

Cyprus

Frangos Saprykin Odyne International
Law Company

Andreas G. Frangos



Myrianthi Papagianni



1 Pre-entry Tax Planning

1.1 In Cyprus, what pre-entry estate and gift tax planning can be undertaken?

No estate or gift tax duty is applicable in Cyprus.

Gift tax applies according to the provisions of the Capital Gains Tax Law, as explained in question 3.1. below.

1.2 In Cyprus, what pre-entry income tax planning can be undertaken?

The defining criterion for a person to be taxed in Cyprus is the tax residency provision of the Income Tax Law 118(I) of 2002.

In accordance to the Income Tax Law 118(I) of 2002, a resident is considered to be any individual who resides in Cyprus for more than 183 days in a fiscal year. A fiscal year has the same meaning as a calendar year. Cyprus tax residents are taxed on their worldwide income.

Cyprus non tax residents are taxed only on income from sources within the Republic of Cyprus.

The following tax rates apply:

Income in €	Tax Rate (%)
0 – 19,500	0
19,501 – 28,000	20
28,001 – 36,300	25
36,301 – 60,000	30
More than 60,000	35

Any Cypriot or a foreigner pensioner, who is going to reside in Cyprus and whose pension was earned from services rendered abroad may opt to be taxed at the tax rate of 5%, which is applicable for an annual pension for amounts higher than €3,420.

Furthermore, a special defence contribution is imposed on all residents of Cyprus, as further explained in question 3.3 below.

A company will be taxed at the rate of 10% annually on net profits, provided that it is considered as tax resident in Cyprus.

A company is regarded as tax resident if it passes the “management and control” test, under which the management and control needs to be exercised in Cyprus.

1.3 In Cyprus, can pre-entry planning be undertaken for any other taxes?

In Cyprus there is no wealth tax or other similar taxes and, therefore, there is no need for pre-entry planning with regard to other taxes.

2 Connection Factors

2.1 To what extent is domicile relevant in determining liability to taxation in Cyprus?

The decisive factor to determine tax liability in Cyprus is tax residency and not domicile.

2.2 If domicile is relevant, how is it defined for taxation purposes?

See answer to question 2.1.

2.3 To what extent is residence relevant in determining liability to taxation in Cyprus?

See answer to question 2.1.

2.4 If residence is relevant, how is it defined for taxation purposes?

See answer to question 2.1.

2.5 To what extent is nationality relevant in determining liability to taxation in Cyprus?

See answer to question 2.3.

2.6 If nationality is relevant, how is it defined for taxation purposes?

See answer to question 2.3.

3 General Taxation Regime

3.1 What gift or estate taxes apply that are relevant to persons becoming established in Cyprus?

A natural or legal person owning immovable property in Cyprus is liable for tax on the gains derived from the disposal of property under the provisions of the Income Tax Law, if the disposal is considered a trading activity. In the case that the disposal of property activity does not constitute a trading activity, then the person will be taxed under the provision of the Capital Gains Tax Law, 52 of 1980. Capital gains tax is also imposed on the disposal of the shares of private companies, which own immovable property situated in Cyprus.

A disposal under Capital Gains Tax Law does not include the following:

- transfer on death;
- gift by a family company to its shareholders, provided that the said property had been acquired by donation as well;
- gift to a company of which the shareholders are members of the donor's family and continue to be for not less than five years from the date of the gift;
- gift between spouses and relatives up to third degree;
- gift to charitable organisations or to the Republic of Cyprus;
- exportations;
- exchange or disposal in accordance with the provisions of the Agricultural Land (Consolidation) Laws, in force;
- exchange in case where the gain will be used for the purchase of new property;
- transfer of property on the termination of marital status;
- transfer of shares in companies' reorganisations (including both ownership transfer and share transfers); and
- transfer of property of a missing person for which an administrator has been appointed.

In cases the gains are taxed under the Capital Gains Tax Law a capital gain tax is imposed at the rate of 20% on the gains, after the deduction of various expenses as described in the Law.

With regard to immovable property, which has been acquired before 1 January 1980, the cost will be that as at 1 January 1980 for the purposes of calculating gain.

An entitlement which is given to an individual as lifetime deductions is to deduct:

- gains up to €17,086;
- gains derived from the disposal of agricultural land by a farmer up to €25,629; and
- gains derived from the disposal of a house, which was to be considered as the permanent residence of the individual for a period of more than five years.

3.2 How and to what extent are persons who become established in Cyprus liable to income tax?

A Cyprus tax resident will be taxed annually on his worldwide income with some types of income being exempted from taxation. The main exempted types of income are the following:

- dividend and interest income;
- gains derived from the disposal of securities;
- lump sums repayments from life insurance schemes, from approved provident funds or retiring gratuities; and
- rental income from preserved buildings.

Furthermore, disbursements required and thus made in respect of

the income to occur may well be exempted for income tax purposes not including, though:

- business entertainment expenses exceeding 1% of the turnover subject to a maximum deduction of €17,086;
- professional tax;
- immovable property tax;
- private motor vehicle expenses;
- expenses which are not covered by a relevant invoice, receipt or any other documentation;
- salaries for services in which the required contributions to the relevant Social Insurance Funds have not been made; and
- interest from the purchase of any asset, whether this has been used or not in the business.

For the income tax rates which apply to individuals for the year 2012, please see the answer to question 1.2.

3.3 What other direct taxes (if any) apply to persons who become established in Cyprus?

A Cyprus resident is tax liable for immovable property tax and special defence contribution.

In accordance with the provisions of the Immovable Property Tax Laws of 1980-2004, any owner of immovable property in Cyprus, whether they are a legal or physical person, is annually tax liable for immovable property owned in Cyprus. The said tax is payable on the 30th day of September of each fiscal year.

For properties acquired before 1 January 1980, the tax will be imposed on the market value as at 1 January 1980.

The tax rates are as follows:

Value in €	Tax Rate (%)
0 – 120,000	0
120,001 – 170,000	0.4
170,001 – 300,000	0.5
300,001 – 500,000	0.6
500,001 – 800,000	0.7
More than 800,000	0.8

In accordance with the provisions of the Special Contribution for Defence Law 117(I) of 2002 as amended, every Cyprus resident who receives or is deemed to receive a dividend is liable to a 20% special defence contribution on the amount of the dividend.

The following cases are exempted from the special defence contribution:

- dividends received by a Cyprus tax resident company from another Cyprus resident company;
- dividends received directly or indirectly from dividends for which the special defence contribution has already been paid; and
- dividends received by a Cyprus tax resident company from an overseas company.

Nevertheless, the third exemption above, does not apply if both of the following two criteria are breached:

- if the paying non-Cyprus residence company is engaged directly or indirectly to more than 50% in activities which result to investment income; and
- if the tax burden on the income of the paying non-Cyprus company is significantly lower in relation to the Cyprus tax burden (in practice lower than 5%).

3.4 What indirect taxes (sales taxes/VAT and customs & excise duties) apply to persons becoming established in Cyprus?

The supply of goods and services in Cyprus, the purchase of goods from other European Union Member States and the importation of goods from non-EU Member States are liable to Value Added Tax (VAT) at the rate of 17%. In cases of intra-community acquisitions of goods, no VAT applies if the overseas trading party is registered with the VAT authorities of its jurisdiction. Otherwise the applicable VAT rate in Cyprus applies and must be charged.

The current rates of VAT are the following:

- Standard Rate – 17% which applies to the provision of all goods and services which are not subject to the zero rate, the reduced rate or are not exempted.
- Reduced Rate – 5% which applies to foods, pharmaceutical products, books, newspapers and magazines.
- Zero Rate – which applies to the exportation of goods, air and sea transportation of passengers.

3.5 Are there any anti-avoidance taxation provisions that apply to the offshore arrangements of persons who have become established in Cyprus?

The commissioner of income tax may reject a transaction which has not been concluded on commercial and market grounds and thus to determine the applicable tax on the parties involved.

4 Taxation Issues on Inward Investment

4.1 What liabilities are there to direct taxes on the remittance of assets or funds into Cyprus?

The taxation on remittance of assets or funds does not apply in Cyprus.

The taxation on Cyprus tax resident companies on their worldwide income and for non-Cyprus resident companies on their income from sources within Cyprus and remittance of assets or funds into Cyprus is irrelevant.

4.2 What taxes are there on the importation of assets into Cyprus, including excise taxes?

Consumer items considering motor vehicles as well as furniture, confectionery and cosmetics are levied on custom duties. Cyprus' entry in EU though, resulted in the elimination of import duty from most goods originating from Member States.

As it concerns import of goods from non-EU Member States, an import duty is imposed for goods of value higher than €150.

Alcohol, tobacco, motor vehicles, petrol and soft drinks are subject to excise duties.

4.3 Are there any particular tax issues in relation to the purchase of residential properties?

On the purchase of residential property in Cyprus the following taxes are payable:

- transfer fees which are payable in accordance with the cost of the property as it is estimated by the Land Registry department as follows:

Value in €	Transfer Fee Rate (%)
0 – 85,430	3
85,431 – 170,860	5
More than 170,861	8;

- stamp duty, which is payable at the rate of 0.15% of the cost of the property up to the amount of €170,860 and then at the rate of 0.20% for an amount more than €170,860;
 - annual immovable property tax (please see the answer to question 3.3.);
 - Value Added Tax (VAT); and
 - local municipality taxes,
- may apply.

5 Succession Planning

5.1 What are the relevant private international law (conflict of law) rules on succession and wills, including tests of essential validity and formal validity in Cyprus?

Succession and wills in Cyprus are governed by the Wills and Succession Law, Cap.195, which regulates the succession to the movable property of all persons domiciled in Cyprus and the succession to the immovable property of all persons not domiciled in Cyprus.

Establishing the question of domicile, in case of succession to the moveable property, directly leads to the applicable law which will apply. In contrast, the succession of immovable property is governed by the “lex situs” or the law of the country where the immovable property is located.

Furthermore, the same applies in relation to the validity of a will concerning both movable and immovable property.

5.2 Are there particular rules that apply to real estate held in Cyprus or elsewhere?

Please see the answer to question 5.1.

6 Trusts and Foundations

6.1 Are trusts recognised in Cyprus?

The legal concept of trust has been adopted by the Cyprus legal system both in its local and international character. Under the Trustee Law, Cap 193 the law has recognised the local trust, along with the implementation of the International Trusts Law of 1992 (69(I)/1992) which provides that neither the settlor nor the beneficiaries must be permanent residents of Cyprus. A further requirement of the Law is that at least one Cyprus resident must act as a trustee.

6.2 If trusts are recognised in Cyprus, how are they taxed in Cyprus?

The Cyprus local trusts are not tax liable as such. Tax liability occurs at the level of the beneficiaries for the income they receive through the trust. On the other hand, international trusts are totally exempted from taxation in Cyprus for income received outside the Republic.

6.3 If trusts are recognised, how are trusts affected by succession and forced heirship rules in Cyprus?

The legal concept of the Cyprus International Trust has been perceived in a way that the settlor will be sure that the trust property and the trust's main objects for its creation will not be affected by any heirship rules, in order for the trust to be able to achieve and serve its tasks.

6.4 Are foundations recognised in Cyprus?

The Cyprus legal system has endorsed and adopted the establishment of foundations through the Private Clubs and Foundations Law of 1972 and 1997 (57/1972) and supplemented by the Charitable Foundations Law, Cap 41. A foundation, after its establishment, may apply to the Council of Ministers and, if approved, a certificate will be issued acknowledging its charitable character.

6.5 If foundations are recognised, how are they taxed in Cyprus?

As previously mentioned above in question 6.4 if a relevant certificate will be issued by the Council of Ministers in favour of a foundation acknowledging its charitable character, no taxation will be imposed.

6.6 If foundations are recognised, how are foundations affected by succession and forced heirship rules in Cyprus?

A foundation's continuity cannot be affected by heirship or succession rules.

7 Immigration Issues

7.1 What restrictions or qualifications does Cyprus impose for entry into the country?

Due to Cyprus' accession to the EU, as of 1 May 2004 EU citizens may enter into Cyprus and stay up to three months with only their valid ID or passport. Third country nationals (citizens of countries out of the EU) need a valid passport and entry visa to enter into the Republic. Nationals of specific third countries may enter Cyprus for up to 90 days without a visa under the status of "good faith" visitors.

7.2 Does Cyprus have any investor and other special categories for entry?

The Law provides that Companies with either foreign interests or branches of foreign companies (i.e. banks) may employ in Cyprus their own staff and senior management under certain arithmetic and salary conditions.

Furthermore Cyprus companies may apply to the Ministry of Labour and to the Social Insurance Department in order to obtain their permission to employ non-EU citizens with specialities that cannot be found and met by a Cypriot or any other EU citizen.

7.3 What are the requirements in Cyprus in order to qualify for nationality?

Cyprus citizenship can be obtained by birth, registration, descent, naturalisation and by investment.

Any person who was born in Cyprus or born outside Cyprus from a Cypriot parent on or after 16 August 1960 is entitled to obtain the citizenship. If a person was born between 16 August 1960 and 11 July 1999 he or she is entitled to apply to Cypriot citizenship only if his/her mother was Cypriot.

There is a special provision in the law for British and Commonwealth citizens who are widows or widowers or spouses of a Cypriot: provided that they reside in the Republic of Cyprus for more than one year they are allowed to apply for citizenship.

Marriage to a Cypriot citizen, regardless the amount of time spent residing in Cyprus or your country of origin, and provided you are married and cohabit for at least two years, grants you the right to apply for Cyprus citizenship.

Naturalisation leads to citizenship if the applicant resides in Cyprus for at least five years.

The Cyprus government, in order to attract investments, may grant Cypriot citizenship to investors by either:

1. direct investment in Cyprus of around 25 million Euro;
2. for entrepreneurial activities by establishing companies with annual turnover of around 85 million Euro,
3. by introduction of innovative technologies and research centres,
4. for bank deposits personal or for corporates owned by the applicant, of around 17million Euro for at least five years
5. or a combination of the above for the amount of 25 million Euro.

7.4 Are there any taxation implications in obtaining nationality in Cyprus?

On becoming a Cypriot citizen, the aforementioned tax liabilities apply as to any other Cypriot resident.

8 Taxation of Corporate Vehicles

8.1 What is the test for a corporation to be taxable in Cyprus?

All the Cyprus companies must pass the test of the "management and control from Cyprus" in order to enjoy the lowest corporate tax rate in European Union which is 10% on the net profits of the company.

8.2 How are branches of foreign corporations taxed in Cyprus?

As described above, the decisive factor of residency through the effective management and control test, along with the tax planning and needs of the Company, are those which are going to opt the company to be taxed in Cyprus or abroad. If the branch or corporation's activities or services, are rendered outside Cyprus and totally controlled out of Cyprus, then they are exempted from taxation in Cyprus. They are excluded though, from enjoying the benefits of double tax treaties. If, nevertheless, their activities are in Cyprus or controlled from Cyprus, then they will be tax liable in Cyprus and will establish residency, enabling them to apply double tax treaties benefits.

9 Tax Treaties

9.1 Has Cyprus entered into income tax and capital gains tax treaties and, if so, what is their impact?

At the time of writing Cyprus has entered in to 45 treaties with various countries for the avoidance of Double Taxation. Many others are at the stage of negotiation. Those treaties provide the benefit of either exempting the income from tax, or to prove credit as to the tax amount paid in one country in order not to have to pay tax on the same to the other country as well. In other treaties the arrangement is to reduce the amount of the withholding tax.

9.2 Do the income tax and capital gains tax treaties generally follow the OECD or another model?

All Treaties follow the OECD Model.

9.3 Has Cyprus entered into estate and gift tax treaties and, if so, what is their impact?

No such estate or gift tax treaties are into force at the time of writing.

9.4 Do the estate or gift tax treaties generally follow the OECD or another model?

See the answer to question 9.3.



Andreas G. Frangos

Frangos Saprykin Odynets International Law Company
Archiepiskopou Makariou III, 140,
Raptopoulos Building, 3rd Floor,
Office 301
3021, Limassol
Cyprus

Tel: +357 2573 8400
Fax: +357 2573 8408
Email: andreas@fso-legal.com
URL: www.fso-legal.com

Andreas G. Frangos was born in Limassol, Cyprus in 1975. He graduated from the National and Capodistrian University of Athens in 2002 and obtained his L.L.M in Alternative Dispute Resolution in London at Kingston University in 2006. He is a Barrister at Law, member of the Honourable society of Lincoln's Inn of London. He is a member of the Cyprus Bar Association and a member of the London Chartered Institute of Arbitrators. His main areas of practice are Corporate and Commercial Law, International Tax Planning, Banking and Finance, Mergers and Acquisitions and International and Domestic Arbitration. He is the author of the Cyprus chapter in the *International Comparative Legal Guide to: International Arbitration 2008* published in co-operation with Global Legal Group and the Cyprus chapter in the *International Comparative Legal Guide to: Corporate Recovery and insolvency 2008*, published by Global Legal Group. Andreas has also published in the CombiNation Magazine issued by the Dutch-Cypriot Chamber of Commerce. Andreas speaks Greek and English.



Myrianthi Papagianni

Frangos Saprykin Odynets International Law Company
Archiepiskopou Makariou III, 140,
Raptopoulos Building, 3rd Floor,
Office 301
3021, Limassol
Cyprus

Tel: +357 2573 8400
Fax: +357 2573 8408
Email: myrianthi@fso-legal.com
URL: www.fso-legal.com

Myrianthi Papagianni was born in Limassol, Cyprus in 1985. She graduated in Law from Leeds Metropolitan University in 2007 and obtained her L.L.M. in International Commercial Law, at the University of Leicester in 2009. She is a member of the Cyprus Bar Association since 2009. Her main areas of practice are Corporate, Commercial Law and International Tax Planning. Myrianthi speaks Greek and English. Other Publications: "Cross-Border Merger from a Cyprus Perspective" published by the Dutch-Cypriot Chamber of Commerce, Cyprus Chamber edition, Fall 2012.



Frangos Saprykin Odynets is an international boutique law firm founded in 2010. The offices of the firm are located in Kyiv, Ukraine, and Limassol, Cyprus. The firm provides a wide range of highly qualified legal services for its corporate and individual clients from all over the world both at national and multinational level. Our lawyers specialise in corporate governance issues, stock and securities markets issues, international litigation and arbitration, and international tax planning, as well as banking, immigration law and real estate.