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EFFECT OF COVID19 ON CYPRUS TAX RESIDENCY AND PERMANENT ESTABLISHMENTS

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OVERVIEW

In early April 2020, the OECD released their guidance on how certain issues dealt with under the model OECD tax treaty will be affected by COVID-19; it was up to each country of how and whether to apply the guidance in determining the tax residency status of companies/individuals.

On 27/10/2020 Cyprus Tax Department published a Circular № 04/2020 based on these guidelines, clarifying the issues relating to residency during the pandemic.

SUMMARY OF THE PROVISIONS

Taxpayers have the option to ignore the period **21/3/2020 to 9/6/2020** when visitors could neither enter nor leave Cyprus in interpreting the relevant tax provisions dealing with Cyprus tax residency for both individuals and companies and the creation of permanent establishments.

The facts will be considered on a case by case basis and a decision taken thereon by the Tax Department; as a result documentation should be kept to justify each case.

Cyprus tax resident companies

Cyprus tax resident companies will continue to be considered as such in 2020 even when their directors could not travel to Cyprus to attend board meetings on account of the pandemic travel restrictions.

Similarly, companies not tax resident in Cyprus, will not be considered as Cyprus tax resident in 2020 on account of their directors or agents or personnel residing in Cyprus because of the pandemic travel restrictions.

Cyprus tax resident individuals

Cyprus tax resident individuals who failed to come to Cyprus in the period 21/3/2020 to 9/6/2020 on account of the travel restrictions will maintain their status as Cyprus tax residents if all other conditions are met. Basically remaining out of Cyprus during the said period will be ignored and they will be considered as living in Cyprus in the said period.

For example for the individuals qualifying as Cyprus tax residents on the 60 day regime, they will maintain their Cyprus tax residency assuming all other conditions are met these being

- Maintaining a home in Cyprus throughout the calendar year
- Being employed or holding an office or being self employed in Cyprus
- Not residing in any other country for more than 183 days in the calendar year.

Similarly for individuals remaining in Cyprus more than 183 days, the 80 days will be ignored.

Permanent establishments in Cyprus

Individuals residing and working in Cyprus because of the pandemic travel restrictions will not create a permanent establishment for that business in Cyprus either as individual employees or agents creating contracts in Cyprus.

Similarly individuals who remained out of Cyprus because of the pandemic travel restrictions would be considered as still working from Cyprus during that period thus not affecting their business status in Cyprus.

Contact us

Feel free to contact us if you wish to have a discussion or advise on how this development might affect you or your business.

KEY CONTACTS

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