

# Cyprus Business Headlines

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## AMENDMENTS TO THE INCOME TAX LAW AND THE SPECIAL CONTRIBUTION FOR DEFENCE LAW

Cyprus has made a number of significant changes in its tax laws relating to the participation exemption, interest and mutual funds. The changes were made by Laws 110(I)/2009 and 111(I)/2009, respectively amending the Income Tax Law and the Special Contribution for Defence Law. All the changes are retrospective and will take effect from 1 January 2009.

### ABOLITION OF THE MINIMUM SHAREHOLDING REQUIREMENT FOR PARTICIPATION EXEMPTION

The 1% minimum shareholding threshold which was previously required in order to qualify for the participation exemption has been abolished and dividends received are exempt from Cyprus tax irrespective of the size of the shareholding.

### SIMPLIFICATION OF TAX ON INTEREST

While the main aim of the changes was to increase the attractiveness of the taxation regime for mutual funds and collective investment schemes, the authorities have also taken the opportunity to simplify the taxation of interest generally. The key factor determining the treatment of interest under Cyprus tax law is whether it is active or passive in nature. Active interest is interest received as part of the core activity of the business or closely connected to the core business, such as interest received by a bank. Passive interest is interest received which is incidental to the main activity, such as interest received on surplus funds invested by a retailer.

For interest earned from 1 January 2009 the following rules will apply:

- ≡ The net amount of interest received in the ordinary course of business or closely connected to the ordinary course of business, after deducting expenses and interest paid, is subject to income tax or corporation tax at standard rates.
- ≡ Interest received by Collective Investment Schemes, after deducting expenses, is taxed under the Income Tax Law at the standard corporation tax rate of 10%.
- ≡ Any other interest receivable is subject to Special Contribution for Defence ("SDC") at 10% without any deductions.

Interest will therefore be subject only to income tax or only to SDC.

## CHANGES TO THE TAXATION OF COLLECTIVE INVESTMENT SCHEMES

In a circular issued by the Cyprus tax authorities in December 2008 the definition of securities and titles was widened to include units in collective investment schemes. As profits on disposals of securities and titles are exempt from tax in Cyprus this exempts gains on disposals of units from tax. Redemptions of units in Collective Investment Schemes do not constitute a distribution for the purposes of SDC and so are also exempt from SDC.

Collective Investment Schemes also enjoy reduced rates of SDC payable on deemed distributions, whether in respect of income or on liquidation. In either case the rate payable by Collective Investment Schemes is 3%, rather



than the standard rate of 15%.

Collective Investment Schemes will also benefit significantly from the abolition of the minimum shareholding requirement described above, which extends the benefit of the participation exemption to portfolio investors.

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## **CYPRUS IN TOP 25% OF ECONOMIES FOR EASE OF DOING BUSINESS**

Doing Business 2010 is the seventh in a series of annual reports produced by the World Bank presenting objective indicators on business regulations and the protection of property rights that can be compared across 183 economies, from Afghanistan to Zimbabwe, on a consistent basis over time.

Regulations affecting 10 stages of a business's life are measured: starting a business, dealing with construction permits, employing workers, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and closing a business.

This is the first time that Cyprus has been included in the report, and it has made a creditable debut, ranking fortieth of the 183 countries assessed for ease of doing business, comfortably in the top 25% and just behind the Nordic countries. Cyprus ranks above the European average in seven out of 10 categories.

The authors of the report commented that this is a successful first entry, given the increased rate of reform among other countries during the last year.

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## **EU COMMISSION APPROVES CYPRUS BANK LIQUIDITY SCHEME**

The European Commission has approved the Cyprus government's plan to use special government bonds to reinforce stability in financial markets and mitigate the effects of the current financial downturn under EC Treaty state aid rules. The Commission found the measure to be in line with its Guidance Communication on state aid.

Under the scheme, Cyprus will issue up to €3 billion in special government bonds that it will lend to credit institutions to use as collateral to obtain liquidity from the European Central Bank (ECB) and on interbank markets. The credit institutions are to use the liquidity raised for housing loans and loans to SMEs on competitive terms.

The bonds will pay no interest and will have a maximum maturity of three years. They will be lent to

eligible credit institutions against collateral and the payment of a fee. The scheme will be open to solvent credit institutions incorporated in Cyprus, including subsidiaries of foreign credit institutions. Eligible credit institutions will have up to six months to join the scheme, starting from the day the implementing national law enters into force but not later than 30 November 2009.

There are a number of safeguards to protect against distortions of competition. For example, beneficiaries are forbidden from using funds provided under the scheme to expand their business in a disproportionate manner or to undertake aggressive business strategies. The measure is limited in time and scope, requires adequate remuneration and foresees sufficient safeguards to minimise distortions of competition. The Commission therefore concluded that the scheme is compatible with Article 87.3.b. of the EC Treaty.

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## **AMENDMENTS TO CYPRUS'S BANKING LAW**

The Amending Law 100(I) of 2009 makes a number of important changes to Cyprus's Banking Law.

It transposes the provisions of EU Directive 2007/44/EC relating to mergers and acquisitions of banks into the national law and increases the maximum limits of investments by banks in the share capital of any company, as provided for in subsection (1) of section 13 of the Banking Law, to align them with the maximum limits permitted under article 120 of EU Directive 2006/48/EC.

In addition, the new law amends the provisions of the Banking Law regarding banks' obligations to provide the Central Bank of Cyprus ("CBC") with information on beneficial shareholders holding 5% or more of their share capital.

With effect from 24 July 2010, the maximum limits of exposures to each director and to all directors together of each bank will be reduced from 5% to 2% and from 40% to 20%, respectively.

In addition, the CBC has recently issued two Directives to banks in accordance with the recommendations of the Basel Committee on Banking Supervision and the relevant EU Directives on banking sector issues.

The Amending Directive on the "Framework of Principles of Operation and Criteria of Assessment of Banks' Organisational Structure, Internal Governance and Internal Control Systems" was issued in October 2009 and is intended to strengthen the overall framework of organisational structure and internal governance of banks as well as to improve three basic functions of their internal control systems, namely, internal audit, risk management and compliance.



The revised Directive on "Communication between the CBC and the Approved Auditors of Banks", issued in November 2009, provides a framework for trilateral meetings between the CBC, the banks under its supervision and their approved auditors, sets out the circumstances and conditions under which the CBC may invite the auditors of banks to bilateral meetings and outlines the circumstances under which the auditors are required to report to the CBC.

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### NEW REMEDIES FOR DELAY IN DETERMINING CIVIL RIGHTS

The Cyprus parliament has enacted Law 2(I) of 2010 on effective remedies in the event of breach of citizens' right to prompt determination of civil rights and obligations.

As its title suggests, the purpose of the law is to create effective remedies in the event of unjustified delay in determining civil rights and obligations within the framework of legal proceedings filed with the Cyprus courts in accordance with the relevant provisions of the Constitution, the European Convention on Human Rights and prior decisions of the European Court of Human Rights.

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### RATIFICATION OF INTERNATIONAL AVIATION AND SHIPPING AGREEMENTS

The agreement on air transport between the Republic of Cyprus and the Syrian Arab Republic concluded in 2009 has been ratified by Cyprus under Law 4(VII) of 2010. The new agreement replaces the existing agreement between the two countries, which dates back to 1964. Cyprus has also ratified the agreement concluded between the Republic of Cyprus and the State of Israel in the field of Merchant Shipping under Law 3(VII) of 2010.

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### ISSUING OF BUNKERS CERTIFICATES TO BAREBOAT REGISTERED SHIPS

The Cyprus Department of Merchant Shipping has issued Circular 3/2010 to notify owners and operators of ships registered with the Cyprus flag under a bareboat charter that in accordance with IMO Resolution A. 1028(26) they should obtain their Bunkers Certificate from the Cyprus Department of Merchant Shipping. This will help to avoid unnecessary delays or detentions of ships.

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### RECENT PUBLICATIONS

- ≡ [Cyprus chapter of "Cyprus chapter of Anti-Cartel Enforcement Worldwide"](#) by Elias Neocleous and Eleana Spyris, published by Cambridge University Press
- ≡ [Cyprus chapter of "Corporate Real Estate Handbook 2009/10"](#) by Lefkios Tsikkinis and Mariorita Neocleous, published by Practical Law Company
- ≡ [Cyprus chapter of "European Debt Collection Handbook"](#) by Anna Demetriou Panayiotidou and Maria Kyriacou, published (in German) by Welther Verlag GmbH, Berlin
- ≡ ["Attracting More People into Employment and Improving the Adaptability of Workers and Enterprises"](#) by Christos Vezouviou in "Achieving the Lisbon Goals in Cyprus", published by IXSYS
- ≡ [Cyprus chapter of "International Succession"](#) by Lefkios Tsikkinis and Mariorita Neocleous, published by Oxford University Press
- ≡ [Cyprus chapter of "National Registration for Producers of Electronic Waste"](#) by Nicholas Ktenas and Achilleas Malliotis, published by Springer Science and Business Media

These publications may be viewed by following the links above or by visiting the publications section of our website.



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