



CX Financia

INTELLECTUAL PROPERTY IN CYPRUS

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CYPRUS INTELLECTUAL PROPERTY

Cyprus is a fully transparent and reputable financial centre, a full member of the European Union and a well-established Intellectual Property (IP) jurisdiction. Cyprus has implemented a new IP regime, expected to stimulate growth, driving sectors of IP exploitation and Research and Development. Resting on a sound legal system based on Common Law principles, and being a signatory to International Conventions on the Protection of Intellectual Property, Cyprus' IP tax regime is now considered the most favourable in Europe, affording the maximum protection, stability and assurance for IP owners.

Registration

Being a Member State of European Union, Cyprus offers by default a high standard of registration process with clear instructions and automatic protection within EU borders. . A simple and fast registration process.

Legislation

The scope of protection is nearly global as Cyprus, other than a member of European Union, is also a member of WIPO. Cyprus legislative regime is based on English Law one of the oldest and most inclusive Law worldwide placing Cyprus among the top tier legal jurisdictions.

On 14 October 2016, the House of Representatives passed amendments to the Income Tax Law in order to align the current Cyprus tax legislation with the provisions of Action 5 of the OECD's Base Erosion and Profit Shifting (BEPS) project. The amendments apply retroactively, as from 1 July 2016. The revised legislation includes certain transitional provisions for IP assets that have al-

ready qualified under the existing IP box regime. In such cases, taxpayers will continue to benefit from the existing IP regime for a maximum of five years, after which date the new IP tax regime shall apply.

Financial

In relation to Tax, Cyprus operates one of the most attractive tax regimes in Europe

The existing IP Box regime covers intangible assets which are defined in (a) the Patents Law, (b) the Trade Marks Law and (c) the Intellectual Property Rights Law

Effectively, it provides for an exemption from taxation of 80% of the gross income from the use of the intangible, i.e. after deducting from the total revenues all direct costs (including interest and the amortization of the cost of the intangible over 5 years).

In the case of a resulting loss, only 20% of the loss can be surrendered to other group companies or be carried forward to subsequent years.

A. Qualifying intangible assets

As per the amended legislation, "qualifying intangible asset" is defined as an asset which was acquired, developed or exploited by a person within the course of carrying out his business (with the exception of intellectual property related to marketing), which is the result of research and development (R&D) activities, and which includes intangible assets for which only economic ownership exists. Qualifying intangible assets comprise of:

- patents, as defined in the Patents Law

- computer software
- other IP assets which are legally protected and fall within one of the following categories:
 - utility models, intellectual property assets which provide protection to plants and genetic material, orphan drug designations and extensions of protections for patents
 - non-obvious, useful and novel, where the person utilizing them in furtherance of a business does not generate annual gross revenues in excess of €7,500,000 from all intangible assets (€50,000,000 in case of a group of companies), which are certified as such by an appropriate authority, in Cyprus or abroad

The definition of qualifying intangible assets specifically excludes business names, brands, trademarks, image rights and other intellectual property rights used for the marketing of products and services.

B. Qualifying profit

Qualifying profit (QP) is defined as the proportion of the overall income (OI) derived from the qualifying asset, corresponding to the fraction of the qualifying expenditure (QE) plus the uplift expenditure (UE) over the overall expenditure (OE) incurred for the qualifying intangible asset. The amount of qualifying profit can be derived through the application of the following formula:

$$QP = OI \times \frac{QE + UE}{OE}$$

Overall Income (OI) is defined as the gross income earned from qualifying intangible assets during the tax year, minus any direct costs incurred for generating the income. Overall income includes, but is not limited to:

- royalties or other amounts resulting from the use of qualifying intangible assets
- license income for the operation of qualifying intangible assets
- any amount received from insurance or as compensation in relation to qualifying intangible assets
- income from the disposal of qualifying intangible assets, excluding profits of a capital nature
- embedded income of qualifying intangible assets arising from the sale of products or
- services, or from the use of procedures that are directly related to the assets

For the purpose of calculating overall income, direct costs include:

- all costs incurred, either directly or indirectly, wholly and exclusively for the purpose of earning the income from qualifying intangible assets
- the amortization of the cost of the assets
- notional interest on equity contributed to finance the development of the assets (being a notional interest tax deduction allowed by Cyprus tax provisions)

Qualifying Expenditure (QE) for qualifying intangible assets is defined as the sum of all R&D costs incurred during any given tax year wholly and exclusively for the development,

improvement or creation of qualifying intangible assets, and which costs are directly related to such assets.

Qualifying expenditure includes, but is not limited to:

- wages and salaries
- direct costs
- general expenses relating to installations used for R&D
- commission expenses associated with R&D activities
- costs associated with R&D that has been outsourced to non-related persons

However, qualifying expenditure does not include:

- costs for acquisition of intangible assets
- interest paid or payable
- costs for acquisition or construction of immovable property
- amounts paid or payable directly or indirectly to a related person to conduct R&D activities, regardless of whether such amounts relate to cost sharing agreements
- costs which cannot be proved directly connected to a specific qualifying intangible asset Any expenditure for R&D that has been outsourced to non-related parties, as well as any expenses of a general nature for R&D which cannot be allocated to the qualifying expenditure of a specific qualifying intangible asset, can be apportioned pro rata to the qualifying intangible assets.

Uplift Expenditure (UE) is added to the quali-

fying expenditure, which will be equal to the lower of:

- 30% of the qualifying expenditure; and
- the total cost of acquisition of the qualifying intangible assets, plus the cost of outsourcing to related parties of any R&D activities in relation to such assets.

Overall Expenditure (OE) relating to qualified intangible assets is defined as the sum of:

- the qualifying expenditure; and
- the total cost of acquisition of the qualifying assets, plus the cost of outsourcing to related parties of any R&D activities in relation to these assets, incurred during any tax year.

C. Overall Income

is the gross income earned from qualifying intangible assets less any direct costs. This income includes royalties, license income, income from disposal etc. Direct costs include all costs incurred directly, wholly and exclusively for the purpose of earning the income as well as amortisation of the asset cost and notional interest on equity contributed to finance the assets' development.

D. Uplift expenditure

is added to the qualifying expenditure and is equal to the lower of:

- 30% of qualifying and
- The total acquisition cost of the qualifying intangibles plus the cost of outsourcing to related parties of and R&D in relation to such assets

E. Accounting Records profit

Persons claiming benefits under the new regime are obliged to maintain proper books of account, as well as records of income and expenses for each intangible asset.

F. Non-qualifying assets for the IP Box regime

Expenditure for the acquisition of an intangible asset that does not qualify for the transitional provisions, and which asset is used in furtherance of the business, can be amortized over the asset's useful life, in accordance with accepted accounting principles, with a maximum period of 20 years. In case where the asset is disposed, a balancing statement needs to be prepared, similarly to cases of disposals of fixed assets. It is noted that goodwill does not qualify for amortization.

**INTELLECTUAL PROPERTY****COPYRIGHT****SEARCHING IDEA****TRADE MARK**

WHAT IS INTELLECTUAL PROPERTY?

Intellectual Property is defined as mental creations in all fields such as inventions for engineering, a mathematical theorem in science, a novel for literary and a music piece for artistic. The term is used to showcase the original inventor or composer of a new creation.

For Companies, Intellectual Property, reflects their logos, trademarks, patterns or any other material tied directly to a Company's brand name.

WHAT ARE THE TYPES OF INTELLECTUAL PROPERTY?

In accordance with international legislation, Intellectual Property can be categorized into the following types:

Copyright – This term describes the rights that creators have over their work either in literary and/or artistic areas, technology and science areas, or other areas in which an individual can produce original ideas. Examples are books, music, paintings, sculpture, films, computer programs, databases, advertisements, maps, technical drawings etc.

Patterns – A patent is an exclusive right granted for an invention. Generally speaking, a patent provides the patent owner with the right to decide how - or whether - the invention can be used by others. In exchange for this right, the patent owner makes technical information about the invention publicly available in the published patent document

Trademarks – A trademark is a symbol which is used to identify specific conditions for example a

red cross signifies operations of medical nature. Companies use it in order for consumers to be capable of distinguishing the goods or services of one enterprise from those of other enterprises. An ancient method where craftsmen used to put their signature or "mark" on their products.

Industrial Designs – An industrial design right protects the visual design of objects that are not purely utilitarian. An industrial design consists of the creation of a shape, configuration or composition of pattern or colour, or combination of pattern and colour in three-dimensional form containing aesthetic value. A design may consist of three-dimensional features, such as the shape or surface of an article, or of two-dimensional features, such as patterns, lines or colour.

Geographical Indications – Visual indicators that refer to specific geographical places are listed as geographical indications. In business a location can have a reputation or other characteristics which are added as attributes to your product or services as they can be tied to their place of origin.

Trade Secrets – A trade secret is a formula, practice, process, design, instrument, pattern, or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors and customers, for example a recipe for a specific sauce which can be found only at certain restaurants. Businesses must take their own measures to protect their Trade Secrets as there is no formal government protection granted.

WHAT ARE THE INTELLECTUAL PROPERTY RIGHTS?

In order to protect and promote innovation and advancement of society, a balance needed to be established between the innovator and the society. This is achieved with Intellectual Property Rights which allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation.

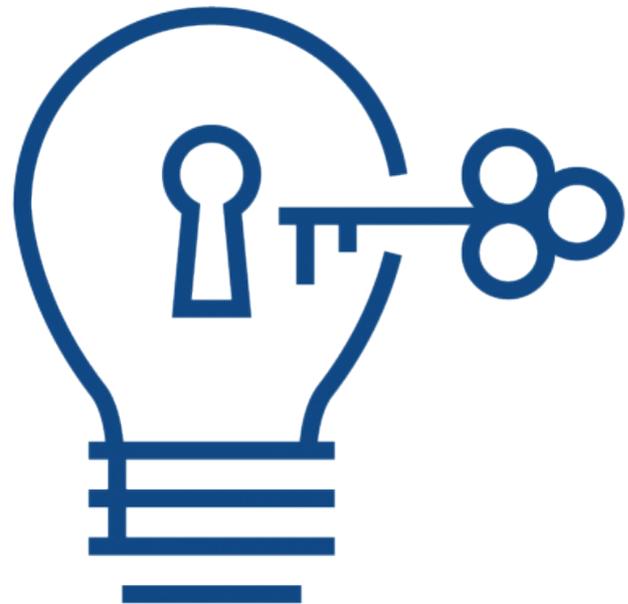
WHY PROMOTE AND PROTECT INTELLECTUAL PROPERTY?

There are several compelling reasons. First, the progress and well-being of humanity rest on its capacity to create and invent new works in the areas of technology and culture. Second, the legal protection of new creations encourages the commitment of additional resources for further innovation. Third, the promotion and protection of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life.

An efficient and equitable intellectual property system can help all countries to realize intellectual property's potential as a catalyst for economic development and social and cultural well-being. The intellectual property system helps strike a balance between the interests of innovators and the public interest, providing an environment in which creativity and invention can flourish, for the benefit of all.

WHAT IS THE LEGISLATION IN RELATION TO INTELLECTUAL PROPERTY?

Copyright and related rights protection is obtained automatically without the need for registration or other formalities. However, many countries provide for a national system of optional registration and deposit of works. These systems facilitate, for example, questions involving disputes over ownership or creation, financial transactions, sales, assignments and transfer of rights. In relation to businesses a company will proceed with registering its Intellectual Property to an official governmental organization and gain legal ownership and a level of protection of their business.



REGISTERING INTELLECTUAL PROPERTY CRITERIA

The jurisdiction where you choose to register your Intellectual Property is the foremost important consideration you need to carefully assess. Other than the level of protection and the scope of your rights, additional factors can be financial obligations and/or rights as well as registration process in relation to the respective authority.

Below are the main criteria to be considered for Intellectual Property Registration:

Registration

Does the relevant authority possess a cooperation with an international organization or is it internationally recognized for registration of intellectual property? The biggest organization dealing with Intellectual Property, with over 180 member states is the World Intellectual Property Organization (WIPO). Before registering to any jurisdiction makes sure the scope of the authority is sufficient for your needs. Another aspect of the registration process is the ease of the process itself. As in most cases your property will be a new product which cannot easily be defined, the relative authority needs to have a clear timely process with understandable classification criteria to avoid future implications with protection of your rights.

Legislation

You need to be aware of the scope of the Law in relation to the jurisdiction of your Intellectual Property. Choosing a jurisdiction with insufficient legislation or limitations on scope of its Law in relation to your Intellectual Property Rights will only produce unwanted cost for your business. Select

a jurisdiction that will allow you to benefit from utilizing your property and offers level of protection on all future business dealings from the use of your property. However, depending on your Intellectual Property specifications, the Law may find itself difficult to apply in certain cases.

For example an online e-commerce website can be registered for Intellectual Property Rights protecting you from having the website copied by others. Yet a malicious individual may still

copy your website and take advantage of the vastness and the difficulty of applying legislation to the Internet without giving you any compensation. This case will be very hard for the court of law to impose its rules and regulations as the website may be hosted in a jurisdiction that the legislative bodies have no authority over.

Financial

After all set and done registering your Intellectual Property should offer you a benefit return usually in the form of financial compensation. To this end a major consideration should be the cost of maintaining in respect to the reward received from your Intellectual Property Rights. Depending on the nature of your property some cost may be imposed to you by default irrespective of your rights. Although most jurisdictions do not require a subscription fee or any other form of regular payment to have your rights in effect, a cost almost invisible to the owner is the Tax charged to the benefits earned from utilizing your property.

Selected jurisdiction can impose taxes on your

earnings derived from disposal of your Intellectual Property. You need to consider clear cut instructions of the application of the relative Tax legislation on your earnings.

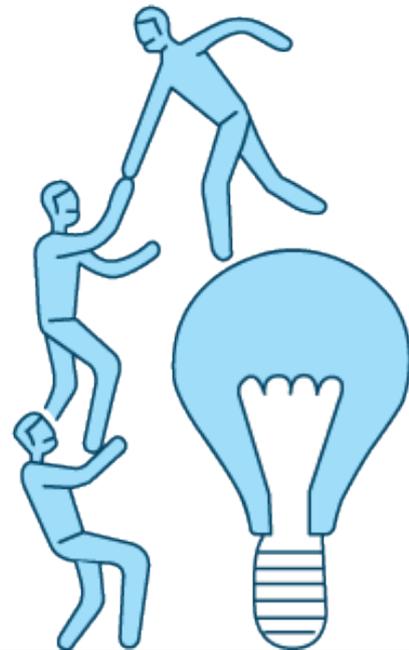
CONCLUSION

Cyprus is prime location for establishing a Company to handling your Intellectual Property, with great financial benefits for both individuals and legal entities. If you are a Holding Company, or any other form of a Group of Companies the Cyprus constitutes the ideal location for a Subsidiary that manages your Intellectual Property as you can gain significant financial advantage by structuring your business model around the Tax benefits offered in Cyprus along with a European passport for your services and products.



“WE HELP YOU WITH”

- Establishment and management of International Business Companies
- Financial services licensing consulting and implementation including pre and post licensing support, compliance risk and AML services
- Company maintenance services, accounting, audit and directorship services
- GDPR audit and consultancy
- Legal support
- Due Diligence Work
- Virtual/Real Office, Mail Forwarding and Office support
- International Tax Planning
- Training
- Mediation and arbitration services (Licensed mediator)



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