exemption may not be claimed in addition to the immediately above mentioned 50% exemption for employment income. (Note 5)

Note 1: Such dividend and interest income may be subject to Special Contribution for Defence.

Note 2: Interest income arising in the ordinary course of the business, including interest closely connected with the ordinary carrying on of the business, is not considered as interest income and is not exempt.

Note 3: except in certain cases where the value of the shares derives from immovable property located in Cyprus.

Note 4: With effect as from 1 July 2016, taxpayers may elect to tax the profits earned by a foreign permanent establishment, with a tax credit for foreign taxes incurred on those foreign permanent establishment profits. Transitional rules apply in certain cases on the granting of foreign tax credits where a foreign permanent establishment was previously exempt and subsequently a taxpayer elects to be subject to tax on the profits of the foreign permanent establishment.

Note 5: Determining whether an individual was a tax resident of Cyprus prior to commencement of the employment is subject to conditions.

Tax deductions

The following are deducted from income:

The whole amount

- Contributions to trade unions or professional bodies
- Loss of current year and previous years (for individuals required to prepare audited financial statements, current year losses and losses of the previous five years only may be deducted)
- Donations to approved charities (with receipts)
- Special contribution (abolished as from 1 January 2017)

20% of rental income

- Rental income

Up to €1.200, €1.100 or €700 per square meter (depending on the size of the building)

- Expenditure incurred for the maintenance of a building in respect of which there is in force a Preservation Order.

Up to 1/5 of the chargeable income

- Social insurance, medical fund (maximum 1,5% of remuneration), pension and provident fund contributions (maximum 10% of remuneration) and life insurance premiums (maximum 7% of the insured amount)

Up to 50% of the taxable income as calculated prior to this deduction (subject to maximum of €150.000 per year)

- Amount invested each tax year as from 1 January 2017 in approved innovative small and medium sized enterprises either directly or indirectly. Unused deduction can be carried forward and claimed in the following 5 years, subject to the caps.

Special Contribution for Defence

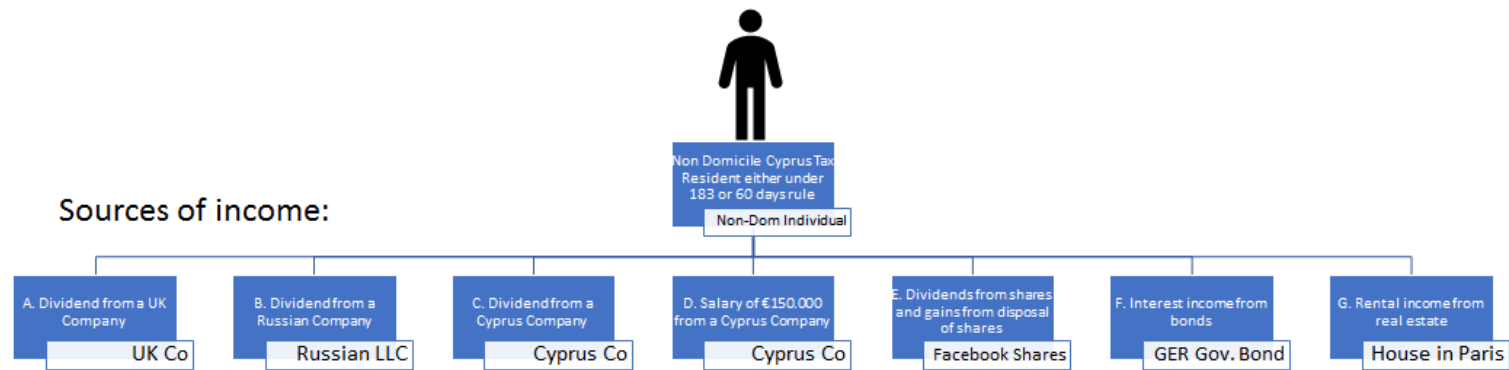
Special Contribution for Defence is imposed on dividend income, ‘passive’ interest income and rental income earned by individuals who are both Cyprus tax resident and Cyprus **domiciled**. It is charged at the rates shown in the table below:

<i>Type of Income</i>	<i>Tax Rate</i>
<i>Dividend income (Note 1)</i>	<i>17%</i>
<i>Interest income – passive (Note 1)</i>	<i>30%</i>
<i>Rental income (reduced by 25%) (Note 2)</i>	<i>3%</i>

Note 1: Exemptions and/or different rates may apply

Note 2: Rental income is also subject to personal income tax / corporation tax.

Practical Example – Helpful Diagram



Scenario	Personal Income Tax	Special Defense Contribution	Withholding Tax (DTT)
A – Dividend from a UK Company	EXEMPT	EXEMPT	15% applies to individuals regardless of their holding
B – Dividend from a Russian Company	EXEMPT	EXEMPT	5% or 10% If paid by a company in which the UBO has invested less than €100.000 in the share capital of the company paying the dividend.
C – Dividend from a Cyprus Company	EXEMPT	EXEMPT	N/A
D – Salary of €150.000 from a Cyprus Company	EXEMPTION OF 50% APPLIES	EXEMPT	N/A
E – Dividends from shares and gains from disposal of shares	EXEMPT	EXEMPT	N/A
F – Interest income from bonds	EXEMPT	EXEMPT	N/A
G – Rental income from real estate	DEDUCTION OF 20% APPLIES	EXEMPT	N/A

In conclusion

60 day rule

Those individuals who are not considered as Cyprus tax resident under the current “183 day rule” should now assess whether they satisfy the new “60 day rule”. Individuals satisfying the “60 day rule” should then consider what additional steps they need to take. These steps may include, inter alia, registering as a tax resident with the Cyprus Tax Authorities, considering whether the non-domicile rules apply to them, obtaining and maintaining relevant evidence pertaining to the “60 day rule” conditions (such as the maintaining of a permanent residential property in Cyprus) and obtaining a Cyprus tax residency certificate (where required).

Conversely individuals who do not satisfy the residency tests should consider what evidence they should maintain in order to support their non-Cyprus tax residency position.

Tax incentives for Individuals wanting to relocate to Cyprus and for companies seeking proof of substance

Individuals taking up tax residency in Cyprus and earning over €100,000 per year employment income, may enjoy 50% exemption from personal income tax for a period of 10 years. This amendment to the legislation is expected to encourage the relocation to Cyprus of decision makers and top management to enhance business substance of Cyprus operations.

Individuals who are considered to be “non-domiciled” in Cyprus (subject to criteria defined in the legislation), would be exempt from payment of defence tax on dividends, interest and rental income, even if they are tax residents of Cyprus. Numerous anti-abuse provisions are also included in the legislation to eliminate cases of tax avoidance.

CFA Auditors can assist all impacted individuals in assessing their Cyprus tax position under the new amendments and what relevant action such individuals need to take.

Let's Talk

For a deeper discussion of how the above might affect you or your business, please contact:

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