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The newsletter of Paphos Third Age (P3A)

Financial Supplement to Summer 2013 issue

P3A Investment and Finance Group –
Held on Wednesday 5th June 2013 at Laura Beach Hotel

FINANCIAL QUESTION TIME

Dear Members

For this month's topic we have a Q & A session on most things related to tax (Cyprus and UK) and pensions with Div Bedi, Certified Public Accountant and Registered Auditor in Cyprus and a UK Chartered Accountant.

QUESTIONS AND ANSWERS

1 Arriving in Cyprus; liability to pay Cyprus tax; registering with the tax office; how and when returns are made; how the tax is calculated; when does it have to be paid by. What if I am in Cyprus for less than 183 days in any one year?

The requirement to be deemed tax resident in Cyprus is that you expect to spend at least 183 days in the Republic during the current fiscal year (1st January to 31st December). Upon arrival in Cyprus you will first (within 4 months of arrival) need to go to the immigration office to register as a resident. You will need one passport sized photo and various documents including evidence of your residence in the form of a rental contract or property purchase agreement. You will then be issued with a yellow form which is affectionately known as a "pink slip".

If you are a former UK resident, you will then be able to apply to have your UK pension exempted from UK tax. Provided you have arrived before 30 June in the calendar year you will be refunded the UK tax from the date of arrival. If you arrive in Cyprus after the 30 June of the calendar year you will be refunded UK tax from the following 1st January.

Citizens of other countries whether EU or non-EU countries should speak with the tax authority of that particular country to ascertain whether they too can obtain gross receipts of income from that country. Much will depend on whether Cyprus has a double taxation agreement with that country and the tax rules of the country in question.

For a working taxpayer the tax rates are as follows:

Amount of Income	Tax Rate
€0 - €19,500	0%
€19,501 - €28,000	20%
€28,001 - €36,300	25%
€36,301 - 59,999	30%
€60,000+ (from 01/01/11)	35%

A retired tax payer has the choice to come under the working tax payers' band as above or the retired tax payer’s band as follows:

Amount of Pension Income	Tax Rate
€0 - €3,420	0%
€3,420+	5%

Thus, if for example your pension in the calendar year 2013 is €30,000 you will pay: (€30,000 - €3,420) @ 5% = €1,329

Based upon rates applicable for 2013, if your pension is less than €19,500 and you have no other income (bank interest and dividends are exempt from tax) then you will not have any income tax to pay. Rents are subject to income tax and special defence levy).

Income tax returns are due on 30 April for employed and retired tax persons. If submitting the IR1 on-line then the due date is the end of July. The tax is payable on Ist July.

Cyprus Defence Levy

Investment income such as bank interest, dividends and rent received are taxable by way of Cyprus Defence Levy. The contribution is a percentage levied on the gross earnings. There is no threshold and no maximum amount payable. As part of the “austerity” measures introduced this year, the rates have been increased since 29th April 2013 and are now as follows:

Rent@ 3%
Dividends @ 20%
Bank Interest @ 30%

However, should an individual's total income from all sources (that is, rent, pension, dividends and bank interest) be less than €12,000 then their defence levy liability would be charged at only 3%. If such an individual holds bank deposits in Cyprus which have the full 30% defence levy automatically deducted, they can apply to have refund. (Although our speaker suggested that the refund may be more theoretical than an actual reality).

If you have UK source rental income, it is taxable in the UK (even if you have become non-resident there). You need to complete a NRL (non-resident landlord) form and you will have to complete UK tax returns. The rent is also declarable in Cyprus. In Cyprus the taxable rent is after deducting 20% of the gross rent, mortgage interest and capital allowances at 3% if the property is less than 33 years old. Any Cyprus tax to pay is after obtaining credit from foreign tax paid. The calculations can be complicated and so specialist advice should be obtained.

The amount of Cyprus Defence Levy you will pay is 3% of 75% of the gross rent less any foreign tax paid.

The defence levy on rents is due on 30th June and 31st December each year.

Subject to certain exemptions, capital gains tax is imposed in accordance with the Capital Gains Tax Laws 1980-2002, on capital gains arising after 1/1/1980, from the disposal of immovable property (real estate) in Cyprus or shares of companies in Cyprus which own immovable property.

The capital gain, as determined by the Capital Gains Tax Law, is liable to tax at the rate of 20%. Individuals may, subject to certain conditions, claim the following deductions from the applicable taxable gain: if the disposal relates to a private residence - up to €85,430, if the disposal is made by a farmer and it relates to agricultural land - up to €25,629, any other disposal - up to €17,086. These deductions are granted once in the lifetime of the individual, until fully exhausted and if an individual claims a combination of them, the maximum deduction granted cannot exceed €85,430.

2. Special Cyprus tax rates re pensions received and avoiding UK tax on them.

Dealt with in (1) above

3. Avoiding UK Capital gains tax when selling property there whilst resident in Cyprus.

Once you become non-resident for tax purposes in the UK, you no longer have any liability to pay UK CGT upon the sale of UK assets provided you don't sell in the UK tax year of your arrival in Cyprus. If you become UK resident within 5 full UK tax years from the date you arrived in Cyprus then you will have to pay any capital gains tax in the year of arrival in the UK.

4 New UK Statutory Residence test – how long can I spend back in the UK without getting dragged back into the tax net?

The new rules which came into effect from 6th April 2013 are now fixed by statute (rather than subject to guidelines issued in the past by HMRC which were always subject to interpretation). They are nonetheless complex. A table is set out below.

Again, if a person feels his affairs are rather complicated in relation to days spent in the UK, specialist advice should be taken.

UK RESIDENCE POSITION FOR 2013/14

You are automatically UK tax resident

1. If you spend 183 days or more in the UK in any one tax year or

2. You have a home in the UK and in at least one period of 91 consecutive days, at least 30 of which fall in the tax year and you spend at least 30 days in it and either have no overseas home (or do, but spend less than 30 days in it) or

3. You work full time in the UK for any period of 365 days and
    1. All or part of that 365 day period falls within the tax year and
    2. More than 75% of the total number of days in the 365 day period are days when you do 3 or more hours of work.

You are automatically non-resident

1. If you were resident in the previous 3 tax years and spend no more than 16 days in the UK in any one subsequent year (6th April to 5th April) – or you will fail the test.
2. If not UK resident in the previous 3 years and spend no more than 46 days in the UK in any one subsequent year – or you will fail the test.
3. You work full time out of the UK with no significant breaks from that overseas work and you spend less than 91 days in the UK and the number of days you work for more than 3 hours per day in the UK is less than 31- or you will fail the test.

In addition to the above "blanket" rules, once you have become non-resident, you will still need to keep a careful note of the number of days you spend in the UK if they are more than 16. This is best evidenced by retaining boarding cards for flights made in and out of the UK. The number of days you may spend in the UK without becoming resident once more will depend upon (a) how recently you were resident in the UK and (b) how many "ties" you have with the UK. There are five such ties as follows:-

1. A spouse or a child under 18 who is UK resident.
2. A family home – defined as a place which is available to you in the UK for a continuous 91 day period and where you do spend at least one night or, if the home of a parent, grandparent, brother, sister, or a child aged 18 or over and you do spend 16 or more nights there. "Home" also includes a holiday home, a temporary retreat or other accommodation in which you are able live in the UK.
3. Work - You do more than 3 hours of work per day in UK on at least 40 days in that year.
4. The 90 day tie - You have been in the UK for more than 90 days in either or both of previous 2 tax years.
5. Country tie - only applies if UK resident in one or more of the previous 3 tax years and if UK is country in which you were present at midnight for greatest number of days in that tax year.

Ties needed if you were UK resident for one or more of the three previous tax years

Days in UK	Ties needed to become tax resident
16-45	At least 4
46-90	At least 3
91-120	At least 2
Over 120	At least 1

Ties needed if you were not UK resident for one or more of the previous tax years

Days in UK	Ties needed to become UK tax resident
46-90	All 4
91-120	At least 3
Over 120	At least 2

One member of our audience suggested that by spending less that the requisite number of days in the UK and less than 183 days in Cyprus and "travelling" for the balance of the year, all tax liability could be avoided no matter what the total income may be. Our speaker agreed that could be the case but suggested caution. For example it is now becoming commonplace for banks, as part of their due diligence, to request details of where a person is tax resident. This is particularly relevant due to the EU savings tax directive. If a person declares that he is in effect "stateless" for tax purposes, he may attract unwanted attention from one or more tax offices (and may not be able to open a bank account).

There appeared to be a consensus that to subject oneself to the Cyprus (pension) tax rate of 5% (even if technically the 183+ days rule was not applicable) may be the preferable option.

5. Wills and inheritance tax (revisited). What are the dangers of retaining real estate and other assets in the UK?

Although a person leaving the UK for Cyprus may become non-resident for tax purposes in the UK, to shake off his so-called UK domicile (of his birth) is much more difficult. It may not even be until that person had died abroad and was buried/ cremated abroad that HMRC may agree that UK domicile was genuinely and permanently abandoned and a domicile of choice became effective. This is relevant for UK Inheritance Tax (IHT). Unless it can be proved by your executors after your death that you really had lost your UK domicile, you (or rather your estate) will still be liable to IHT on any UK situs assets such as real estate (Subject to applicable thresholds).

6. Transferring UK assets to children etc.

One sure way of avoiding IHT is to give the UK assets to your children. However, you will need to survive for at least seven years afterwards for this to be fully effective.

7. Can I agree with a local lawyer a fixed fee to handle probate matters?

We all know stories about the exorbitant fees charged by local lawyers. The advice is that you should never appoint a Cypriot lawyer as your executor. (If you have done so, make sure you have a new will executed naming somebody else (perhaps your spouse if you have one).

In order to obtain probate in Cyprus it will still be necessary for your executor to use either a local lawyer or another suitably qualified person to make the necessary court applications/visits etc. Div Bedi now does this work and we heard from at least one P3A member who has also worked her way through the probate jungle more than once. The advice given was that if your executor is not a Cyprus resident, it may be advisable to nominate in your will an additional "Cyprus resident executor" who can then handle local matters without the need for the overseas executor to come to island on what may need to be several occasions.

It is also quite possible to obtain a "quote" from such a Cyprus resident for that work in advance.

8. Receiving rents from UK property, withholding tax (UK) and the Cyprus tax position including the defence levy.

Dealt with in (1) above.

9. How do I claim back tax/defence levy paid on bank interest if total income is below €12,000.

Dealt with in (1) above.

10. A person has pension income in excess of €30,000 yr. The pension is UK based but he has been tax resident in Cyprus for several years. Yearly, he lives for 200 days in Cyprus and 110 days yr. in UK, the balance of days outside these countries. What is his tax liability to (a) UK and (b) Cyprus?

Also dealt with above.

11. If Cyprus tax/defence levy is calculated upon the gross income from UK rents received, is there an allowance for agent's fees, mortgage interest etc?

No.

12. Is it better to have title deeds in the name of just one owner or jointly?

If title deeds (or even just a building contract where no title deeds have yet been received) are held in joint names, the passing of title to the survivor in the case of the first death is considerably easier and less costly than otherwise. Indeed, it has been suggested that if a property in Cyprus is held jointly, in the case of a terminal illness being diagnosed, that party might consider having his/her share conveyed to the "healthy" party to avoid probate completely.

13. Please explain how to fill in the official Inland Revenue Tax Form used for paying Defence Tax. This form is in Greek and has a sheet supplied with an English translation but does not explain how we should fill it in in order to claim double taxation relief on Dividends and Interest.

Not easily answered in this format. Seek professional advice if in need!

14. Has the law been passed raising Defence Levy on interest to 30% and will this also apply to Dividend Income

Also see above.

15. VAT refunds on property purchased.

Technically these are not VAT refunds. They are grants that can be obtained from the Government in cases where VAT has been paid. A P3A member who was present said that he had received his cheque that very day! The amount does not equate to the actual VAT paid though!

Please note that the above information must be regarded only as rough guidance notes. Neither Div Bedi, P3A, nor any of its officers or members gives any warranties or undertakings as to its accuracy from a tax, legal or any other perspective. For opinions relating to a specific person's situation, it is always recommended that professional local advice is sought. Please do not address further questions to the undersigned as he is not qualified to give such advice in Cyprus Nonetheless, I hope you have found this useful!

John Harper
Chairman