



# Relocation to Cyprus

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**T**his article provides an overview of the attractions of Cyprus as a place for wealthy third-country nationals to relocate to, offering a high quality of life, an attractive economic citizenship programme and a benign tax regime.

Despite being among the world's smallest countries in terms of area and population, Cyprus has developed into one of its most important financial and business centres. Largely as the result of its favourable double taxation agreement with the Soviet Union, during the years following perestroika, Cyprus emerged as the portal of choice for investment from the west into the rapidly developing economies of Russia and central and eastern Europe, and as a secure investment holding jurisdiction for high-net-worth individuals from those areas.

Three decades later Cyprus is a stable, modern democracy located at the meeting point of Europe, Asia and Africa. It is a member of the EU and the Eurozone with world-class professional and financial services and a robust, well-established legal infrastructure founded on common law. It is a low-tax jurisdiction with a modern tax regime that complies with all EU and OECD standards, supplemented by an extensive network of double taxation treaties. It offers a Mediterranean climate and a high quality of life, with low crime rates, excellent physical infrastructure and communications and a cosmopolitan atmosphere.

The island is home to a large number of extremely wealthy individuals and the financial base for many thousands of non-residents. Successive governments have actively sought to encourage inward investment, and have put in place a wide range of incentives, the most important of which are described in the following paragraphs.

## The Cyprus economic citizenship scheme

High-net-worth individuals are attracted to Cyprus because it gives them the best of all worlds, combining a benign tax and trusts regime without any sacrifice of quality of life or

convenience. Furthermore, it offers individuals of good character investing in Cyprus, the benefits of accelerated citizenship by naturalisation, with all the benefits of an EU Member-State passport.

The Civil Registry Law of 2002 provides for non-Cypriots of full age and capacity to acquire citizenship by naturalisation. Applicants are generally required to have lived in Cyprus for seven years prior to submitting an application. However, in 2013 the Cyprus government introduced a fast-track procedure that allows qualifying persons to obtain Cypriot citizenship by naturalisation in months rather than years. Applicants must own a permanent residence in Cyprus with a value of EUR500,000 or more, excluding VAT and have no criminal record and no asset freezing orders outstanding against them. In addition they must satisfy at least one of the following criteria:

- The applicant has invested at least EUR5 million in Cyprus in any of the following:
  - 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 and employing five or more Cyprus nationals; or
  - financial assets such as bonds registered and issued by the Republic of Cyprus.
- The applicant has deposits in Cyprus banks amounting to EUR5 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 EUR5 million.
- The applicant was the holder of deposits in Bank of Cyprus or Laiki Bank at 15 March 2013 and incurred losses of EUR3 million or more as a result of the measures imposed on the two banks during March 2013. If the loss was less than EUR3 million, the shortfall may be made up by investment

in government funds or assets in Cyprus so that the aggregate of the loss and the investment amounts to EUR5 million.

The Council of Ministers has discretion to reduce the amounts specified above to EUR2.5 million for investors participating in a collective investment plan, provided the aggregate investment is at least EUR12.5 million. The scheme is kept under constant review in order to ensure that it remains attractive.

The Cyprus economic citizenship scheme gives successful applicants citizenship of an EU member state, with the right to live, work and study in all 28 EU countries. Holders of a Cyprus passport enjoy visa-free travel to more than 150 countries around the world. There is no need to relinquish an existing nationality, as Cyprus allows dual nationality. Full citizenship and passports are granted to the applicant and his or her dependants. Furthermore, applicants are not required to make any form of donation; citizenship merely requires the acquisition of assets in Cyprus, whether financial or tangible.

## Tax exemption for interest and dividends

One of the most significant components of the July 2015 tax reforms was the introduction of a "non-domiciled" regime that exempts interest and dividends received by Cyprus-resident individuals whose domicile is overseas from all forms of Cyprus tax.

Prior to the change, both Cyprus resident individuals and Cyprus-resident companies were liable to pay Special Defence Contribution, commonly referred to as SDC tax, on dividends, passive interest and rents received, at rates of 17%, 30% and 3% (applied to 75% of the rent) respectively. Dividends and passive interest (but not rents or active interest) are exempt from personal or corporate income tax.

With effect from July 16 2015 the Special Defence Contribution (Amendment) Law exempts individuals who are not domiciled in Cyprus for the year of assessment concerned from liability to SDC tax. Coupled with the income tax exemptions applying to such income, this provides individuals who are resident but not domiciled in Cyprus, with complete exemption from any form of Cyprus tax on dividends and passive interest, regardless of source. Companies were not affected by the change.

For the purposes of determining liability to SDC tax the principles set out in the Wills and Succession Law regarding domicile, which follow the principles of English common law, apply. In summary, an individual acquires a domicile of origin at birth. It is generally the same as the domicile of the father at the time of birth, and in exceptional cases that of the mother. A domicile of origin may be replaced by a domicile of choice if in actual fact an individual permanently establishes himself or herself in another country with the intention of living there permanently and dying there. An individual will be deemed to be domiciled in Cyprus if he or she has been a tax resident for 17 or more of the 20 tax years immediately preceding the year of assessment.

There are anti-avoidance provisions against

domiciled individuals transferring assets to related non-domiciled persons in order to take advantage of the changes.

### Exemption of income from first employment in Cyprus

The 2015 tax package also included significant improvements to the tax incentives for new taxpayers. Individuals becoming tax-resident and taking up employment in Cyprus were previously entitled to an exemption of 20% of their annual income from employment in Cyprus for the first three years of residence. The exempt income was limited to EUR8,550 per annum. With effect from the 2015 tax year onward, the exemption is extended to five years, but it will be available only until the year 2020.

In 2012 a new incentive was introduced, exempting 50% of the first five years' income from employment in Cyprus of any person who was not previously resident in Cyprus, provided the income from employment in Cyprus exceeded EUR100,000 per annum. The period of five years has now been extended to ten years. In respect of employments that began on or after 1 January 2015, the exemption is not available to anyone who was resident in Cyprus in any three of the five tax years preceding the year in which the employment in Cyprus began, or to anyone who was resident in Cyprus in the year preceding the year in which the employment began.

The exemption is available in respect of any tax year in which income from employment exceeds EUR100,000, irrespective of whether the income falls below that amount in any intermediate year, provided that when the employment started the income exceeded EUR100,000 and the tax authorities are satisfied that the variations in the annual income are not made for the purpose of obtaining this tax benefit.

The two exemptions are mutually exclusive, and only one of them can be claimed by a particular taxpayer.

### Low personal tax rates

There is a generous annual tax-free income allowance of EUR19,500 per individual and the top tax rate is 35 per cent, charged on the portion of income above EUR60,000 per year. As a result, the tax burden on incomes is considerably lower than in most comparably developed countries.

### Favourable taxation of foreign pensions

For overseas pension incomes the benefits are even greater. Recipients of pensions from overseas can choose for the pension to be taxed on the standard basis together with any other income, or for it to be taxed as a separate income stream at a flat rate of only five per cent, after an initial exempt amount of EUR3,420. Under the alternative basis, other income is taxed as normal, and the individual retains the full EUR19,500 personal allowance on such income. The election is made on a year-by-year basis, so there is complete flexibility.

The alternative basis results in a lower overall liability if income exceeds approximately EUR25,000 in the year. It is particularly beneficial for high pension incomes, even allowing for Cyprus's low personal tax rates. For example, an annual pension income of EUR100,000 would result in a total tax liability of only EUR4,829, compared with EUR24,885 on the standard basis (and considerably more in most overseas countries).

### No taxation of capital gains

Under the Capital Gains Tax Amendment Law of 2002 the only capital gains that are taxable in Cyprus are gains on real estate that is physically located in Cyprus or that are derived from it (for example on shares in a company established to hold real estate in Cyprus). All other capital gains are exempt from tax.

The 2015 tax incentive package extended the exemption from capital gains tax to real estate in Cyprus acquired between 16 July 2015 and 31 December 2016. Provided that the property was acquired on an arm's length basis and not under the foreclosure provisions of the Transfer and Mortgage of Immovable Properties Law, any gain on the disposal of the property will be exempt from capital gains tax, irrespective of the date of disposal.

### No succession taxes

There are no estate, inheritance or gift taxes in Cyprus, which means that assets are passed intact to heirs or beneficiaries.

### Robust asset protection laws

In 1992 Cyprus created a state-of-the-art international trusts regime with the enactment of the International Trusts Law, Law 69 of 1992. The law was substantially amended in 2012, bringing it completely up to date, and reinforcing Cyprus's position as a leading trust jurisdiction.

A Cyprus international trust is any trust in respect of which neither the settlor nor any beneficiary, other than a charitable institution, is a resident of Cyprus for the calendar year prior to the creation of the trust and at least one of the trustees for the time being is, during the whole duration of the trust, a resident of Cyprus.

By their nature, all trusts provide an element of asset protection, by segregating the assets held in trust from the settlor's general assets, which would be available to satisfy his or her debts or, in the worst-case scenario, would pass to his or her trustee in bankruptcy. However, the Cyprus international trust has several further advantages.

The first is that the International Trusts Law contains a very strong presumption against avoidance of a Cyprus international trust. Unless the court is satisfied that the trust was made with intent to defraud persons who were creditors of the settlor at the time when the payment or transfer of assets was made to the trust, the trust will not be void or voidable, notwithstanding the provisions of any bankruptcy or liquidation laws of Cyprus or any other country and notwithstanding the fact that

the trust is voluntary and without consideration or that it is for the benefit of the settlor or his or her family members. The burden of proof of the settlor's intent to defraud lies with the person seeking to set aside the transfer. Furthermore, any action for avoidance of the trust or setting aside of the transfer must commence no later than two years after the assets were transferred to the trust.

These provisions, particularly the requirement to prove intent to defraud on the part of the settlor, set the bar very high for the claimant trying to set aside a transfer to a Cyprus international trust. Even though the standard of proof is the balance of probabilities, rather than the criminal standard, the claimant must still establish that the trust was more likely than not a fraud. This is a difficult standard to meet in practice and the burden of proving fraud is higher than is usual for civil cases. In practice, the claimant would need very strong evidence to show that the settlor intended to defraud his or her creditors. A claimant domiciled outside the EU without assets in Cyprus would be required to provide security for costs.

Protection against forced heirship and similar claims is provided by Section 3(i) of the 1992 Law, which stipulates that the laws of Cyprus or of any other country relating to inheritance or succession will not in any way affect any disposition of assets to a Cyprus international trust.

The 2012 amendments reinforced these defences by explicitly providing that any question relating to the validity or administration of an international trust or a disposition to an international trust will be determined by the laws of Cyprus without reference to the law of any other jurisdiction, that the fiduciary powers and duties of trustees, and the powers and duties of any protectors of the trusts are governed exclusively by Cyprus law, and that dispositions to a trust may not be challenged on the grounds that they are inconsistent with the laws of another jurisdiction, for example, regarding family and succession issues, or on the grounds that the other jurisdiction does not recognise the concept of trusts.

### Summary and conclusions

Selecting an international base almost invariably involves a series of trade-offs. The benefits of a lower-tax regime may be offset by a lower quality of life. Numerous factors enter into this calculation, including political development, the rule of law, the reliability of the business and legal infrastructure and the physical and geographic environment, in terms of climate, communications and the availability of modern infrastructure and facilities. Some of these issues may be very subjective – there may be some who appreciate the simple life, or even the British weather.

However, by most people's standards, Cyprus offers an optimal blend: a secure, low-tax environment in a developed EU country with a benign climate and an enviable quality of life.