

Cyprus parliamentary vote adds “60 day rule” tax residency test for individuals

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Briefly

On 14 July 2017 the Cyprus parliament voted for a Cyprus tax law amendment adding a second test, the “60 day rule”, for the purposes of determining Cyprus tax residency for individuals. Once this tax law amendment is published in the Official Government Gazette it will be effective as from 1 January 2017 (i.e. as from tax year 2017 – the tax year in Cyprus being the calendar year).

Once the “60 day rule” is effective, as from tax year 2017, an individual will be considered as a tax resident of Cyprus if the individual satisfies either the current “183 day rule” or the new “60 day rule” for the tax year.

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

1. do not reside in any other single state for a period exceeding 183 days in aggregate, and
2. are not tax resident in any other state, and
3. reside in Cyprus for at least 60 days, and
4. have other defined Cyprus ties.

The rules on taxation in Cyprus of tax resident non-domiciled individuals also apply to non-domiciled individuals who are tax resident under the “60 day rule”.

In detail

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

1. do not reside in any other single state for a period exceeding 183 days in aggregate, **and**
2. are not tax resident in any other state, **and**
3. reside in Cyprus for at least 60 days, **and**
4. have other defined Cyprus ties. To satisfy this condition 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. Further the individual must maintain in the tax year a permanent residential property in Cyprus which is either owned or rented by the individual.

The current “183 day rule” applying where an individual remains in Cyprus for more than 183 days in the tax year, without any further additional conditions/criteria, remains unchanged by the above amendment, such that, as from tax year 2017, an individual will be 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.

For the purposes of both the “60 day rule” and the “183 day rule” days in and out of Cyprus are calculated as follows:

- 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

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. Of particular note are:

The non-domicile rules:

A Cyprus tax resident individual is exempt from taxation in Cyprus on his/her worldwide (Cyprus and foreign sourced) dividend and ‘passive’ interest income where the individual is not domiciled in Cyprus for Cyprus tax purposes.

An individual who does not have a “Domicile of Origin” in Cyprus (as defined in the Wills and Succession Law) is only considered to be domiciled in Cyprus for tax purposes when the individual has been a tax resident of Cyprus for a period of at least 17 years out of the last 20 years prior to the tax year in question. “Domicile of Origin” is acquired at birth and as a rule is the same as the domicile of the father at the time of birth, and in exceptional cases of the mother.

For individuals with “Domicile of Origin” in Cyprus other rules are used to determine the individuals’ domicile status for tax purposes.

The securities exemption:

Profit from the sale of securities – which include, inter alia, shares, bonds, debentures and options thereon – is exempt from taxation in Cyprus except in certain cases where the value of the shares derives from immovable property located in Cyprus.

Employment income exemption for employments exercised in Cyprus:

This exempts from Cyprus income tax – for a period of 10 years – 50% of remuneration from employment exercised in Cyprus by any individual who was not a tax resident of Cyprus before the commencement of the employment provided that the annual



remuneration exceeds €100.000. Determining whether an individual was a tax resident of Cyprus prior to commencement of the employment is subject to conditions.

Employment income exemption for employments exercised outside Cyprus:

This exempts from Cyprus income tax income from employment exercised 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.

The takeaway

Individuals who are already considered as Cyprus tax resident under the current “183 day rule” are not impacted by this new amendment.

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” which, once effective, will apply as from the current tax year (i.e. tax year 2017, which starts from 1 January 2017). 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.

Action needed

GTH Audit can assist clients to assess the impact of the new legislation on their existing or future financial arrangements and on relevant actions to be taken.

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