

Cyprus

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TAXATION - GENERAL

1. When does the official tax year start and finish in your jurisdiction and what are the tax payment dates/deadlines?

Tax year

The tax year in Cyprus is the calendar year (that is, it starts on 1 January and ends on 31 December).

Tax payment dates and deadlines

Provisional declaration of income. Any income that is not dealt with under the pay as you earn (PAYE) system is dealt with on a self-assessment basis. Individuals must submit, by 1 August, a provisional declaration of their income for the year to the tax authorities. They must pay the resulting tax in three equal instalments no later than:

- 1 August.
- 30 September.
- 31 December.

Payment of the balance due. Different rules apply concerning the payment of the balance of the tax due on income, depending on the circumstances of the individual:

- Individuals carrying on a trade or profession with a turnover for the year of more than EUR70,000 (about US\$102,370) must:
 - prepare audited annual financial statements and pay the balance of tax due on their income by 1 August of the following year; and
 - submit their final personal income tax returns no later than the following 31 December.
- Other individuals must file their personal income tax returns and pay any tax due no later than 30 June of the following year.

In both cases, tax paid late or underpaid will be subject to interest at 9% per annum from the due date.

Special Contribution for Defence tax (SDC tax). Interest, dividends and rent received by resident individuals are subject to SDC tax. The individual must pay the estimated liability on income received in the first six months of the year by 30 June, and the estimated liability on income received in the second six months by the end of the year, on a self-assessment basis, and include the income on his tax return.

DOMICILE AND RESIDENCE

2. Does your jurisdiction have concepts of domicile and residence? In what context(s) are they relevant and how do they impact on a taxpayer?

Cyprus treats the concepts of residence and domicile in the same way as other common law countries.

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 on the same day counts as one day of residence in Cyprus.
- Departure from and return to Cyprus on the same day counts as one day of residence outside Cyprus.

Residence determines liability to most forms of taxation in the private client context (see *Question 6, Taxable income*).

Domicile

Domicile is a general law concept, distinct from nationality or residence. Broadly speaking, a person's domicile is the place that person thinks of as their permanent home. Domicile is important because no succession taxes are payable on the deaths of persons domiciled in Cyprus occurring on or after 1 January 2000 (see *Question 7*). Domicile also determines which law governs the disposal of movable property (see *Question 25, Movable property*).

3. Does your jurisdiction impose any tax when a person leaves (for example, an exit tax)? Are there any other consequences of leaving (particularly with regard to individuals domiciled in your jurisdiction)?

As an EU member state Cyprus does not impose any restrictions on the freedom of movement of EU citizens, or on citizens of other countries leaving Cyprus.

4. Does your jurisdiction have any particular rules affecting temporary residents?

For tax purposes, residence is dealt with on a year-by-year basis.

EU citizens and their dependants have the right to live in Cyprus.

Nationals of other countries who have lived legally in Cyprus for a continuous period of five years have a right of permanent residence.

TAXES ON GAINS AND INCOME

5. How are gains on property/assets owned by a foreign national taxed? What are the capital gains tax rates?

Capital gains tax (CGT) is charged at 20% on gains from the disposal of:

- Immovable property in Cyprus.
- Shares in companies owning immovable property in Cyprus, unless the shares are listed on a recognised stock exchange.

All other gains are exempt from CGT.

CGT is not charged on gains that are subject to corporation tax. As with income tax and corporation tax, CGT is paid by reference to the calendar year, under a self-assessment system.

A gain on the disposal of immovable property in Cyprus is calculated by deducting from the sale price (or the market value in certain circumstances, such as where the revenue authorities do not accept that the sale price was an arm's length price):

- The acquisition cost (or the market value as at 1 January 1980 if the asset was acquired before that date).
- Expenditure incurred wholly and exclusively to enhance the asset's value.
- Sale expenses, interest on loans and immovable property tax.

These costs and expenses are adjusted by indexation to take account of inflation. Current year capital losses on chargeable assets and losses brought forward from previous years may be offset against gains.

Gains on disposals of shares in companies that own immovable property in Cyprus are calculated by first deciding the amount of the share disposal proceeds that are attributable to immovable property in Cyprus. The taxable gain is then calculated as above.

6. How is income received by a foreign national taxed? Is there a withholding tax? What are the income tax rates?

Taxable income

Income tax treatment depends on whether or not the foreign national is resident in Cyprus for tax purposes (*see Question 2,*

Residence). There is no distinction between Cypriots and foreigners in this context.

Residents must pay income tax on their worldwide income, whether that income is remitted to Cyprus or not.

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

- Profits or other benefits from:
 - a permanent establishment (that is, a fixed place of business through which its business is wholly or partly carried on) situated in Cyprus;
 - any office or employment exercised in Cyprus.
- Pensions from past employment exercised in Cyprus.
- Rent from property situated in Cyprus.
- Consideration received in respect of any Cypriot trade goodwill, reduced by the cost of that goodwill.
- Gross income that an individual derives from the exercise in Cyprus of any profession or other occupation. This includes the remuneration of public entertainers and the gross receipts of any theatrical, musical or other group of public entertainers.

Withholding taxes

The only withholding taxes apply to:

- Rental payments made to non-residents concerning films shown in Cyprus. These are subject to withholding tax at 5% of the gross payments.
- Royalties or any other payments to non-residents for intellectual or industrial property rights. These are liable to a 10% withholding tax, subject to relief under any applicable double taxation treaty. No tax needs to be withheld if the rights are used exclusively outside Cyprus.

Tax rates

Income tax is charged at progressive rates, according to each band or tranche of income. The current rates are:

- Up to EUR19,500 (about US\$28,520): nil rate.
- Between EUR19,500 and EUR28,000 (about US\$40,950): 20%.
- Between EUR28,000 and EUR36,300 (about US\$53,080): 25%.
- Above EUR36,300: 30%.

Husband and wife are taxed separately.

For the first three calendar years following the start of their employment, individuals taking up residence and employment in Cyprus are entitled to an annual allowance of the lower of:

- EUR8,543 (about US\$12,490).
- 20% of their remuneration.

Individuals receiving pensions from overseas may opt for them to be taxed at 5%. The first EUR3,417 (about US\$5,000) is exempt from tax.

Interest, dividends and profits from the sale of securities are exempt from tax. Interest and dividends (but not profits from the sale of securities) are subject to SDC tax at 10% and 15%, respectively.

Rental income is subject to:

- Income tax at 10% on 80% of the gross rent received.
- SDC tax at 3% on 75% of the gross rent received.

INHERITANCE TAXES

7. What is the basis of the inheritance tax or gift tax regime (or alternative regime if relevant)? Please explain whether the rate of tax depends on:

- How much the beneficiary receives.
- Who the beneficiary is.
- How wealthy the beneficiary is.

The Estate Duty (Amending) Law of 2000 abolished any form of succession tax on the deaths of persons domiciled in Cyprus occurring on or after 1 January 2000 (see *Question 2, Domicile*).

8. What are the inheritance tax or gift tax rates (or alternative rates if relevant)? Please consider the following:

- Tax-free allowances.
- Exemptions (for example, for inheritances by spouses).
- Techniques to reduce liability (for example, gifting assets during the testator's lifetime, selling assets but retaining a life interest, establishing a trust or purchasing through an offshore company).
- Any other ways to reduce liability.

Not applicable (see *Question 7*).

9. Does the inheritance tax or gift tax regime apply to foreign owners of property/assets?

Not applicable (see *Question 7*).

10. Are there any other taxes on death or on lifetime gifts?

There are no taxes on death or on lifetime gifts.

BUYING PROPERTY

11. Are there any other taxes that a foreign national must consider when buying assets/property in your jurisdiction? For example:

- Purchase and gift taxes.
- Annual rates.
- Wealth taxes that apply to foreign nationals with assets above a certain value in your jurisdiction.

Acquisition costs

The principal ancillary costs of acquiring immovable property in Cyprus are the transfer fee charged by the Department of Lands and Surveys, and stamp duty.

Transfer fee. The transfer fee is charged on each tranche of the value of the property at progressive rates:

- Up to EUR85,430 (about US\$124,930): 3%.
- EUR85,431 to EUR170,860 (about US\$249,860): 5%.
- Above EUR170,860: 8%.

Therefore, the transfer fee on a property with a value of EUR500,000 (about US\$731,185) is EUR33,166 (about US\$48,500).

If property is transferred to relatives up to the third degree of kindred for no consideration the transfer fee is based on the 1920 valuation of the property, which in most cases gives rise to a negligible transfer fee. For transfers to trustees for no consideration there is a fixed transfer fee of EUR9 (about US\$13).

Stamp duty. Stamp duty on contracts is charged at 0.15% on the first EUR170,860 of the consideration and at 0.2% on any consideration above that sum. Stamp duty on transactions with a consideration above EUR8,585,715 (about US\$12.55 million) is capped at EUR17,086 (about US\$24,990).

Annual costs

Immovable property tax is payable on 30 September each year. It is calculated on immovable property that the taxpayer owned on the preceding 1 January, on the basis of that property's market value as at 1 January 1980.

The rates applied to each tranche of value are as follows:

- Up to EUR170,860: nil rate.
- Between EUR170,860 and EUR427,150 (about US\$624,650): 0.25%.
- Between EUR427,150 and EUR854,300 (about US\$1.25 million): 0.35%.
- Above EUR854,300: 0.4%.

As the tax is based on 1980 values, immovable property tax is rarely payable on normal residential properties.

Council and other service charges, such as water and sewage charges, are also payable. They are much lower than in most European countries.

12. What tax-advantageous property holding structures are available in your jurisdiction for non-resident individuals?

Natural persons, companies, partnerships or trusts can hold property in Cyprus. The choice of structure depends on the taxpayer's objectives. A Cyprus holding company can be a tax-efficient structure.

Property can be held either absolutely or in shares.

The Cyprus government, and the Greek and Turkish religious institutions, such as the Greek Orthodox Church and the Muslim Evkaf, can also own property.

INTERNATIONAL AGREEMENTS

13. Is there a wide network of double tax treaties? If so, please provide examples (including any treaties with the UK and the US).

Cyprus has a comprehensive network of almost 50 double taxation treaties. These cover EU jurisdictions such as Austria, Belgium, Germany, Greece, Malta and the UK, and major jurisdictions outside the EU, such as China, India, the Russian Federation and the US.

Treaties are under negotiation, or awaiting ratification, with 20 further jurisdictions (including Brazil, Iran, The Netherlands and Spain).

All double taxation treaties provide relief from double taxation by applying the credit method to the taxation of dividends and interest. Tax paid or payable in the other country reduces the liability of Cyprus residents for Cyprus income tax and SDC.

The Cyprus tax authorities will also grant unilateral relief from Cyprus tax on income received from a foreign country with which Cyprus has no double taxation treaty. This relief applies up to the amount of tax paid in the foreign country, and is granted by exemption, credit or deduction.

Cyprus's double taxation treaty network allows international transactions to be structured in a number of tax-efficient ways, particularly when combined with a Cyprus holding company and other fiscally beneficial entities.

WILLS AND ESTATE ADMINISTRATION

14. Is it essential for an owner of assets in your jurisdiction to make a will in your jurisdiction? Does the will have to be governed by the laws of your jurisdiction?

It is strongly advisable for an owner of assets in Cyprus, particularly real property, to make a will in Cyprus. Cyprus law governs

the disposal of immovable property in Cyprus, including restrictions regarding the statutory portion (*see Question 23*). Citizens of Commonwealth countries falling within the scope of section 42 of the Wills and Succession Law, Cap. 195 (WSL) are exempt from the forced heirship provisions. However, it is advisable for them to make a Cyprus will, as this avoids the need for re-sealing of an overseas probate. This would otherwise be necessary to allow a representative appointed under a foreign grant of probate to deal with assets in Cyprus.

15. What are the formalities for making a will in your jurisdiction? Do they vary depending on the nationality, residence and/or domicile of the testator?

The testator must have testamentary capacity. The will is not valid unless it is in writing and executed in the following manner (*section 23, WSL*):

- Signed by:
 - the testator; or
 - some other person:
 - on the testator's behalf;
 - in the testator's presence; and
 - under the testator's direction.
- The signature must be made or acknowledged by the testator in the presence of two or more witnesses present at the same time.
- Those witnesses must witness and sign the will in the presence of the testator and of each other, but an attestation clause is unnecessary.
- 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.

16. Is it possible to make a post-death variation (that is, are there any special rules which apply if testamentary provisions or the provisions of intestacy rules are varied after the date of death by the agreement of the beneficiaries, or are such variations treated as lifetime dispositions by the beneficiaries)?

An heir can renounce the estate. In that case he will have no liability for the deceased's debts and will receive no benefit from the estate.

The heir must:

- Make a declaration in the prescribed form.
- File the declaration within three months of the date on which he became aware of:
 - the death of the deceased; and
 - the fact that he was an heir to the deceased.

As there are no succession taxes in Cyprus, this renunciation has no local tax implications.

17. Please describe how/to what extent wills made in another jurisdiction are recognised as valid/enforced in your jurisdiction. Does your jurisdiction recognise a foreign grant of probate (or its equivalent) or are further formalities required?

There is special provision for persons who both (*Probates (Re-Sealing) Law*):

- Die in the UK or in any British dominion or Commonwealth country.
- At the time of death, had property in Cyprus.

The grant of probate or letters of administration issued by the foreign court can be re-sealed in Cyprus and the court can appoint an administrator to administer the estate in Cyprus. The intended administrator must accompany his application to the court with copies of:

- Either the grant of probate and will, or the grant of letters of administration. The issuing court must certify the grant as a true copy.
- A power of attorney given to the foreign executor or administrator.

On completion of the administration, the appointed administrator must file with the court:

- Final accounts of his administration.
- A declaration by the foreign executor or administrator that the administration in Cyprus was carried out to that executor or administrator's satisfaction.

18. Are there any particular practical issues that are relevant if foreign nationals die in your jurisdiction?

The key issue is whether the deceased left movable or immovable property in Cyprus. In that case, the usual issues apply (see *Questions 23 and 25*).

19. Please outline the role and powers of the executor(s). Does the estate vest initially in either:

- **Personal representatives who are responsible for administering the estate?**
 - **The heirs?**
-

Direct succession does not take place in Cyprus. Instead, the rights and liabilities attaching to the estate of the deceased are vested in the personal representative (that is, the administrator of his estate or the executor of his will). The duty of the personal representative is to pass the rights and liabilities to the heirs.

The executor and the administrator derive their powers over the deceased's estate from different sources:

- **Executor.** The executor derives his powers from the deceased's will. The estate is vested in him at the time of the deceased's death.

- **Administrator.** The administrator derives his powers from the order of the court appointing him. At that stage, the estate vests in the administrator. However, the vesting operates as from the date of death.

On the grant of probate or administration the personal representative steps into the shoes of the deceased for legal purposes. He acquires all the deceased's rights and obligations. He can sue and be sued in all matters concerning the deceased's estate and his administration of it. Pending the grant of administration, the estate vests temporarily in the court, and for small estates the court can make an order for summary administration. In that case, the probate registrar or any other public officer that the court may appoint will act as the administrator.

20. What is the procedure on death in your jurisdiction for tax and other purposes in relation to:

- **Establishing title and gathering in assets (including any particular considerations for non-resident executors)?**
 - **Paying taxes?**
 - **Distributing?**
-

The personal representative must be resident in Cyprus to apply for and obtain a grant of probate.

The personal representative must submit to the tax authorities a statement of assets and liabilities of the deceased within six months of the date of his appointment (*Administration of Estates Law, Cap.189 (AEL)*). After paying any income tax that the deceased owed, and obtaining a clearance certificate from the Inland Revenue, the personal representative can:

- Transfer the immovable properties into the names of the legal heirs.
- Gather any funds of the deceased in bank accounts and distribute them to the heirs.

No transfer fees are payable on the distribution and there are no inheritance taxes in Cyprus (see *Question 7*).

21. Are there any time limits/restrictions/valuation issues that are particularly relevant to an estate with a foreign element?

There are no features that are particularly relevant to an estate with a foreign element.

22. Is it possible for a beneficiary to challenge a will/the executor/the administrators? If so, how?

The court has wide powers under section 53 of the AEL to resolve issues arising in connection with estates. Personal representatives, creditors, beneficiaries, next of kin and persons claiming through creditors or beneficiaries can apply to the court by originating summons for the determination of any of the following issues:

- Any question affecting the rights or interests of the person claiming to be creditor, beneficiary, next of kin or heir at law.
- The identification of any class of creditors or beneficiaries.
- An account provided by the personal representatives.
- Payment into court of funds held by the personal representatives.
- Direction of the executors to do, or to refrain from doing, any particular act.
- Approval of any sale, purchase, compromise or other transaction.
- Determination of any question arising in the administration of the estate.

SUCCESSION REGIMES

23. What is the succession regime in your jurisdiction (for example, is there a forced heirship regime)?

The law of succession is incorporated in a number of enactments, the most significant of which are the:

- WSL.
- AEL.

The WSL deals with both wills and intestacy. The part dealing with wills is based on the English Wills Act of 1837. The part dealing with intestacy is based on the Italian Civil Code and reflects continental law (see *Question 27*).

Under the WSL, part of the deceased person's net estate (statutory portion) must be reserved for close relatives who are alive at the time of the deceased person's death. Close relatives are the deceased person's:

- Spouse.
- Children, or where the children died in the deceased's lifetime, the descendants of those children.

The statutory portion is distributed according to the rules set out in the WSL (these also apply in the absence of a valid will or to any part of the estate that is not otherwise disposed of). The proportion of the net estate taken up by the statutory portion varies according to which relatives survive:

- A living child or a descendant of a child: the statutory portion is 75% of the estate's net value.
- A spouse or a parent, but not any children or their descendants: the statutory portion is 50% of the estate's net value.
- No surviving spouse, parent, child or descendant of a child: the statutory portion is reduced to nil and all the estate can be disposed of by will.

The statutory portion is paid in accordance with the intestacy rules (see *Question 27*).

The remaining amount of the net estate (disposable portion) can 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. However, the disposition will be reduced proportionally so that it is limited to the disposable portion. The disposition will not be reduced where the testator leaves a surviving spouse but no children or descendants of children, and leaves more than the disposable portion, up to the value of his estate, to the surviving spouse.

The forced heirship provisions do not apply to anyone who was born, or whose father was born, in the UK or most Commonwealth countries (*section 42, WSL*). Such individuals can dispose of all their property by will. Other non-Cypriots can only dispose of movable property without having to reserve a statutory portion.

The law does not recognise forced heirship claims against trust assets. It is specifically provided that the inheritance law of the Republic of Cyprus (or that of any other country) will not affect any transfer or disposition made to a Cyprus International Trust and that transfer's validity will not be challenged (*International Trusts Law of 1992*) (see *Question 29*).

24. If there is a forced heirship regime in your jurisdiction, please state whether:

- It can be avoided (for example, by buying assets through an offshore or other entity and/or holding assets in joint names).
- It takes into account assets received by beneficiaries in other jurisdictions.
- The forced heirship rights are mandatory on the forced heir or whether the forced heir can agree to a different distribution during the testator's lifetime.

It is easy to avoid the forced heirship provisions. Individuals that enter Cyprus to take up permanent residence can establish a Cyprus International Trust under the International Trusts Law before becoming resident in Cyprus (see *Question 29*). If a Cyprus International Trust is not an option (for example, because the individual is a permanent resident of Cyprus) a local trust should provide a way around the forced heirship provisions, although without a Cyprus International Trust's tax benefits.

The forced heirship regime takes into account assets received by beneficiaries in other jurisdictions. The forced heirship rights are mandatory on the forced heir.

25. Are property/assets owned by a foreign national subject to your succession laws or the laws of the foreign national's original country?

Immovable property

Cyprus law, as the law where the property is sited (*lex rei sitae*), governs the disposal of immovable property in Cyprus. Therefore the restrictions imposed by Cyprus law on the statutory portion apply regardless of the testator's domicile at the time of death, except for citizens of Commonwealth countries falling within the scope of section 42 of the WSL (see *Question 23*).

Movable property

The law of the domicile of the testator at the time of his death governs the disposal of movable property, even where the testator was a Cypriot. Where the testator was domiciled in Cyprus at the time of his death, the rules set out in the WSL apply (*see Question 23*).

26. Do your courts accept a reference back to your jurisdiction where your laws refer succession issues to the foreign national's home jurisdiction, whose courts have refused jurisdiction because the issues concern immovable property?

This situation cannot arise as Cyprus law always governs the disposal of immovable property located in Cyprus (*see Question 25, Immovable property*).

INTESTACY

27. What different succession rules, if any, apply to the intestate?

The rules of intestacy apply if there is no valid will and to any part of the estate not disposed of by will (*see Question 23*). No distinction is made between movable and immovable property.

The persons entitled to succeed to the estate of a deceased person are divided into four classes:

- **First class.** This comprises the:
 - legitimate children of the deceased living at his death; and
 - descendants, living at the time of the death of the deceased, of any of the deceased's legitimate children who died in his lifetime.
- **Second class.** This comprises the father, mother, brothers and sisters of the deceased. Distinction is made between the:
 - heirs living at the time of the death of the deceased; and
 - descendants of brothers or sisters who died in the deceased's lifetime.
- **Third class.** This comprises the ancestors (that is, grandparents and more remote lineal ancestors) of the deceased nearest in degree of kindred, living at the time of his death.
- **Fourth class.** This comprises the nearest relatives of the deceased living at the time of his death, up to the sixth degree of kindred (more remote relatives are excluded).

Distribution takes place after the deduction of the share of the surviving spouse (*see below*). The heirs of each class generally succeed equally. However, in the first and second classes the succession is *per stirpes*. This means that the heirs of the deceased will inherit equally, and the descendants of each heir will share their parent's share. In the third and fourth classes, the succession is *per capita*. This means that all heirs of those classes will inherit equally. The persons of one class exclude persons of a subsequent class.

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 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:

- **The deceased has left a child or descendant of a child.** The surviving spouse's share is equal to the share of each child.
- **The deceased has left no child or descendant, but has an ancestor or descendant of an ancestor within the third degree of kindred as set out in Schedule II of the WSL.** The surviving spouse is entitled to 50% of the net estate.
- **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 75% of the net estate.
- **No relative within the fourth degree of kindred or closer survives.** The surviving spouse is entitled to the entire net estate.

When more than one lawful wife survives the deceased, the share given to the wife will be divided equally between the wives (*section 44, WSL*).

Property that the surviving spouse receives from the deceased under a marriage contract is not taken into account in calculating the surviving spouse's entitlement (*section 45, WSL*).

OVERSEAS PROPERTY

28. How are residents in your jurisdiction with property/assets overseas taxed?

Cyprus residents are taxed on the basis of worldwide income, irrespective of whether the income is remitted to Cyprus (*see Question 6, Taxable income*).

TRUSTS

29. Are trusts (or an equivalent structure) recognised in your jurisdiction? Please describe the trust (or equivalent structure), including:

- **How it is taxed.**
- **How its residence status is established.**

Trusts are a well-established concept in Cyprus. The Trustee Law of 1955, Cap. 193, which mirrors the UK's Trustee Act 1925, is the basic law dealing with the trust relationship. The International Trusts Law of 1992 is based on the Trustee Law of 1955 and governs international trusts. International trusts are defined as trusts in which:

- The settlor is not a permanent resident of Cyprus.
- No beneficiary (other than a charity) is a permanent resident of Cyprus.

- The trust property does not include any real property situated in Cyprus.
- There is at least one trustee resident in Cyprus at all times.

A trust will still qualify as an international trust even if the settlor or the local trustee or a beneficiary (or any combination of these) is a Cyprus International Business Company (a company without domestic business activities) or partnership.

Taxation of trusts

Domestic trusts are treated as transparent vehicles for income tax purposes (that is, tax is levied on the trust as a proxy for the beneficiaries, as if its income were income of the beneficiaries). Trustees are required to:

- Make returns to the Inland Revenue.
- Pay any tax due on the trust income.
- Supply details of trust beneficiaries and accounts.

The income and the profits of an international trust derived or deemed to be derived from a source outside Cyprus are completely exempt from income tax or any other tax imposed in Cyprus, such as capital gains tax or SDC tax (*section 12, International Trusts Law*).

An international trust provides a number of valuable tax planning opportunities. For example, a non-Cypriot, who creates an international trust in Cyprus with himself as a beneficiary and subsequently settles in Cyprus, is effectively exempt from Cyprus tax if all the trust's property is outside Cyprus and its income is derived from overseas. Further, the beneficiaries of an international trust are also exempt from payment of income tax on any monies they receive from the trustees.

The instrument creating an international trust is subject to stamp duty of EUR427 (about US\$620) (*section 12(2), International Trusts Law*).

Applicable law

The laws of Cyprus govern trusts settled in Cyprus. However, the law applicable to an international trust can be expressly changed to a foreign law provided that the new law recognises the validity of the trust and the interests of the beneficiaries (*section 9, International Trusts Law*). A trust established in a foreign jurisdiction can, under its terms, select Cyprus law provided that this complies with the law of the foreign jurisdiction.

30. Does your jurisdiction recognise trusts that are governed by another jurisdiction's laws and are created for foreign persons?

Cyprus law recognises trusts created for foreign persons that are governed by the law of another jurisdiction, provided that the relevant domestic legal requirements are met (*see Question 29*).

31. What are the tax consequences of importing/exporting a trust to/from your jurisdiction?

There are no specific statutory provisions in Cyprus tax legislation regulating the migration of trusts to or from Cyprus.

Provided that no immovable property in Cyprus is involved, the migration of trusts does not give rise to any exit or similar taxes.

32. If your jurisdiction has its own trust law:

- Does the law provide specifically for the creation of non-charitable purpose trusts?
- Does the law restrict the perpetuity period within which gifts in trusts must vest, or the period during which income may be accumulated?
- Can the trust document restrict the beneficiaries' rights to information about the trust?

Non-charitable purpose trusts

Section 7 of the International Trusts Law provides for the creation of non-charitable purpose trusts.

Duration

Section 5 of the International Trusts Law provides that an international trust can last for up to 100 years and indefinitely if it is a charitable or purpose trust.

Beneficiaries' right to information

Under the general law, trustees have an equitable duty to provide beneficiaries with trust information, including the:

- Terms of the trust.
- Particulars of the trust property and how it is invested.
- Accounts of the trust.

However, under the International Trusts Law, the duty is limited to disclosing any document or information relating to or forming part of the accounts of the international trust. A beneficiary with a fixed share is entitled to this disclosure, but a discretionary beneficiary is only entitled from the time when the trustees have exercised their discretion in his favour.

33. Does the law in your jurisdiction recognise claims against trust assets by the spouse/civil partner of a settlor or beneficiary on the dissolution of the marriage/partnership?

The law in Cyprus does not recognise these claims.

34. To what extent does the law of your jurisdiction allow trusts to be used to shelter assets from the creditors of a settlor or beneficiary?

The International Trusts Law provides an excellent framework for asset protection trusts. A non-resident of Cyprus can create an international trust and transfer property to it without any interference by the settlor's creditors, unless they can prove that the trust was set up with intent to defraud at the time the property was transferred. The case law under the Fraudulent Transfer Avoidance Law of 1886, Cap. 62, makes it clear that the settlor's insolvency following such a transfer does not affect that transfer.

The creditors must institute proceedings within two years of the date of transfer of the assets into the trust. The burden of proof of intent to defraud lies with the creditors seeking to annul the transfer.

CO-OWNERSHIP

35. What are the laws regarding co-ownership and how do they impact on taxes, succession and estate administration?

The concept of joint ownership of property does not exist in Cyprus law. Co-owners can hold property in specified shares. On the death of a co-owner, his share in the property will devolve in accordance with his will or the rules of intestacy.

FAMILIAL RELATIONSHIPS

36. What matrimonial regimes in trust or succession law exist in your jurisdiction? Are the rights of cohabitees/civil partners in property or other assets protected by law?

A share in the statutory portion and the undisposed portion of a deceased spouse is available to the surviving spouse (see *Questions 23 and 27*).

The law does not protect the rights of cohabitees or civil partners in property or other assets.

37. Please describe how the following terms are defined in law:

- **Divorced.**
- **Married.**
- **Adopted.**
- **Legitimate.**

Divorced

This describes an individual whose marriage has been legally dissolved by a judgment of a court of competent jurisdiction.

Married

This means a person who has duly and legally completed a wedding ceremony (whether civil or religious). The term married is not statutorily defined. Cyprus does not recognise same-sex marriages.

Adopted

This means a person who has been adopted under an adoption order recognised by Cyprus law, particularly the Adoption Law of 1995.

Legitimate

This means a child born in lawful wedlock.

Cyprus has adopted the European Convention on the Legal Status of Children Born Out of Wedlock. This provides that a child born out of wedlock has 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.

MINORITY

38. What rules apply during the period when an heir is a minor?

The personal representative can transfer immovable properties into the name of minor heirs and can deposit funds in bank accounts in their name. Thereafter, disposal of the immovable properties or of the funds in the name of the minor heir can be effected only with the court's leave. To obtain leave, the applicant must prove to the court's satisfaction that the disposal is for the minor's benefit.

CAPACITY

39. Please outline the procedures that apply when a person loses capacity. Does your jurisdiction recognise powers of attorney (or their equivalent) made under the law of other jurisdictions?

A person who is not of sound mind, memory, and understanding or who has not reached the age of 18 years cannot make a valid will (*section 22, WSL and section 42, Administration of Estates Rules 1955*). On the application of an interested party, the court may make an order appointing an administrator to manage the affairs of a person who is incapable of doing so.

Cyprus is a party to the HCCH Convention Abolishing the Requirement of Legalisation for Foreign Public Documents 1961 (Apostille Convention) and recognises documents executed in:

- Other contracting states.
- EU member states.
- Commonwealth countries.

The precise requirements as to form vary according to the country concerned.

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