



AMENDMENTS TO TAX LEGISLATION

Introduction

On 14 December 2011 the House of Representatives voted a number of amendments to the tax laws in order to face the current economic crisis in Cyprus. These amendments have been published in the Cyprus Government Gazette on the 30th of December 2011 and are the followings:

1. Law Amending the Income Tax Law.
2. Law Amending the Special Contribution for the Defence Law.
3. Law Providing for Special Contribution by the Employees, Self-Employed and Pensioners of the Private Sector.
4. Law Amending the Value Added Tax Law.
5. Other changes in the legislation.

1) Law Amending the Income Tax Law

(a) Loans and advances to company directors and shareholders:

- i. In cases where a company grants a loan or other financial facility, including financial withdrawal, to an individual director or individual shareholder (including the spouse and relatives up to the second degree of relative), then the director or shareholder will be treated as having a benefit in kind equal to 9% per annum on the monthly balance of such loan or facility.
- ii. The amount of tax on the monthly benefit in kind must be withheld from the individual's monthly salary and paid to the Inland Revenue Department (IRD) on a monthly basis under the PAYE system.
- iii. It should be noted that these provisions do not apply in the case of balances resulting from normal commercial transactions between the company and its director/shareholder, as for example in the case of loans granted by a bank to its shareholders (individuals).
- iv. Article 39 of the law, which provided for deemed interest at the rate of 9% per annum on such balances at the level of the company which was taxed at 15% defence fund is revoked.

(b) Tax deductible expenses for payroll costs:

- i. Any wages and salaries relating to services offered within the tax year on which contributions to the Social Insurance Fund, Redundancy Fund, Human Resource Development Fund, Social Cohesion Fund, Pension Fund and Provident Fund have not been paid in the year in which they were due, will not be tax deductible expense for the calculation of taxable income.
- ii. In case the above contributions, as well as related penalties and interests, are paid in full within 2 years after the last due date, then the salaries and the related contributions will be allowed as tax deductible expenses in the tax year during which they were paid.

(c) Effective date:

The above changes come into effect as from 1/1/2012.

2) Law Amending the Special Contribution for the Defence Law

(a) Special Defence Contribution (SDC) rate on dividends:

- i. The rate of the SDC levied on dividends is increased from 17% to 20% for the tax years 2012 and 2013.
- ii. It should be noted that no SDC is payable in case the dividend is paid to company or to non tax residents of Cyprus. Furthermore, the provisions for deemed distribution do not apply in cases where the shareholders of the company directly or indirectly are non tax residents of Cyprus.

(b) Dividends:

- i. SDC will be imposed on dividends paid by a company resident in the Republic, to another company, resident in the Republic, after 4 years from the end of the year in which the profits which were distributed as dividends were made.
- ii. Any dividends derived directly or indirectly from dividends on which SDC has already been paid are exempt from SDC.
- iii. It should be noted that these provisions do not apply in cases where the shareholders of the company directly or indirectly are non tax residents of Cyprus.

(c) Effective date:

The above amendments come into effect as from 1/1/2012. The increased rate of SDC shall apply to income derived or deemed to have been derived or accrued in the period from 1/1/2012 until 31/12/2013.

3) Law Providing for Special Contribution by the Employees, Self-Employed and Pensioners of the Private Sector

(a) Special Contribution:

- i. Each employee or/and self-employed or/and person operating in the private sector receiving a pension, shall pay a special contribution to the Republic in order to strengthen public finances. The contribution is a percentage levied on the gross emoluments as shown in the table below:

Gross Monthly Emoluments €	Special Contribution %
Up to €2.500	0%
€2.501 – €3.500	2,5% with a minimum amount of special contribution of €10
€3.501 – €4.500	3%
€4.501 and over	3,5%

- ii. There is no upper limit on the amount of emoluments.
- iii. In the case of an employee, the payment of the special contribution is shared equally by the employer and the employee, i.e. 50% of the special contribution is paid by the employee and 50% is paid by the employer.
- iv. In addition, in the case of an employee no contribution is payable on:
 - Retirement bonus
 - Amounts paid by Provident Funds
 - Remuneration of a foreigner who is employed by a foreign government or by an international organization
 - Remuneration of foreign diplomats and consular representatives who are not citizens of the Republic
 - Remuneration of Cypriot ship's crew
 - Allowances paid to employees covering business expenses on behalf of an employer

- v. In the case of person operating in the private sector receiving a pension, no contribution is payable on:
 - Bonus or
 - One off payment
- vi. In the case of self-employed persons, the income on which the contribution is payable is the earned income of the individual with a minimum the amount on which social insurance contributions are made.
- vii. Employees or pensioners, who pay the special contribution under the Officers, Employees and Pensioners of the State and Public Sector Law on their salaries or pensions, are exempt from the above payment.

(b) Imposition and payment of special contribution:

- i. In the case of an employee of the private sector or/and person receiving a pension from the private sector, the amount of special contribution will be withheld from the wage or pension and will be paid to the IRD on a monthly basis.
- ii. In the case of a self-employed, the amount of special contribution will be declared on a form approved by the Director of IRD and paid in 3 installments following the same procedure and dates provided for the provisional income tax (i.e. August 1, September 30 and December 31).

(c) Special contribution and taxable income:

All the above contributions are deductible for income tax purposes.

(d) Effective date:

The above amendment is effective for the period from 1/1/2012 until 31/12/2013.

4) Law Amending the Value Added Tax Law

(a) Increase in the standard rate of VAT:

The standard rate of VAT is increased as from 1/3/2012, from 15% to 17%. The reduced rates of 5% and 8% remain the same.

(b) Obligation to issue 'legal receipts':

- i. By changing Schedule 10 of the Law, all taxable persons making taxable supplies of goods or services to non-taxable persons, are obliged to issue and deliver legal receipts.
- ii. Any person failing to comply with this regulation will be subject to a penalty equal to 20% of the value of the transaction for which the legal receipt relates to.
- iii. In addition, any person failing to issue and deliver a legal receipt at the time of the transaction shall be deemed guilty of an offense and be subject to a fine not exceeding €1.700 or imprisonment up to 3 years or both.
- iv. The legal receipts must contain the following information:
 - Issue date,
 - ID number,
 - Name, address and registration number of the taxable person,
 - Adequate description of the goods or services offered,
 - Total amount payable, including VAT,
 - For each rate of VAT, the total amount payable, including VAT, and the applicable VAT rate,
 - Indication of whether the transaction involves deposit payment, part consideration, cash payment or otherwise.
- v. It should be noted that when a cash invoice is issued, the issue of a legal receipt is not required as the cash invoice may also be used as a receipt.

(c) Effective date:

The above amendments come into effect as from 16/1/2012. The standard rate of VAT is increased as from 1/3/2012.

5) Other changes in the legislation

- ❖ As from 2012 income criteria are set for the payment of student subsidy which provide for the gradual reduction and the abolition of the subsidy where family income exceeds a certain amount.
- ❖ As from 2012 income criteria are set for the payment of child allowances which provide for the gradual reduction and the abolition of the allowance where family income exceeds a certain amount.
- ❖ All salary increases and cost of living allowances are frozen for all employees and all pensions paid by the government and semi governmental organisations for the years 2012 and 2013.
- ❖ Legislation has been introduced for the establishment and operation of an independent fund for financial stability, to which financial institutions (bank and cooperative credit societies) which are operating in Cyprus will contribute. A levy of 0,03% will be paid on the liabilities of the financial institutions. This provision will come into effect as from 1/1/2013, where the existing legislation where the financial institutions pay a levy of 0,095% on their deposits will terminate.
- ❖ Legislation has been introduced for the handling of a financial crisis, with the objective of granting powers to the Council of Ministers, so in the case of financial crisis to be able to take measures to deal with liquidity or going concerns issues of the banking system or to provide capital to financial institutions in Cyprus.

Contacts

For additional information, please contact:

Christos Christodoulou
Tel: +357 25 820280
Email: c.christodoulou@moorestephens.com.cy

Lakis Savvides
Tel: +357 25 820280
Email: l.savvides@moorestephens.com.cy

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