





## Private Client 2014

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# Cyprus

Elias Neocleous, Christos Vezouvios and Philippos Aristotelous

Andreas Neocleous & Co LLC

## Tax

### 1 How does an individual become taxable in your jurisdiction?

Liability to Cyprus taxes on income in any year of assessment (the tax year and the calendar year are the same) is based on residence.

Individuals are considered to be resident if they are present in Cyprus for more than 183 days in the relevant year. Days of departure and arrival are treated 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 in and departure from Cyprus in the same day counts as one day of residence in Cyprus; and
- departure from and return to Cyprus in the same day counts as one day of residence outside Cyprus.

Cyprus residents are taxed on the basis of worldwide income, irrespective of whether the income is remitted to Cyprus. Husband and wife are taxed separately.

Non-residents are subject to tax on income accruing or arising from sources in Cyprus.

### 2 What, if any, taxes apply to an individual's income?

There are two principal taxes on income, namely income tax and special contribution for defence, commonly known as SDC tax.

#### Income tax

Personal income tax rates are as follows:

Income band	Tax rate
Below €19,500	0
€19,500 to €28,000	20%
€28,000 to €36,300	25%
€36,300 to €60,000	30%
Above €60,000	35%

Income tax is payable on business profits, income from an office or employment, discounts, pensions, charges or annuities, rents, royalties, remuneration or other profits from property and net consideration in respect of trade goodwill. Expenses incurred for the production of taxable income are deductible provided that they are supported by invoices or relevant receipts.

The following are exempt from income tax:

- interest and dividends;
- lump sums received on retirement or as commutation of pension or as a result of bodily injury or death;
- capital sums from approved life assurance policies and provident or pension funds;

- income from employment services provided abroad to a non-resident employer or an overseas permanent establishment of a resident employer for a period exceeding 90 days in the tax year;
- profit from the sale of shares (if the shares are of an unlisted company owning real estate in Cyprus the gain may be subject to capital gains tax – see question 3);
- certain pensions, such as widow's pension;
- salaries of officers and crew of ships owned by a Cyprus shipping company that sail under the Cyprus flag and operate in international waters; and
- income from a qualifying scholarship, exhibition, bursary or similar educational endowment.

Relief is given for donations to approved charities, professional and trade union subscriptions, life insurance premiums and contributions to pension, social insurance and welfare funds.

For the first three calendar years following the start of their employment, individuals taking up residence and employment in Cyprus will be entitled to an annual allowance of the lower of €8,550 or 20 per cent of their remuneration. If income from employment exceeds €100,000 per annum, a 50 per cent deduction is allowed for the first five years of employment.

A 20 per cent deduction is allowed from rental income received to cover expenses. The full amount of interest paid on loans for the acquisition of the let property is allowed as a deduction.

Subject to certain conditions, expenditure on maintaining buildings subject to a preservation order may also be deductible.

Annual writing down allowances are available against plant, machinery and other assets used in a trade or profession.

Foreign pensions may be taxed either on the normal basis set out above, or on an alternative basis, under which the first €3,420 per annum of the foreign pension is free of tax and the excess over that amount is taxed at 5 per cent. At current rates the alternative basis results in a reduced tax liability on pensions above €24,860. The taxpayer may choose which basis to adopt in any particular year.

There is a separate, highly favourable tax system for international shipping and ship-management activities based on the tonnage of vessels operated or managed.

#### Additional contribution

For 2012 to 2016 inclusive a special contribution is payable on earnings and local-source pensions at progressive rates of up to 3.5 per cent, borne equally by the employer and the employee.

#### SDC tax

SDC tax is payable by Cyprus resident (determined in the same way as for income tax) individuals on interest, dividend and rentals received at the following rates:

Nature of income	Rate
Dividends	20%
Interest	30%
Rents	2.25%

**3** What, if any, taxes apply to an individual's capital gains?

Subject to certain exemptions and reliefs, capital gains tax is payable at 20 per cent on net gains from the disposal of immoveable property situated in Cyprus and on gains from the disposal of shares in an unlisted company that owns immoveable property situated in Cyprus to the extent that the gain derives from the immoveable property.

All other capital gains are exempt from tax.

**4** What, if any, taxes apply if an individual makes lifetime gifts?

There are no taxes on lifetime gifts in Cyprus.

**5** What, if any, taxes apply to an individual's transfers on death and to his or her estate following death?

There are no succession taxes in Cyprus.

**6** What, if any, taxes apply to an individual's real property?

Immoveable property tax is payable in September each year (for 2013 the payment date is deferred until 15 November) at the following rates on the market value as at 1 January 1980 of all immoveable property registered in the name of the taxpayer at the start of the year:

From	To	Rate
0	€40,000	0.6% (minimum €75)
€40,000	€120,000	0.8%
€120,000	€170,000	0.9%
€170,000	€300,000	1.1%
€300,000	€500,000	1.3%
€500,000	€800,000	1.5%
€800,000	€3 million	1.7%
€3 million and above		1.9%

Other than in the case of substantial property portfolios the liability is generally negligible.

**7** What, if any, taxes apply on the import or export, for personal use and enjoyment, of assets other than cash by an individual to your jurisdiction?

As an EU member state, Cyprus is a member of the EU Customs Union. No customs duties are levied on goods travelling within the customs union and members of the customs union impose a common external tariff on all goods entering the union.

**8** What, if any, other taxes may be particularly relevant to an individual?

There is no wealth tax or the like. Cyprus is a low tax country and its standard VAT rate of 18 per cent is among the lowest in Europe.

**9** What, if any, taxes apply to trusts or other asset-holding vehicles in your jurisdiction, and how are such taxes imposed?

Trusts are transparent for tax purposes. Section 12 of the Cyprus International Trusts Law as amended provides that income and profits of an international trust which are earned or deemed to be

earned from sources within and outside Cyprus are subject to every form of taxation imposed in Cyprus in the case of a beneficiary who is resident there. In the case of a non-resident beneficiary only Cyprus-source income and profits are subject to Cyprus tax.

**10** How are charities taxed in your jurisdiction?

Approved (by the Inland Revenue Department) charities are exempt from Cyprus tax. Charities with trading activities which exceed the registration threshold must register and account for VAT.

### Trusts and foundations

**11** Does your jurisdiction recognise trusts?

Cyprus law is founded on common law, and the concept of trusts is long-established and recognised. In 1955 Cyprus enacted the Trustee Law of 1955 (Cap 193), which is the basic law that deals with the principal aspects of the trust relationship. The Courts of Justice Law of 1960 requires Cyprus courts to adhere to the principles of common law and equity, unless these are inconsistent with statute law or the Constitution.

Thus, at the time of independence in 1960, Cyprus trust law was to be found in domestic law and the doctrines of equity applicable in England. The International Trusts Law of 1992–2012 builds on the Trustee Law to give Cyprus the most modern and favourable trust regime in Europe, with unrivalled flexibility, asset protection and security.

Trusts governed by the laws of another jurisdiction are recognised.

**12** Does your jurisdiction recognise private foundations?

There is a law (the Associations and Foundations Law of 1972) allowing the establishment of foundations but it is out of date and has rarely been used due to the high degree of bureaucracy involved.

Foundations governed by the laws of another jurisdiction are recognised.

A new, modern law on foundations is expected to be introduced in the near future.

### Succession

**13** What property constitutes an individual's estate for succession purposes?

The individual's estate comprises all property passing on his or her death. Property held by an individual as trustee is not part of the estate, nor is property placed in a trust. The concept of joint ownership of property does not exist in Cyprus law. Co-owners hold property in specified shares, and on the death of one of the co-owners his or her share in the property will devolve in accordance with the individual's will or the rules of intestacy.

**14** To what extent do individuals have freedom of disposition over their estate during their lifetime?

Individuals have complete freedom to dispose of their estate during their lifetime.

**15** To what extent do individuals have freedom of disposition over their estate on death?

Cyprus law limits a person's right to dispose of his or her property by will. The part that can validly be disposed of by will is called the 'disposable portion' of the estate and the part that cannot be disposed of by will is called the 'statutory portion'. The statutory portion is distributed according to the rules of intestacy.

The actual proportion of the net estate taken up by the statutory portion varies according to which relatives survive the deceased:

- if an individual dies leaving a living child or a descendant of a child, the statutory portion is three-quarters of the net value of the estate;
- if the deceased is survived by a spouse or a parent, but not by any children or their descendants, the statutory portion is half the value of the net estate; and
- if there is no surviving spouse, parent, child or descendant of a child the statutory portion is nil and the entire net estate may be disposed of by will.

A will that purports to dispose of more than the disposable portion of the testator's estate is not invalid, but the legacies will be reduced and abated proportionally so as not to exceed the disposable portion. No abatement will take place if the testator leaves a surviving spouse but no children or descendants of children and leaves more than the disposable portion to the surviving spouse.

The Wills and Succession Law Cap 142 (WSL), which dates back to when Cyprus was a British colony, provides that persons who were born, or whose father was born, in the United Kingdom or any of Britain's self-governing dominions (most Commonwealth countries) are not subject to these restrictions on freedom of testation, but are entitled to dispose of all their property by will.

**16** If an individual dies in your jurisdiction without leaving valid instructions for the disposition of the estate, to whom does the estate pass and in what shares?

The rules of intestacy set out in the first schedule to the WSL apply not only if there is no valid will, but also to any part of the estate not disposed of by will. For the purposes of applying the rules, the persons entitled to succeed to the estate of a deceased person are divided into four classes, as follows:

- first class: the children of the deceased living at the time of his or her death and the surviving descendants of the deceased's children who died in his or her lifetime. The first schedule of the WSL restricts succession to legitimate children, but this restriction no longer applies and all children are entitled to succeed (see question 17);
- second class: the father, mother, brothers and sisters of the deceased and the surviving descendants of brothers or sisters who died in the lifetime of the deceased;
- third class: the surviving ancestors of the deceased nearest in degree of kindred; and
- fourth class: the nearest surviving relatives of the deceased up to the sixth degree of kindred (more remote relatives are excluded).

The estate is distributed to the members of the highest class. The persons of one class exclude persons of a subsequent class. Distribution takes place after the deduction of the share of the surviving spouse (see below). In the first class, the surviving children of the deceased succeed equally per capita, but the descendants of children who died before the deceased succeed *per stirpes*. In the second class, parents and surviving siblings are entitled to equal shares but half-brothers and half-sisters are entitled to only half the share of a full sibling (a legacy of when polygamous marriage was permitted for Muslims). The descendants of siblings who died before the deceased succeed *per stirpes*. In the third class the succession is *per stirpes* and in the fourth class it is per capita.

The estate of an individual who dies leaving no spouse and no relative within the sixth degree of kindred will become the property of the Republic of Cyprus.

### The rights of the surviving spouse

The share of the net value of the estate (that is, after the debts and liabilities of the estate have been discharged) allocated to the

surviving spouse varies according to the number and nature of other relatives surviving the deceased, as follows:

- if the deceased has left a child or descendant of a child, the surviving spouse's share is equal to the share of each child;
- if the deceased has left no child or descendant of a child but is survived by an ancestor or a sibling, uncle, aunt, nephew or niece, the surviving spouse is entitled to half of the net estate;
- if the deceased is survived by an ancestor or descendant of the fourth degree of kindred, but no closer relative, the surviving spouse's share is three-quarters of the net estate; or
- if there is no living relative within the fourth degree of kindred the surviving spouse is entitled to the entire net estate.

Under section 45 of the WSL, property received by the surviving spouse from the deceased under a marriage contract is not taken into account in calculating the surviving spouse's entitlement.

**17** In relation to the disposition of an individual's estate, are adopted or illegitimate children treated the same as natural legitimate children and, if not, how may they inherit?

The WSL restricts the right of inheritance to legitimate children of a deceased and their descendants only. However, this provision is overridden by Cyprus's obligations under the European Convention on the Legal Status of Children Born out of Wedlock, which Cyprus signed in 1978 and which was ratified by Law 50 of 1979. Article 9 of the Convention provides that a child born out of wedlock will have the same right of succession to the estate of its father and its mother and of a member of its father's or mother's family as if it had been born in wedlock. Section 54 of the WSL provides that the WSL will not be applied in the event of inconsistency with any obligation imposed by treaty.

**18** What law governs the distribution of an individual's estate and does this depend on the type of property within it?

The critical factor determining the appropriate law governing the distribution of immoveable property is the location of the property, whereas for moveable property the nationality of the deceased at the time of death determines which law applies. Disposition of immoveable property in Cyprus is governed by Cyprus law and the restrictions imposed by Cyprus law as to the statutory portion of estates (the part of the estate earmarked for certain dependants – see question 15) will apply regardless of the testator's nationality or domicile at the time of death, except in the case of citizens of Commonwealth countries falling within the scope of section 42 of the WSL. Succession to real property outside Cyprus is subject to the law of the country in which the assets are located. The disposition of moveable property, on the other hand, is governed by the law of the testator's domicile (either domicile of origin or choice).

**19** What formalities are required for an individual to make a valid will in your jurisdiction?

The testator must be of sound mind, memory and understanding and must be at least 18 years old. The will must fulfil the requirements of section 23 of the WSL, pursuant to which a valid will must be in writing and executed in the following manner:

- it must be signed at the foot or end by the testator, or by some other person on the testator's behalf, in the testator's presence and by his or her direction;
- this signature must be made or acknowledged by the testator in the presence of two or more witnesses present at the same time;
- the witnesses must attest and subscribe the will in the presence of the testator and in the presence of each other; and

- if the will consists of more than one sheet of paper, each sheet must be signed or initialled by or on behalf of the testator and the witnesses.

If the person making the will is blind or illiterate, the will must be read out to him or her before execution and the testator must place his or her mark on it or it must be signed by some other person on the testator's behalf, in the testator's presence and by his or her direction. All the other formal requirements apply equally in the case of blind or illiterate testators.

Wills made by soldiers and sailors need not comply with these requirements, even if they dispose of real estate in Cyprus.

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**20** Are foreign wills recognised in your jurisdiction and how is this achieved?

A will executed overseas that complies with the formalities required by the WSL or a will that meets the requirements of the Hague Convention will be recognised by the Cyprus courts, as long as it has been deposited with a probate registry in Cyprus.

If the will does not meet these requirements it will not be recognised, and any property in Cyprus will have to be administered and devolve according to the laws of intestacy.

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**21** Who has the right to administer an estate?

Except for very small estates the estate of a deceased person is administered by the 'personal representatives' – the executor or executors named in the will or the administrator appointed by the court.

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**22** How does title to a deceased's assets pass to the heirs and successors? What are the rules for administration of the estate?

Except for very small and uncomplicated estates, Cyprus law, like English law, does not recognise direct succession. Instead, the rights and liabilities attaching to the estate of the deceased are vested in the executor or the administrator of the estate, referred to generically as the 'personal representatives', whose duty is to pass them on to the heirs. The executor derives his or her powers over the estate of the deceased from the will of the deceased, and the estate is vested in him or her at the time of death of the deceased. If no executor is appointed by the will, the court will appoint an 'executor with will annexed' who has the same powers and duties as an executor appointed by the will. By contrast, the administrator derives his or her powers from the order of the court appointing him or her, which is the time when the estate vests in him or her, but once the order has been issued the vesting is effective from the time of death of the deceased.

On the grant of probate or administration the personal representative steps into the shoes of the deceased for legal purposes. He or she acquires all the rights and obligations of the deceased and may sue and be sued in all matters concerning the estate of the deceased and his or her administration of it. Pending the grant of administration the estate vests temporarily in the court, and for small estates the court may make an order for summary administration, in which case the probate registrar or another public officer appointed by the court will act as administrator.

The general rules governing administration by personal representatives are set out in the Administration of Estates Law Cap 189. Executors have the powers and duties given and imposed on them by common law and the doctrines of equity as applied in England, except as specifically varied by Cyprus law. Subject to any limitations contained in the grant, administrators will have the same powers and duties, which are:

- to administer the estate of the deceased according to the law;
- to pay the just debts of the estate;

- to collect and distribute the assets among the heirs according to the will, if any, and the hereditary rights of the heirs; and
- to account to the court for their administration.

The Estates of Deceased Persons (Tax Regulations) Law of 2000 requires the legal representative of a deceased person (that is, the personal representative, any person taking possession of any property of the deceased or any legal representative) to take all necessary steps as required by the Income Tax Law and related laws to report the income of the deceased up to the time of death and to settle any tax liabilities. The legal representative must provide the tax authorities with a statement of assets and liabilities of the deceased and the dependants, as well as a copy of any will, within six months after the date of death.

Any taxes payable by the legal representative are a first charge on the property owned by the deceased at the time of death, and have priority over any expropriation, lease or mortgage effected before or after death unless it was effected in good faith.

Either on its own initiative or on the application of any person interested in the estate the court may remove any executor or administrator for wilful neglect or misconduct in the administration of the estate. The court may grant letters of administration to some other person in the place of an executor or administrator who has been removed or has died or has become incapable of acting.

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**23** Is there a procedure for disappointed heirs and/or beneficiaries to make a claim against an estate?

Disappointed heirs may institute legal proceedings against the executor, disputing the formal validity of the will, its compliance with the legal requirements as to the statutory portion or the testamentary capacity of the testator. Under the Limitation of Actions Law 66(I) of 2012 no action can be commenced questioning the validity of a will, or in relation to the estate of a deceased or any portion or part thereof or bequest, after eight years from the date of death. In the event that the claimant was absent from Cyprus the limitation period will not be deemed to have been completed unless one year has elapsed from the time that the claimant returned to Cyprus or became aware of the death (or with reasonable diligence could have become aware of the death).

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**Capacity and power of attorney**

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**24** What are the rules for holding and managing the property of a minor in your jurisdiction?

The Parents and Children Relations Laws 1990 to 2008 provide for the property of a minor to be managed by the parents until the child reaches the age of majority. In the event of the death, disappearance or absence of one of the parents, parental responsibility is to be exercised exclusively by the other parent. In the event that one of the parents is unable to exercise parental responsibility due to practical reasons or because he or she lacks the necessary legal capacity, the other parent exercises parental responsibility alone. However, a minor parent may also exercise care of the person of the child.

When dealing with immovable property the parents of minor children are required to sign a written statement declaring that they have not been disqualified to administer the property of their minor children. They must also obtain the leave of the court before transferring or mortgaging the immovable property of their minor children or alienating it in any other way.

If there is no parent able to exercise parental responsibility the nearest ascendants are to exercise parental responsibility jointly as if they were the parents. If, for whatever reason, the nearest ascendants are not able to exercise parental responsibility, the court may appoint a guardian. The guardian requires the court's permission to:

- dispose of, mortgage, charge, exchange, or in any other way alienate property of the minor;

- lease any of the immovable property of the minor for a term exceeding five years;
- purchase any immovable property on behalf of the minor;
- invest money belonging to the minor; or
- settle suits or claims in favour or against the minor.

**25** At what age does an individual attain legal capacity for the purposes of holding and managing property in your jurisdiction?

An individual attains legal capacity for the purposes of holding and managing property at the age of 18 years.

**26** If someone loses capacity to manage their affairs in your jurisdiction, what is the procedure for managing them on their behalf?

Agents are appointed by the relevant legislation or by the court to act for and on behalf of individuals such as mental patients and missing persons who are no longer capable of managing their affairs.

### Immigration

**27** Do foreign nationals require a visa to visit your jurisdiction?

Citizens of the European Economic Area (EU states plus Norway, Iceland and Liechtenstein), Switzerland and approximately 30 other countries may visit Cyprus for up to 90 days without a visa. An up-to-date list can be found on the website of the Ministry of Foreign Affairs.

**28** How long can a foreign national spend in your jurisdiction on a visitors' visa?

For third-country (non-EU) nationals the duration of each visit may not exceed three months in any half year, starting from the date of first entry. Multiple entry visas may be issued provided that the total duration of visits does not exceed three months in any half year.

**29** Is there a visa programme targeted specifically at high net worth individuals?

The Republic of Cyprus has a fast-track procedure allowing high net worth individuals to acquire a permanent residence permit on an accelerated basis.

Third country nationals who purchase property in Cyprus for €300,000 or more as their own residence and who can demonstrate an adequate secure income from abroad will be eligible to apply for an immigration permit that will be equivalent to permanent resident

### Update and trends

As noted in question 12, the Associations and Foundations Law of 1972 is outdated and rarely used. To provide a modern legal and regulatory structure for foundations, a new foundations law is under consideration and is likely to be introduced in the near future.

status. Each case is examined on its own merits depending on the personal circumstances of the applicant.

To qualify for permanent residence third-country nationals must demonstrate the following attributes:

- stable and regular resources sufficient to maintain the applicant and his or her dependants in Cyprus without recourse to its social assistance system;
- sickness insurance which covers the risks generally covered by insurance companies in Cyprus;
- the applicant is not a threat to public order or public security; and
- his or her residence in Cyprus has not been the result of deceit or misrepresentation.

The application on the prescribed form M67 may be lodged in advance of the applicant's arrival in Cyprus provided all the relevant supporting documentation is submitted with the form.

**30** If so, does this programme entitle individuals to bring their family members with them? Give details.

If the application is successful the applicant's spouse and children under the age of 18 years will also be granted the right of permanent residence.

**31** Does such a programme give an individual a right to reside permanently or indefinitely in your jurisdiction and, if so, how?

The programme gives the right of permanent residence. This right is automatically lost if the holder is absent from Cyprus for a continuous period of two years.

**32** Does such a programme enable an individual to obtain citizenship or nationality in your jurisdiction and, if so, how?

Individuals may apply for citizenship by naturalisation. Applications are considered on their merits. In 2011 an economic citizenship programme was put in place under which applicants may obtain 'fast-track' citizenship. To be eligible for the scheme applicants must



**Elias Neocleous**  
**Christos Vezouvios**  
**Philippos Aristotelous**

Neocleous House, 195 Makarios Avenue  
 PO Box 50613  
 Limassol 3608  
 Cyprus

Tel: +357 25 110000  
 Fax: +357 25 110001  
 www.neocleous.com  
 info@neocleous.com

be over 30 years old, have no criminal record and have no asset-freezing orders outstanding against them. They must own a permanent residence in Cyprus with a value of at least €500,000 and fulfil at least one of the following criteria:

- the applicant has invested at least €2 million in the purchase of shares or bonds (or a combination of the two) issued by the National Investment Company that is to be established and has donated €500,000 to the government Research and Technology Fund. Pending the establishment of the National Investment Company, the funds may be deposited with the government;
- the applicant has invested at least €5 million in Cyprus in the following:
  - acquisition of immovable property (residential properties, commercial properties, hotels, and other similar types of properties). Undeveloped land does not qualify;
  - acquisition of businesses or companies based and operating in Cyprus;
  - acquisition of shares of companies registered in Cyprus;
  - acquisition of financial assets such as bonds registered and issued by the Republic of Cyprus including those which will be issued by the Solidarity Fund in accordance with the National Solidarity Fund Law of 2013); or
  - participation in a company or a joint venture which is undertaking the execution of a project in Cyprus. The investments concerned must be retained and not fall below the specified minimum for at least three years;
- the applicant has deposits in Cyprus banks amounting to €5 million for a minimum term of three years. The deposits may be personal or corporate or held by a trust of which the applicant is the beneficiary;
- the applicant has a combination of the investments specified in the preceding paragraphs amounting to at least €5 million;
- the applicant has significant business activities in Cyprus, being a substantial shareholder or beneficial owner of a company incorporated and doing business in Cyprus which has paid at least €500,000 per year to public revenues or for professional services over the preceding three years. If the company concerned is based in Cyprus and employs at least five Cypriot citizens, the annual payment requirement is reduced to €350,000. If it is based in Cyprus and employs at least 10 Cypriot citizens the annual payment requirement is reduced to €200,000. If the annual payments fall short of the required minima the shortfall may be made good by financial investments described in earlier paragraphs. Up to two applications for naturalisation may be submitted in respect of a company; and
- the applicant was the holder of deposits in Bank of Cyprus or Laiki Bank on 15 March 2013 and incurred losses of €3 million or more as a result of the measures imposed on the two banks during March 2013. If the loss was less than €3 million the shortfall may be made up by investment in government funds or assets in Cyprus.

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