

PART 1:TAX RESIDENCY POSITION FOR 2022

According to the Cyprus domestic law, an individual who spends more than 183 days in Cyprus will be considered as Cyprus tax resident and be taxed on his worldwide income.

Based on the scenario and the 183 days rule, Dr Zaoui is not a cyprus tax resident since for the 7 months from February to August 2022 he was travelling to more than 10 different countreis including Cyprus. Since he travelled to more than 10 different countries, it is not possible that he was more than 183 days in Cyprus.

According to the Cyprus domestic law and the 60 days rule an individual can be considered as Cyprus tax resident and be taxed on worldwide income if all of the below criteria are cumulatively met:

(1) he did not spend more than 183 days in any other country. I will assume this is true since he was travelling to more than 10 different countries for Feb-August 2022.

(2) No other country can claim residency on Dr Zaoui. This is again true based on the explanation in point (1) above

(3)He was carrying out some kind of employment in Cyprus. This is true since from November 2022 he was employed in a veterinary clinic in Paralimni

(4) He has a permanent residency in Cyprus. This is again true since from September 2022 Dr Zaoui was renting a villa in Pernera.

If any of the above criteria are not met as at 31 December 2022, then he will not be considered as Cyprus tax resident.

Based on the above, Dr Zaoui is considered as cyprus tax resident for the year of 2022 and be taxed on worldwide income.

PART 2: Cyprus income tax, special defence contribution and Gesy considerations:

Dr Zaoui is considered as cyprus tax resident for the year of 2022 and be taxed on worldwide income.

(1) French social insurance pension: this pension will be taxed in Cyprus. He can opt to be taxed using the special mode of taxation and be taxed at the lower rate of 5%. This is advisable since Dr Zaoui has many sources of income.

Up to EUR3.420, pension is taxed at 0%. Any amount above this threshold will be taxed at 5%. Since there are double tax agreements (DTA) in place with France & Germany, for the tax suffered at source of EUR2.000, he will received a tax credit in Cyprus. Gesy will be payable at the rate of 2.65%. There are not special defence contributions (SDC).

(2) French private pension: this will be taxed in the same way as

described above for french social insurance pension and get a credit relief for the EUR3.500 deducted at source.

(3) Rental income from german property: this will be included in the sources of taxable income and be subject to income tax in cyprus. He will be eligible to a 20% deduction.

SDC is payable on dividends, interest income and dividend income by individuals who are both Cyprus tax residents and Cyprus domicile. Dr Zaoui is cyprus tax resident for 2022 but he is not domicile in Cyprus based on domicile obtained on birth. Based on the scenario we assume that he was born in France. Further, any individual who spends more than 17 years out of the last 20 years in Cyprus and establishes a permanent stay in cyprus, will be considered as domiciled in Cypurs and be subject in SDC. This is not true, and thus Dr Zaoui will be be liable to any SDC. on any of his income streams.

(4) trading goodwill: this is considered as business income and therefore be subject to cyprus income tax. Gesy will be payable at the rate of 4% since he is considered as self-employed/business income. No SDC.

(5) Bank deposit interest (german accounts): We will assume that this is passive income and therefore will not be subject to income tax. No SDC liability based on analysis in point 3 above.

(6) Salary: the salary relates to employment in veterinary clinic and will be subject to cyprus income tax and gesy at the

rate of 2.65%. The gesy rate is 2.65% since this is employment income. Dr Zaoui can claim 20% deduction based on article 8(21A) of the income tax law.

In order to claim the 8(21A)- 20% deduction the following must be true:

(a) it is applicable for employments taken up in Cyprus as from 26 July 2022. Dr Zaoui started working in Cyprus in November 2022.

(b) he spend the last 3 years out of Cyprus working for a non-cyprus tax resident employer. We may assume this is true since he was in Francen retired there.

(c) he was a non-cyprus tax resident for the last 3 years prior to commencement of first employment in Cyprus.

(d) It should be the first employment in cyprus. We will assume this is true for Dr Zaoui.

He can claim the deduction of 20% in the year following commencement of his employment in Cyprus. Therefore the 20% deduction can be claimed in tax year 2023. There is a maximum cap of EUR8.550 and can be claimed for up to 7 years.

Bank deposit interest (bank of CYprus): assuming this is passive income and not business income, it will not be subject to income tax. Gesy will be liable at the rate of 2.65%. No SDC liability.

Dividends from various EU listed companies: dividend income is

considered passive income. It is exempted from cyprus income tax. Gesy liable at the rate of 2.65%. No SDC liability. The following is true assume there is a DTA in place. According to the OECD model , dividend income will be subject to withholding tax at source. Since this is not taxed in Cyprus, no credit relief will be obtained by Dr Zaoui.

Gains from trading European listed shares and bonds: This falls under the category of titles/shares/bonds, which are exempt from income tax in Cyprus.

Such gains may be liable to capital gains tax, if the company in which the shares are held owns property situated in Cyprus.

Income from letting tourist apartments in France:

this considered as permanent establishment (PE). This is exempt from cyprus income tax.

Answer-to-Question-__2__

PART 1: IDENTIFICATION OF RELATED PARTIES

According to section 33 of cyprus income tax law a company A is considered to be related with another company B when company A holds more than 25% directly or indirectly of the share capital/voting rights of Company B. This is also true when Company A entitled to more than 25% of the profits of company B.

For individuals, they are considered are related parties up to 3rd degree kindred. This includes wife, husband, grandparents, nefews, aunts, uncles.

(1) Mr Lux & LuxCo SA: Mr Lux is directly related to LuxCo Sa since he owns more than 25%, i.e 100% shareholding.

(2) LuxCo Sa & GreCo AE: they are related parties since LuxCo Sa owns 90% of Greco AE which is more than 25%.

(3) Mr Lux is a related party of Greco AE, since Mr Lux indirectly controls 90% of GreCo Ae.

(4) Greco AE is related to EngCo since it Grecon AE directly controls 40% of Eng Co. Lux Co is related to Eng Co since Lux Co indirectly controls 36%(90%*40%) of Eng Co.

(5) Mr Lux is related to Eng Co since Mr Lux indirectly controls 36% (100%*90%*40%) of Eng Co.

(6) Eng Co and Cyp Co are related since Eng Co directly controls 60% of Cyp Co. Mr Lux is not related to Cyp Co, since he indirectly controls 22% ($100\% \times 90\% \times 40\% \times 60\%$) of Cyp Co which is below 25%.

Lux Co Sal is not related to Cyp Co since it indirectly controls 22% ($90\% \times 40\% \times 60\%$) which is below 25%.

(7) Cyp Co is related with CyMan Co since the first one directly controls 70% of the CyMan Co.

Eng Co is related to CypManCo since Eng Co indirectly controls 42% of CypManCo.

(8) Mr Costas and Mrs Aishen are not related parties since they have been divorced.

(9) Cyp Co are not related to CypSy and CypS2 since the respective shareholdings are 10% and 20%. Considering each one separately the direct shareholding is below 25%.

PART 2: CONTROLLED TRANSACTIONS

A controlled transaction is a transaction that arises between related parties.

Parts (a) to (f) numbered below refer to the transactions as given in the question/scenario.

(a) The loan between CypCo and LuxCo Sa is not a controlled transaction since the two parties involved are not related parties based on analysis in part 1 above.

(b) Loan between CypCo and CypS1 is not controlled transaction since the two parties are not related.

Loan between CypCo and CypS2 is not controlled transaction since the two parties are not related.

The loan between CypCo and CyoManCo arising to eur150.000 is a controlled transaction since the two parties are related per analysis in part 1 above.

Loan between Mr Costas and Cyp Co is a controlled transaction since the two parties are related per analysis in part 1 above. Loan between Mrs Aishen and Cyp Co is not controlled transaction, since Mr Aishen and Mr Costas are not related parties.

(c) sold goods between CypManCo and GreCo is not a controlled transaction since the two are not related parties.

(d) Sale of goods by CypManCo to Greek clients is not a controlled transaction since greek clients are considered to be 3rd parties and not related parties.

(e) CypManCo selling goods to Eng Co is a controlled transaction since the two parties are related based on analysis in part 1.

(f) CypManCo selling goods to Eng Co; This is a controlled transaction as per analysis in (e)

PART 3: CALCULATION

(b) loan between CypCo and CypManCo: the loan was given at an

interest rate of 6%. If we assume that the rate of 7% used for non-related party transactions to CypS1 and 6% Cyps2, then the tax department may consider that the 5% is not at an arm's length basis.

Average of 6%&7%=6.5%

The tax department may increase interest income for CypCo and respective interest expense for CypManCo by
(6.5%-5%=1.5%*150.000) EUR2.250

For the goods sold by CypMan Co we will assume 6.5 to be the market value and used as a yardstick to determine if controlled transactions by CypMan Co are on an arm's length basis.

Transactions (e) and (f) are considered on arm's length basis. Tax department only makes upward adjustments.

PART 4: EXPLANATION OF ARM'S LENGTH AND SAFE HARBOUR

For loan financed out of financial activities and not out of equity have a safe harbour as follows: there should be a 2.5% return after allowable deductions.

Answer-to-Question-__4__

PART 1:DEREK'S TAX RESIDENCY POSITION

According to the Cyprus domestic law, an individual who spends more than 183 days in Cyprus will be considered as Cyprus tax resident and be taxed on his worldwide income.

Based on cyprus domestil law Derek is not considered as cyprus tax resident since he only spent 100 days in Cyprus for 2023.

Based on the OECD Model and article 4 for residency, in order to determin the tax residency position of Derek we will need to consider the following in the order as described below:

(1) Permanent residency: We need to consider where Derek has his peranent home. Derek has an immovable property in the form of his family home in Switzerland. Based on this it appears that his permanent home is in Switzerland. However, one may consider that the house in Cyprus provide d to Derek as a benefit in kind is consider as permanent home.

When the individual has residencies in both Cyprus and Switzerland we will need to consider where his family and economic relations are situted. His family lives permanently in Switzerland and only come for holiday in Cyprus. THus family relations are in Switzerland.

His economic relations are considered to be in United states

where substantial part of his assets appear.

Tie breaker rules will apply which state that Derek will be considered as tax resident in the country in which he resided for most of his time. This is know as habitual abode. It appears that Derek only came to Cyprus for work and therefore he will tax resident in Switzerland.

PART 2:

Since Derek is considered to be as Switzerland tax resident, he will only be subject to Cyprus income tax only on his sources of income that emanated in Cyprus.

ENF Cyprus branch meets the definition of permanent establishment (PE) as per article 5 points (1) and (2) of the OCED MODEL. That is a PE is a fixed place of business through which an entity carries its business. In this case ENSF , a switzerland company carries its activities through a branch in Cyprus. Derek will be tax for the salary from the branch based on the days his spent in CYprus which is 100 days.

The house provided in cyprus is considered as a taxable benefit in kind. The saloon car is not a taxable benefit in kind since, it is used for personal use as well and not only for commuting to work. Thus I will include this as zero in my calculation below. Payment of house bills is a taxable benefit but only a portion of this assuming to be at 17%.The cyprus tax department has specific rates in order to determine that taxable portion of such benefit in kinds including internet, cable TV, insurance etc.

Children summer scholl is not a taxable benefit since it is not for business use.

Profits made of EUR600K are exempt from cyprus income tax.

Dividend is also exempt from cyprus income tax. Both the profits and dividend income will potentially be taxable in Switzerldan where Derek in tax resident.

I will include exempt amounts as zero in my calculation.

Salary emanating in Switzerland will not be taxable in Cyprus.

Accordint OECD model an individual who works in another state (in this case Cyprus) but spends less than 182 days in Cyprus, and is paid by a non-cyprus tax resident, taxing rights are granted to the country where Derek is resindet i.e in Switezerland.

CALCULATION OF TAXABLE INCOME FOR 2023:

	<u>EUR</u>		
Salary from cyprus branch (80.000*100/365)	21.918		
house - benefit in kind	300.000		
saloon-car - not taxable	0		
house bills (9.000-3200)*17%	986		
dividend income - exempt	0		
profit on shares	0		
BONUS (500K-80K)- Exempt			
TOTAL	322.904		
0-19.500 at 0%			
19-501-28.000 at 20%			
28.001-33600 at 25%			
33.601-60000 at 30%			

over 60.000 at 35%		
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Answer-to-Question- 7

PART 1:

The commercial building owned by Angelica leased out to Beta Ltd which in turn was subleased in Cee Ltd, Angelica has two options. If the tenant in this case being Cee Ltd carries mainly business activities, Angelica can charge vat on the lease rent and in turn she can claim the VAT Input suffered on the construction of the commercial building.

In order to do this Angelica should notify the VAT commissioner within 10 days from signing this lease agreement. The activities of the tenant should be 90% business activities for the above to be true.

Cee Ltd carries business so its more beneficial for Angelica so that she can claim the input vat.

The second option will be for Angelica not to charge vat on the rent and in turn she will not be able to claim the input vat on construction of the building.

The same treatment as described above will apply for the plot leased to Xi Ltd.

Since Xi Ltd constructed shops which carry vat taxable trading activities, Angelica will charge vat on the leasing of the plot and will claim back the input vat suffered on purchase of the plot.

The residential flats owned by Angelica are exempt from vt tax.

PART 2:

Shopping mall carries out trading activities and therefore Xenon Ltd will charge vat on the lease of the mall and be able to recover the input vat of EUR30.000.

The new contract with the tenants, we will need to consider if the tenants still carry tradings activities. If yes the same treatment will follow.

PART 3:

Con Ltd will be able to claim the vat only for the portion of the building that was used for taxable services.

The pharmacist is considered to provide a vatable service and thus Con Ltd will be able to recover input vat relating to the 2 shopd.

It should be noted that healthcare services are considered to be exempt from VAT. Assuming that the services of dentist and physiotherapist are considered to be healthcare services, Con Ltd will not be able to recover the input vat relating to these two flats.

INPUT VAT RECOVERABLE= $50 \times 2 / 1000 \times 240000 = \text{EUR}24.000$

The remaining will not be recoverable amounting to EUR 216.000
(240.000-24.000)

Answer-to-Question-__8

Since ABC Holdings is cyprus tax resident for 2023, it will be taxed in Cyprus on its worldwide income.

Dividend income is exempt from cyprus income tax.

Special defence contribution (SDC) is applicable to cyprus tax resident companies. Dividen income received from non -cyprus tax resident companies is exempt from SDC. Thus there is no SDC liability for dividend income from AB LTD.

Dividend income from CD is exempt from cyprus corporation tax.

Even if this was considered as finance cost, it will not be taxable as it derives from shares which is not an asset generating trading income. No SDC liability exists based on the same analysis above.

Interest income from EF is assumed to be passive income and not business income. Thus it is exempt from cyprus corporation tax. There is not SDC liability since EF Ltd is a non cyprus tax resident.

SDC arises at 17% on dividends, 30% on interest income.

Dividends from branch 1 are again exempt from cyprus corporation tax. No SDC liability.

Dividend from branch 2 re again exempt from cyprus corporation tax. No SDC liability.

Branch 3 is considered to be a permanent establishment of ABC. This is exempt from cyprus corporation tax unless more than 50% of the activities of branch 3 relate to investment activities and foreign tax is significantly lower than cyprus tax burden. branch 3 carries trading activities. The losses can be set-off against other income sources of ABC and reduce its corporation tax liability.

Tourist apartments in spain in considered to be PE and thus exept

Based on the below calculation there is no corproation tax liability.

CALCULATION FOR CORPORATE INCOME TAX:

	EUR		
dividend income from AB Ltd - exempt	22.000		
dividend income from CD - exempt (40.000*100/95)	42.105		
c (12.000*100/75)	16.000		
dividend from branch 1 (30.000+3000)	33.000		
dividend from branch 2 (28.000*100/80)	35.000		
tourist apartment	36.000		
less: exemptions			
dividend income from AB Ltd - exempt	(22.000)		
dividend income from CD - exempt	(42.105)		
dividend income from CD - exempt	(16.000)		
dividend from branch 1	(33.000)		
dividend from branch 2	(35.000)		
tourist apartment	(36.000)		