



# Cyprus Business Headlines

WINTER 2009

VOLUME 4 ISSUE 1

## In this issue

- ≡ [Effective removal of Cyprus from Spanish tax "blacklist"](#)
- ≡ [Clarification of minimum interest parameters](#)
- ≡ [Extension of securities qualifying for tax exemption](#)
- ≡ [Cyprus-Qatar cooperation in banking supervision](#)
- ≡ [Progress in reducing transposition deficit](#)
- ≡ [Russia-Cyprus Protocol on Economic Cooperation](#)
- ≡ [Taxation of shipmanagement companies](#)
- ≡ [News about our firm](#)
- ≡ [Recent publications](#)

## EFFECTIVE REMOVAL OF CYPRUS FROM SPANISH TAX "BLACKLIST"

Despite having complied with all relevant information exchange requirements Cyprus continued to be included in the Spanish tax authorities "blacklist" of tax havens. Tax benefits and exemptions under the rules on participation exemption, controlled foreign companies and valuation of shares were not available to entities that were tax resident in any of the countries or territories included in the "blacklist".

It was expected that Cyprus (and Malta, which also appeared on the list) would be automatically removed from the list on joining the EU. However, the Spanish tax authorities explicitly refused to remove them from the blacklist, even though they were members of the EU and EEA.

This anomaly has now been resolved by Law 4/2008, passed by the Spanish Parliament in December 2008, which amends the Spanish tax legislation with the aim of eliminating restrictions on the free movement of capital (Article 56 EC) and the freedom of establishment (Article 43 EC).

Following the passing of the Law, the previously unavailable tax benefits and exemptions will be available to companies that are tax resident in Cyprus (or in other EU or EEA countries) as long as the taxpayer is able to show that there are valid economic reasons for their establishment and operations and that they carry out business activities.

The change in the law is retrospective, and the exemptions are available with effect from the beginning of 2008.

Further information: [eliasn@neocleous.com](mailto:eliasn@neocleous.com)

## CLARIFICATION OF MINIMUM INTEREST PARAMETERS

The Cyprus Commissioner for Income Tax has recently clarified his department's policy on acceptable margin parameters for taxable interest in transactions involving Cyprus resident companies used as intermediary financing vehicles in back-to-back financing arrangements. The minimum margin which the Inland Revenue Department will accept varies according to the amount of the advance, as follows.

For advances of less than €50 million, a minimum margin of 0.35% is required. For advances of between €50 million and €200 million, the minimum margin is 0.25% and on advances in excess of €200 million it is 0.125%. For advances made on an interest-free basis a deemed margin of 0.35% will be used as the basis for taxation, irrespective of the amount of the advance.

We anticipate that the law will be amended or that a circular will be issued by the Inland Revenue Department in the next few months to formally confirm this policy. In the meantime, it is reasonable to expect that the tax authorities will follow it in practice.

Further information: [aristotelous@neocleous.com](mailto:aristotelous@neocleous.com)

## EXTENSION OF SECURITIES QUALIFYING FOR TAX EXEMPTION

An extremely attractive feature of the Cyprus tax system is the exemption from tax of profits from the sale of securities under the Income Tax Law of 2002. In December 2008 the Inland Revenue Department issued a long-awaited circular clarifying the definition of "security" qualifying for exemption. The circular defines "security" much more widely than

in the past, to include not only conventional instruments such as shares, bonds, debentures, founder's shares and preference shares, but also options on titles, short positions on titles, futures or forwards on titles, swaps on titles, depository receipts on titles such as ADRs or GDRs, index participations where these result in titles, repurchase agreements or repos on titles, participations in companies and units of all kinds in collective investment schemes.

Further information: [aristotelous@neocleous.com](mailto:aristotelous@neocleous.com)

### **CYPRUS-QATAR COOPERATION IN BANKING SUPERVISION**

The Central Bank of Cyprus has given further details of the Memorandum of Understanding it concluded in November with the Qatar Central Bank, regarding the supervision of credit institutions. The Qatar Central Bank is the competent authority for the licensing and supervision of credit institutions operating in Qatar.

The Memorandum of Understanding defines a general framework of mutual cooperation and exchange of information between the two supervisory authorities, for the purpose of facilitating the performance of their supervisory function as well as the effective supervision and regulation of credit institutions in their respective countries, in accordance with their national laws and regulations.

The Central Bank of Cyprus pursues an active policy of signing Memoranda of Understanding for cooperation and exchange of information with competent overseas authorities. The agreement with the Qatar Central Bank is the twentieth Memorandum of Understanding it has concluded, and negotiations are in progress with several other overseas banking supervisory authorities for the signing of similar documents.

Further information: [georgiadesk@neocleous.com](mailto:georgiadesk@neocleous.com)

### **PROGRESS IN REDUCING TRANSPOSITION DEFICIT**

The latest edition of the "Internal Market Scoreboard" released by the European Commission in February 2009 shows that Cyprus has made progress in reducing its "transposition deficit" – the number of European Directives yet to be transposed into national law. At December 2008 the number of outstanding Directives had been reduced to 27, compared with 29 six months earlier. Furthermore the number of long overdue directives was reduced from three to zero during the second half of 2008.

Nevertheless, Cyprus remains above the 1.5% target figure. As the target is to be reduced to 1% from 2009, considerable effort will be needed to bring performance

into line with the new target.

Further information: [maria.kyriacou@neocleous.com](mailto:maria.kyriacou@neocleous.com)

### **RUSSIA-CYPRUS PROTOCOL ON ECONOMIC COOPERATION**

The Republic of Cyprus and the Russian Federation have signed a Protocol on Economic Cooperation to enhance cooperation and to further the existing ties of friendship between the two countries.

The Protocol was signed at the end of the fifth Summit of the Cyprus-Russia Intergovernmental Committee on Economic Cooperation. The Cyprus Minister of Finance, who signed the Protocol on behalf of Cyprus, noted that the Protocol will contribute to further development of economic and other relations between Russia and Cyprus, particularly in the finance, trade, industry, tourism, transport, health and education sectors.

Further information: [eliasn@neocleous.com](mailto:eliasn@neocleous.com)

### **TAXATION OF SHIPMANAGEMENT COMPANIES**

The Cyprus Department of Merchant Shipping has recently issued a circular reminding shipmanagers of the arrangements for assessment and payment of their liabilities for 2008.

Shipmanagers are normally taxed on the basis of the tonnage and age of ships under their management. However, under section 19 of the Income Tax Law of 2002 they may opt to be taxed according to the prevailing Income Tax Law at a rate of 4¼% on their income from ship management services.

Shipmanagers who opt for the alternative basis of taxation are required to provide the Department of Inland Revenue with an annual Confirmation of Shipmanager's Status issued by the Department of Merchant Shipping certifying that the company is eligible to be taxed on this basis.

Shipmanagers who have not opted for the alternative basis of taxation should obtain and complete the relevant Declaration for the Taxation of Shipmanagement Services (Declaration). Forms may be obtained from the Department of Merchant Shipping or downloaded from its website, which also includes a calculator for the accurate calculation of the tax on each vessel.

The Department has also announced a new tax exemption. Shipmanagers are entitled to tax exemption in respect of: "any Community ship to which the provision of shipmanagement services in relation to its crewing and technical management is entirely contracted to a Cyprus or a Community shipmanagement company, which has an office in Cyprus staffed with sufficient (in number and

qualifications) personnel, for technical, administration and accounting matters relating to ships."

Community ships for which the shipmanagement agreement was valid throughout 2008 will be entitled to the exemption.

Further information: [stamatiou@neocleous.com](mailto:stamatiou@neocleous.com)

## NEWS ABOUT OUR FIRM



It is often said that moving home can be one of life's most stressful experiences. After two years of anticipation and planning our firm moved into its new home during the last weekend in November. Our new headquarters, pictured above, are within a stone's throw of our previous office, but they are far ahead in terms of facilities, providing our staff and visiting clients with excellent working conditions, including advanced computer and telecommunications services, in a spacious, modern environment.

There were a number of practical difficulties to overcome, as the contractors were still putting the finishing touches to the building as we moved in. However, we overcame these with our characteristic patience, teamwork and good humour, making the move an enjoyable experience, rather than a stressful one.

Some two months after the move, the disruption is behind us and we are settling in to our new offices. We look forward to making the most of our new facilities, which will provide us with an excellent base for our continued growth and client service.

On a practical note, we now have "state of the art" telephone and voice messaging services, which should make communication easier for our clients. Please make a note of our new telephone and fax numbers, which are +357 25 110000 and +357 25 110001 respectively.

Further information: [andreas@neocleous.com](mailto:andreas@neocleous.com)

## RECENT PUBLICATIONS

- ≡ Cyprus chapter of "[Joint ventures in Europe](#)", by Elias Neocleous, Kyriacos Georgiades and Achilleas Malliotis, published by Tottel Publishing
- ≡ Cyprus chapter of "[Digest of Commercial Laws of the World](#)" by Achilleas Malliotis, published by Oxford University Press
- ≡ Cyprus chapter of "[Financial Services Regulation in Europe](#)" by Elias Neocleous, Kyriacos Georgiades and Marinella Kilikitas, published by Oxford University Press
- ≡ "[Amendment of the Assessment and Collection of Taxes Law](#)" by Elias Neocleous, published in "Tax Planning International Review", volume 35, issue 12
- ≡ Cyprus chapter of "[Getting the Deal Through – Restructuring and Insolvency](#)" by Elias Neocleous and Maria Kyriacou, published by Law Business Research
- ≡ Cyprus chapter of "[The Restructuring Review](#)" by Maria Kyriacou, published by Law Business Research
- ≡ Cyprus chapter of "[Employment Law in Europe](#)" by Nicholas Ktenas, published by Tottel Publishing
- ≡ Cyprus chapter of "[The International Comparative Legal Guide to Cartels & Leniency 2009](#)" by Elias Neocleous and Eleana Spyris, published by Global Legal Group Limited
- ≡ [Annotated Handbook of Cyprus Laws](#) by Andreas Neocleous, Christos Melides, Ifigenia Eliadou, Christina Hatzigiorki, Maria Coundourou, Constandinos Kourides, Elena Michael, Pelagia Kyriakidou, Marina Joud, Mariorita Neocleous, Anastasios Antoniou, Christos Vezouviou, Marina Tsikouri and Vasiliki Vasilopoulou, published by Nomiki Bibliothiki

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




Andreas Neocleous & Co LLC  
 Neocleous House,  
 Archbishop Makarios III Avenue  
 P.O. Box 50613, CY-3608, Limassol, Cyprus  
 Tel.: +357 25 110000 Fax: +357 25 110001  
 E-mail: [info@neocleous.com](mailto:info@neocleous.com)  
 Website: [www.neocleous.com](http://www.neocleous.com)

Admiralty and shipping, banking and finance, corporate and commercial, e-Business, EU Law, intellectual property, litigation and arbitration, real estate, tax law and international tax planning

Other local and international offices

Nicosia • Paphos

Moscow • Brussels • Budapest

Kiev • Prague • Sevastopol