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## a closer look

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**SUBJECTS** TRANSFER PRICING INTELLECTUAL PROPERTY VAT, GST AND SALES TAX CORPORATE TAXATION INDIVIDUAL TAXATION REAL ESTATE AND PROPERTY TAXES INTERNATIONAL FISCAL GOVERNANCE BUDGETS COMPLIANCE OFFSHORE

**SECTORS** MANUFACTURING RETAIL/WHOLESALE INSURANCE BANKS/FINANCIAL INSTITUTIONS RESTAURANTS/FOOD SERVICE CONSTRUCTION AEROSPACE ENERGY AUTOMOTIVE MINING AND MINERALS ENTERTAINMENT AND MEDIA OIL AND GAS

**COUNTRIES AND REGIONS** EUROPE AUSTRIA BELGIUM BULGARIA CYPRUS CZECH REPUBLIC DENMARK ESTONIA FINLAND FRANCE GERMANY GREECE HUNGARY IRELAND ITALY LATVIA LITHUANIA LUXEMBOURG MALTA NETHERLANDS POLAND PORTUGAL ROMANIA SLOVAKIA SLOVENIA SPAIN SWEDEN SWITZERLAND UNITED KINGDOM EMERGING MARKETS ARGENTINA BRAZIL CHILE CHINA INDIA ISRAEL MEXICO RUSSIA SOUTH AFRICA SOUTH KOREA TAIWAN VIETNAM CENTRAL AND EASTERN EUROPE ARMENIA AZERBAIJAN BOSNIA CROATIA FAROE ISLANDS GEORGIA KAZAKHSTAN MONTENEGRO NORWAY SERBIA TURKEY UKRAINE UZBEKISTAN ASIA-PAC AUSTRALIA BANGLADESH BRUNEI HONG KONG INDONESIA JAPAN MALAYSIA NEW ZEALAND PAKISTAN PHILIPPINES SINGAPORE THAILAND AMERICAS BOLIVIA CANADA COLOMBIA COSTA RICA ECUADOR EL SALVADOR GUATEMALA PANAMA PERU PUERTO RICO URUGUAY UNITED STATES VENEZUELA MIDDLE EAST ALGERIA BAHRAIN BOTSWANA DUBAI EGYPT ETHIOPIA EQUATORIAL GUINEA IRAQ KUWAIT MOROCCO NIGERIA OMAN QATAR SAUDI ARABIA TUNISIA LOW-TAX JURISDICTIONS ANDORRA ARUBA BAHAMAS BARBADOS BELIZE BERMUDA BRITISH VIRGIN ISLANDS CAYMAN ISLANDS COOK ISLANDS CURACAO GIBRALTAR GUERNSEY ISLE OF MAN JERSEY LABUAN LIECHTENSTEIN MAURITIUS MONACO TURKS AND CAICOS ISLANDS VANUATU

## Cyprus Tax Incentives For New Residents

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### Introduction

Cyprus's tax legislation provides substantial financial incentives for economically active individuals to relocate there, including a "non-domiciled" regime which exempts dividend and interest income of individuals who are resident but not domiciled in Cyprus from all taxes, and exemptions of earned income for new taxpayers.

In July 2017, the Income Tax Law was amended to introduce a new route to tax residency for individuals with effect from January 1, 2017. Prior to the amendment, an individual needed to be physically present for at least 183 days in the tax year to be resident in Cyprus for the purposes of income tax. Following the change in the law, an individual will also be deemed to be resident in Cyprus if during the tax year concerned he or she maintains a permanent residence in Cyprus, undertakes any business or employment in Cyprus, and is present in Cyprus for at least 60 days. All three conditions must be satisfied and the individual concerned must not be a tax resident of any other country (*e.g.*, because of a physical presence there for 183 days) for the tax year in question.

The Cyprus Tax Department has issued Interpretation Circular No. 2017/4 providing guidance on the application of the exemptions of earnings available to individuals becoming tax-resident and taking up employment in Cyprus. The circular includes practical examples covering a wide range of scenarios, and any cases not covered by the circular will be determined individually by the Commissioner of Taxation.

### Outline Of Tax Exemption Provisions

With effect from the 2008 tax year, under article 8(21) of the Income Tax Law of 2002, individuals becoming tax-resident and taking up employment in Cyprus became entitled to an exemption

of 20 percent of their annual income from employment in Cyprus for the first three years of employment. The exemption was limited to EUR8,550 per annum. In 2012 an alternative exemption was introduced in the form of article 8(23), exempting 50 percent of the first five years' income from employment in Cyprus of a person who was not previously resident in Cyprus, provided the income from employment in Cyprus exceeds EUR100,000 (USD118,000) per annum.

In 2015, as part of a package of measures aimed at stimulating the economy, both of these exemptions were modified with effect from the beginning of the 2015 tax year. In respect of employments which began after January 1, 2012, the article 8(21) exemption was extended to cover the first five years following the year in which the employment began, but ceases to be available after the 2020 tax year. The article 8(23) exemption for earnings of more than EUR100,000 was extended from five years to ten. In respect of employments that began on or after January 1, 2015, the article 8(23) exemption is not available to anyone who was resident in Cyprus in any three of the five tax years preceding the year in which the employment in Cyprus began, or to anyone who was resident in Cyprus in the year preceding the year in which the employment began.

For the purposes of article 8(23), aggregate income from all employments in Cyprus, including bonuses and fees, is taken into account, apart from income from employment abroad for more than 90 days in the tax year for a non-resident employer, which is exempt from income tax under article 36(5).

For tax years up to and including 2014, only one of the exemptions can be claimed.

For 2015 and subsequent tax years, only one of the exemptions can be claimed in any tax year, but the taxpayer may elect from year to year which of the exemptions to claim, as long as the relevant conditions are satisfied, principally that the individual is resident and employed in Cyprus.

Exemption is available for earnings from employment which commenced after the individual had completed 183 days' residence in the tax year, as long as the individual was not a tax resident in the preceding year. For example, a person who was not previously tax resident in Cyprus who arrives on February 5, 2016, and begins employment on October 4, 2016, is entitled to either 20 percent exemption for the 2017 tax year onwards under article 8(21), or 50 percent exemption for the 2016 tax year onwards under article 8(23) if their earnings exceed EUR100,000 per year.

Exemption under either article may be granted to a person who has previously worked in Cyprus provided that his or her overseas employment was not a posting by the same employer, followed

by a return to Cyprus. The exemption is also available if it is not the first time the person has worked in Cyprus.

An individual who is employed in Cyprus by the overseas employer for whom he or she previously worked, or who transfers to a new employer, is entitled to the exemptions. The exemptions are also available to people who complete their studies abroad and return to work in Cyprus, as long as they were not resident in Cyprus for the tax year preceding the year in which they returned.

Any exemption under article 8(21) or article 8(23) may be granted at the same time as the exemption of overseas earnings provided for in article 36(5) of the Income Tax Law.

### **Interpretation Circular No. 2017/4**

The circular includes example scenarios to illustrate how the exemptions are applied in practice.

#### ***Start date and length of period under article 8(21)***

To explain the start date and length of the article 8(21) exemption, the circular takes the case of an individual who was a non-tax-resident in the year 2011 and commenced employment during 2012, who will be entitled to the exemption for the tax years 2013 to 2017 inclusive. A person who was a non-tax-resident in the year 2018 and commenced employment in 2019 is entitled to the exemption for the tax year 2020 (the year following the year in which employment commenced) but not for later years, as the exemption ceases after 2020.

#### ***Restrictions on previous residence under article 8(23)***

To illustrate the restrictions on previous residence in order to qualify for the article 8(23) exemption, the circular uses an individual who was a tax resident of Cyprus during the years 2009 to 2013 inclusive. He was resident overseas (and not tax-resident in Cyprus) for the whole of 2014 and 2015, and returned to Cyprus in March 2016 and took up employment. The five years preceding the year of employment are 2011 to 2015 inclusive. The individual was tax-resident in Cyprus for three of those five years (2011, 2012 and 2013) and therefore is not entitled to the exemption.

#### ***Interaction of exemptions under articles 8(21) and 8(23)***

To illustrate the interaction of the two exemptions, the circular uses the example of an individual who was employed by a foreign employer abroad and transferred to Cyprus for the whole of the years 2010 to 2012 inclusive. For the three years in question, the employee was entitled to

exemption under article 8(21), the only exemption available at the time, since employment in Cyprus began before the start of 2012. For the years 2013 to 2015 inclusive, the individual was resident overseas.

In November 2016, he was recruited by a new employer in Cyprus at a salary of more than EUR100,000 per year. Since the individual was a non-resident of Cyprus for 2015, the year before the year in which his employment began, and had been a non-resident of Cyprus for fewer than three of the five tax years preceding the year in which the employment in Cyprus began (2011 to 2015 inclusive), then he is entitled to the article 8(23) exemption for 2016 and any subsequent tax year up to and including 2025 in which his annual salary exceeds EUR100,000 per year.

### ***Calculation of ten-year limitation under article 8(23)***

The ten-year limitation on article 8(23) exemption is calculated by reference to the taxpayer, not to the employment. Another example in the circular cites an individual who was employed by a foreign employer abroad and transferred to Cyprus in 2012 at an annual salary of more than EUR100,000. The individual therefore qualified for exemption under article 8(23) for 2012. For the tax years 2013 to 2015 inclusive, the individual was tax-resident overseas. In November 2016, he was recruited by a new employer in Cyprus at a salary of more than EUR100,000 per year.

Since the individual was a non-resident of Cyprus for 2015, the year before the year in which his employment began, and had been a non-resident of Cyprus for fewer than three of the five tax years preceding the year in which the employment in Cyprus began (2011 to 2015 inclusive), then he is entitled to the article 8(23) exemption for the tax years 2016 to 2024 inclusive, since he has already benefited from the exemption for 2012.

The exemption under article 8(23) is available in any of the first ten years of employment in which annual earnings exceed EUR100,000. If earnings fall below EUR100,000 for any year, the taxpayer can claim the exemption under article 8(21) for up to five years, until the end of the 2020 tax year.

### ***Annual rate of earnings***

The 50 percent exemption under article 8(23) is available in any of the first ten years of employment in which annual earnings exceed EUR100,000, even if they were below that amount at the

start of the employment. It is the annual rate of earnings, not the actual income in a tax year, that determines eligibility for the exemption. In the two examples immediately above, where employment began in November 2016, exemption is available for 2016. The practical implication of this is that to maximize the benefit of the exemption, the employment should start as early as possible in the tax year.

The principle that the rate of earnings determines eligibility also applies if employment is terminated or interrupted during the year. The exemption also applies to employment lasting for less than one year if the remuneration for the period of employment exceeds EUR100,000.

To illustrate this, the circular uses the example of an individual who in 2011 was not a tax resident of Cyprus, came to Cyprus and took up employment there on June 15, 2012 at a monthly salary of EUR8,500. For 2012, she is entitled to the exemption as her annual salary is more than EUR100,000 (12 months at EUR8,500). The fact that the salary paid in the tax year is below EUR100,000 is immaterial.

An individual who came to Cyprus at the beginning of 2015 and who was not tax-resident in 2014 or for three or more of the tax years 2010 to 2014 inclusive, commenced employment on April 1, 2015 at an annual salary of EUR110,000, which was reduced to EUR95,000 from January 1, 2018, would qualify for exemption under article 8(23) for the tax years 2015 to 2017 inclusive and for the smaller exemption under article 8(21) for the years 2018 to 2020 inclusive. No further exemption would be available after the end of 2020 unless the salary were to increase above EUR100,000, in which case exemption under article 8(23) would be available up to and including the 2024 tax year.

The following example illustrates the exemptions which would apply to a person who started employment at the beginning of 2012, having not been tax resident in 2011 or in three of the tax years preceding 2012. Exemption under article 8(21) is available for the tax years 2013 to 2017 inclusive, namely the tax year after that in which the employment began and the next four tax years, and exemption under article 8(23) is available for the tax years 2012 to 2021 inclusive, namely the tax year in which the employment began and the next nine tax years.

Table 1 illustrates how the two exemptions can interact depending on annual salary.

**Table 1**

Year	Annual salary EUR	Exempt amount EUR	Notes
2012	150,000	75,000	50 percent under article 8(23)
2013	150,000	75,000	50 percent under article 8(23)
2014	108,000	54,000	50 percent under article 8(23)
2015	98,000	8,550	20 percent, limited to EUR8,550 under article 8(21)
2016	99,000	8,550	20 percent, limited to EUR8,550 under article 8(21)
2017	110,000	55,000	50 percent under article 8(23)
2018	92,000	–	Below threshold for article 8(23); too late for article 8(21)
2019	95,000	–	Below threshold for article 8(23); too late for article 8(21)
2020	100,000	50,000	50 percent under article 8(23)
2021	110,000	55,500	50 percent under article 8(23)
2022	150,000	–	Exemption under article 8(23) expired at the end of 2021

### *Artificial variation in salary*

Exemption under article 8(23) is not available if the variation in annual salary is artificial and carried out to obtain the benefit of the exemption. To illustrate this, the circular shows the case of an individual employed for four years at EUR80,000 per year. However, in order to benefit from exemption under article 8(23), the contract shows an annual salary of EUR110,000 for the first and third years and EUR50,000 for the second and fourth years. The variation is clearly artificial and the exemption will not be allowed.

### **Concluding Remarks**

Taken together, Cyprus's non-domiciled regime and the generous income exemptions are a strong incentive for individuals to relocate to the island. The new residence criteria will add a further incentive, by allowing individuals who are not tax resident elsewhere and who establish a base and activities in Cyprus to be treated as resident in Cyprus and to qualify for the benefits of the Cyprus tax regime without having to be physically present for more than half the tax year.