

Answer-to-Question-_1_

1) The IP Regime currently applicable in Cyprus, states that companies that own (either whether they have developed it or acquired it) intellectual property falling under the category of qualifying assets and have income from these intellectual property, are eligible for a deduction in their taxable profits. This deduction follows the nexus approach and it is not a fixed 80% deduction on the adjusted accounting profits of the intellectual property that was as per the old IP Box.

Under the new IP Regime, qualifying assets could be:

- 1) Computer Software
- 2) Patents
- 3) Any other IP that is approved and licensed by the relevant authorities in CY.

Any trademarks, brands and business names are excluded.

The deduction now granted follows the nexus approach and it basically grants a higher deduction to companies with high Research and Development expenditure relating to this IP. To calculate the relevant deduction we should first of all derive to the Qualifying Profit which equals to Overall Income multiplied by the sum of the Qualifying expenditure and the Uplifted expenditure, divided by overall expenses.

- Overall income is all the revenues the Company has from the exploitation of an IP.

- Qualifying expenditure are any in-house research & development expenditure (these could be salaries, directors fees, any installations necessary for R&D) or all the research & development costs to un-related parties.

- Uplift expenses is the lower of:

- a) 30% of the qualifying expenses or
- b) The cost of acquisition of the IP and any R&D to related parties

- Overall expenses is the sum of qualifying expenditure, the cost of acquisition of the IP and any R&D to related parties.

ITS in relation to Platform 1 Income Tax implications:

- ITS leases Platform 1 from third party owners and then sub-leases this to online casino platform. ITS did not develop this platform by itself, instead it uses a ready software provided from another party.

- Even though Platform 1 is a qualifying asset for IP Regime purposes (it is a computer software) no deduction can be claimed ITS since it does not actually own the IP, rather it leases it from third party owners.

- ITS will normally calculate its tax adjusted profits and pay taxes normally, with no deduction available.

- In case the online casino operators ITS sub-leases Platform 1 to are located in a foreign country, and especially one CY does not have a double tax treaty (DTR) with, any royalty payments made to ITS by these casino operators will probably be subject to withholding taxes. In the cases where CY has a DTR with the countries ITS supplies Platform 1, then any withholding taxes will be reduced in accordance to that DTR.

ITS Sub in relation to Platform 2

- ITS Sub will be responsible for the further development of Platform 2 and then it will license it to ITS on market value terms.

- Platform 2 is a qualifying asset for IP Regime purposes since again it is computer software.

- Platform 2 is owned by ITS Sub and it will be further developed by the Company, hence IP Regime deduction can be utilized.

- Following the nexus approach the deduction that will be granted to ITS Sub will be rather generous, bearing in mind that ITS Sub will undertake the development in house and a particular function will be outsourced to an independent technical expert.

- ITS Sub will also issue new shares to ITS in return for obtaining Platform 2. As a result, ITS Sub could also claim Notional Interest Deduction on this new fully paid up equity (ITS Sub will receive Platform 2 in return).

- To calculate NID we need to multiply the reference rate (10-year government bond of CY in this case + 5%) by the tax adjusted profits relating to this new equity (in this case tax adjusted profits from the licensing of Platform 2 to ITS). NID claimed can never exceed 80% of tax adjusted profits.

Answer-to-Question-2

***Assumption:** Question states right above point i) 'together with the following loans provided by TM to the Subsidiaries' Bearing in mind the whole question and the sentence in point i) 'Following the assignment, as of 31 December 2021 LM has a loan receivable from DTC amounting to CZK 520.000' I am assuming that the two loans discussed in points i) and ii) were provided by LM to the Subsidiaries and not by TM.

1) LM for 2021 tax year will have the below interest income and expense:

- Interest income:

a) From loan receivable from DTC assigned from LMC amounting to CZK 520.000 and bearing interest at the rate of PRIBOR + 6,5%

b) From loans receivable from DTC amounting to CZK 850.000.000 and bearing interest at the rate of PRIBOR + 6,5%

- Interest expense:

a) From TM Payable amounting to CZK 1 billion and bearing interest at the rate of PRIBOR + 4,5%

b) TM Current Account Payable 1 and 2 are interest free.

LM has back to back loans (from the loans the company received from TM it then supplied loans to its subsidiaries). Following the new rules applying as from 2017, a minimum margin is acceptable for back to back loans of around 2,29%.

When comparing the interest rates of loans payable to loans receivable, the difference between the two is only 2%, meaning that as per Art.33 LM should adjust its tax profits to include an additional interest income on the loans receivable from DTC of around 0,29%.

In case LM believes that the interest rate margin it currently has is correct and that there is no need to calculate an additional interest income, then it should prepare a transfer pricing study supporting this opinion for the CY tax authorities.

In addition, part of the loans payable was used to acquire shares in the subsidiaries and in the Dutch company. As these assets are considered to be titles, then we have to identify the interest expense proportion relating to these assets and restrict it accordingly.

Also, any interest income paid DTC to LM could be subject to withholding tax in the Czech Republic. This withholding tax could be credited against any tax due in CY resulting from this interest income from the Czech subsidiary.

2) When capitalizing TM Payable and TM Current Account 1 Payable, LM will be entitled to New Equity Deduction (NID).

NID also applies in cases of conversion of payables to equity, and the new equity issued will be equal of the value of the payables.

Following the capitalization, LM will no longer have interest expense, meaning that it will no longer need to account for additional interest income as per the provisions of Art.33.

NID will apply on the tax adjusted profits as a result of the two loans receivable from DTC (loans payable were used to finance these two loans, hence NID will be used on the same assets).

NID will be capped on the 80% of the tax adjusted profits coming from these loans receivable.

Answer-to-Question-_3_

1) As per the exit taxation provisions of Article 33B of CY Income Tax Law, in case a CY tax resident company or a permanent establishment (PE) of a non-CY tax resident company in Cyprus will leave CY (the company will not have its management and control in Cyprus and a PE will not exist in CY anymore) then CY has the right to apply tax on the difference between the tax value and the market value on the date of exit of the assets held by the company or by the PE.

By transfer this could be:

- > A CY company transfers its assets to another country or a PE located in another EU country and as a result Cyprus will no longer be able to tax such assets
- > A PE in Cyprus of a non CY tax resident company transfers its assets to another company in a different country or to another PE in a different country, again resulting to CY not being able to tax those assets
- > A CY tax resident company, ceases to be a CY tax resident (meaning they shifted their tax residency to a different country) again resulting to Cyprus not being able to tax this company
- > A non CY tax resident company, decides to shift the activities from a PE in Cyprus to a PE in another country or to a company tax resident in another country, hence Cyprus has no taxing rights over this PE anymore.

In case these assets discussed above are expected to return to Cyprus within a year then not exit taxes apply.

If an exit exists as explained above, then we compare the market value on the date of exit of the asset under review to its tax value and apply taxes as this was a normal disposal of assets.

2) SHL Cyprus holds a number of assets at the time of transfer, each treated and taxed differently.

- Investment in SHL Netherlands Ltd: No exit tax exists here since even in cases where the market value of SHL Netherlands Ltd is higher than its tax value, no CY tax applies. Any gain on disposal of assets are exempt from income tax, hence no exit tax will be due.

- Investment in SHL Bermuda Ltd: As above, no exit tax exists as it relates to 'titles'.

- Investment in SHL Estonia Ltd: Again, no tax exists as we have to do with titles.

- Loans receivable: We have to compare the market value of these loans to their tax value. In case a profit exists, then we need to assess whether this relates to the capital element or interest element of the loans and tax accordingly income tax or SDC.

- Trade receivables: Again when comparing the market value of these receivables to their tax value, if gain exists then this will be taxed under income tax.

- Derivatives debit balance, relating to interest rate swaps and currency forward contracts: Compare their market value to their tax value and if profit, then tax under income tax.

Answer-to-Question-_4_

1) Income tax implications for Ms.Andreou

- Ms. Andreou was not a tax resident in CY prior to commencement of her employment, meaning that she is eligible for expatriate relief (since her employment started after the 1st of January 2015).

- Her annual gross income for 2021 exceeds EUR 100.000, hence she could claim the high earner expatriate relief offering her a 50% deduction on her annual gross emoluments.

- This 50% deduction has no cap and she could claim this deduction for 10 years.

- Since her emoluments are over EUR 100.000 on the first year she will claim the expatriate relief of 50%, she could claim the expatriate relief of 20% in case her emoluments drop below EUR 100.000 for a given year (with a cap of EUR 8.550 for the years she will claim the lower rate expatriate relief). Once her emoluments will rise above EUR 100.000 she will be able to claim the 50% deduction.

- Apart from her salary, Ms. Andreou was also assigned 20% of the share capital of the company. This is a share based payment and as such, it should be included in her taxable emoluments. To assess the value of the benefit Ms.Andreou will receive, we need to know the market value of the shares on the date they were assigned to Ms.Andreou. The amount we will end up with should be added to Ms.Andreou gross income (if not already included in the EUR 101.550). The 50% deduction will also apply on the value of the shares.

- The dividend received by Ms. Andreou during 2021 is exempt from income tax.

- Since Ms. Andreou is also a shareholder of AS Services Ltd we need to also calculate a deemed benefit of 9% on a monthly basis for the debit balance of her current account.

Special defence contribution (SDC) implications for Ms.Andreou

- Since Ms.Andreou is now a CY tax resident and domiciled individual, the dividends she received from AS Services Ltd during 2021 are subject to SDC at the rate of 17%.

- No SDC on the deemed interest calculated as a result of her current account with the company.

2) Tax implications for Ms. Andreou if she will act as an independent consultant:

- In case she will act as an independent consultant, this means that she will act as a self-employed individual (in addition to her employee capacity for AS Services Ltd). As a self-employed individual, she will have business income from employment abroad.

- This employment income she will have cannot benefit from the expatriate relief (no employer-employee relationship will exist).

- Her net business income from self-employment will be added to her income from AS Services Ltd and taxed following the progressive tax rates.

- If self-employed she could also claim a number of deductions necessary and directly related to the performance of her activities.

- In case she will have to visit the UK to offer her services for a period of more than 90 days, she could not claim the exemption of her emoluments under the 90-days rule, since she will be self-employed.

- We will need to assess how the UK taxes individuals offering services to UK companies and assess whether any DTR exists between CY and the UK that could reduce any taxes withheld by the UK on Ms. Andreou emoluments.

- Even in the case a DTR does not exist and any taxes were withheld, CY will offer credit for these taxes.

Tax implications for Ms. Andreou if she will act as an employee of UK Consulting and Services Ltd:

- Her emoluments will be added to her employment income and hence she will be able to benefit from the expatriate relief.

- If under her employment Ms. Andreou will need to visit the UK for more than 90 days (but less than 183) then the employment income earned from UK for that period will be exempt from CY income tax.

- Again, we will need to check how the UK will tax her emoluments from UK Consulting and Services Ltd and whether any taxes that may be withheld can be reduced via a double tax treaty between CY and the UK.

- Again, even in the case a DTR does not exist and any taxes were withheld, CY will offer credit for these taxes.

Answer-to-Question-_6_

1) The persons listed below have an obligation to pay GeSY contributions on the incomes shown:

- > Employees on their employment income
- > Employers on their employees' employment income
- > Pensioners on their pensions
- > CY tax resident individuals on any form of passive income including rents, interests and dividends
- > Self-employed individuals on their business income

2) The below incomes are not subject to GeSY:

- Any income that exceeds EUR 180.000 for a particular individual (GeSY contributions are capped at gross annual incomes of EUR 180.000)
- Interest income of a CY tax resident company
- Rental income of a CY tax resident company
- Profits of a CY tax resident company
- Dividend income of a CY tax resident company

The below incomes are exempt from Income Tax and SDC but are subject to GeSY:

- Interest income of a CY tax resident individual but non-domiciled in CY
- Dividend income of a CY tax resident individual but non-domiciled in CY
- Interest income of non-CY tax resident
- Dividend income of non-CY tax resident