

## Cyprus Tax Alert

Limassol, 4<sup>th</sup> April 2018

### New Cyprus IP Box regime

#### **In Summary:**

- The new Cyprus IP box applies as from 1 July 2016.
- An 80% deduction is provided for qualifying profits relating to a qualifying IP.
- In effect, only 20% of the qualifying profits will be taxed at the rate of 12,5%.
- A taxpayer may elect not to claim all or part of the available 80% deduction for a particular tax year.
- Qualifying tax losses in the new Cyprus IP box are restricted to 20% of their amount.

#### **Qualifying IP assets**

Based on the newly voted provisions qualifying intangible asset means an asset which was acquired, developed or exploited by a person in furtherance of his business, which is the result of research and development activities and includes intangible assets for which only economic ownership exists.

The new provisions restrict qualifying IP assets to patents, computer software, as well as IP assets which are non-obvious, useful and novel and from which the income of a taxpayer does not exceed, in a 5 year period, €7.500.000 per annum (€50.000.000 for taxpayers forming part of a Group). The later should be certified by a competent Cypriot or foreign authority Further, qualifying IP assets under the nexus approach do not cover trademarks including brands, image rights and other intellectual property rights used for the marketing of products or services.

#### **Qualifying income**

Qualifying profits are determined under the OECD BEPS Action 5 nexus approach.

Qualifying income includes, but is not limited to the following:

- royalties or other amounts in connection with the use or license of qualifying intangible assets;
- any amount received from insurance or as compensation in relation to the qualifying intangible asset;
- gains relating to the disposal of qualifying intangible asset;
- embedded income of qualifying intangible asset.

### **The modified nexus approach and qualifying expenditure**

The “modified nexus approach” provides that there should be sufficient substance and an essential nexus between the expenses, the IP assets and the related IP income in order to benefit from a new Cyprus patent box regime.

The following formula has been introduced to determine the qualifying profits that can benefit from an IP regime relating to a qualifying asset:

$$\frac{[(\text{Qualifying expenditure} + \text{Up-lift expenditure})/\text{Total expenditure}]}{\text{Overall IP Income}}$$

**Qualifying expenditure** include among other expenses wages and salaries, general expenses relating to installations used for research and development and expenses for supplies related to research and development activities.

Qualifying expenditure, excludes though the R&D costs of outsourcing to related parties, contrary to the cost of outsourcing to unrelated parties which are considered as part of ‘qualifying expenditure’, the cost of the acquisition of intangible assets and costs which cannot be directly connected to a specific qualified IP asset.

In addition an **up-lift expenditure** will be added to the qualifying expenses. Such expenditure is equal to the lower of

- 30% of the eligible costs, or
- the total amount of the cost of acquisition and outsourcing to related parties for research and development in relation to the eligible intangible asset

**Accounting records**

Proper books of account and records of income and expenses must be kept for each intangible asset for which a benefit is claimed under the new regime.

**Non-qualifying assets for the IP Box regime**

Expenditure of acquiring a non-qualifying intangible asset in accordance with the new rules or which does not qualify for the transitional provisions and the asset is used in furtherance of the business of the taxpayer can be amortized over the period of its useful life (maximum of 20 years) in accordance with the accepted accounting principles. Upon sale of this intangible asset, a balancing statement must be prepared. This is the same treatment as when a fixed asset is sold.

**Goodwill does not qualify for amortization**

In case of any further clarification please do not hesitate to contact us.

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