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Cyprus Tax Residency and Permanent Establishment Rules unaffected by COVID-19 Pandemic.

The Cyprus Commissioner of Taxation issued clarifications (Directive No. 04/2020), on the application of the Cyprus Income Tax Law provisions. In focus, this concerned the provisions of Article 2 related to tax residency and Permanent Establishment (PE) during the Covid-19 crisis.



The Implementing Directive was issued on 27 October 2020 and it stipulates that the determination of the tax residency of individuals, the place of effective management in relation to corporate residency and the existence of PEs will not be affected by the temporary nature of the extraordinary circumstances related to the Covid-19 pandemic and, thus, whereabouts and actions affected by the pandemic should be ignored by tax authorities and must not trigger a corporate tax residency scrutiny or change. This Directive also addresses the 50% exemption (expatriate relief) provided under the Cyprus Income Tax Law and the 90 days' exemption.

The Commissioner of Taxation has indicated that although such guidance is not binding, the intention is to follow it as may be considered to be appropriate. The Commissioner further notes that the provisions of the Implementing Directive will be applied on the condition that the taxpayer chooses to do so, otherwise the usual provisions of the relevant tax law will apply.

The Directive sets a defined period of time, namely the period between 21 March 2020 to 9 June 2020, during which the Commissioner of Taxation considers that 'force majeure' circumstances are applied. The default period may be extended by application of, and evidence provided by, the taxpayer.

Corporate tax residency

A company which is not tax resident in Cyprus, will not be deemed as establishing tax residency in Cyprus by the mere reason of the presence/stay in its territory of staff, directors, representatives or employees under a contract of service, when the duration of their stay in the Republic is Covid-19 pandemic related.

In addition, the Directive clarifies that the tax residency status of a Company will not be affected by reason of a director not being able to travel to Cyprus and attend a meeting of the Board of Directors, when the reasons are related to the Covid-19 pandemic. The real circumstances of each case should be considered prior to reaching a final decision.

Pagecorp Group can assist further, should you require any additional information or clarifications on this issue.

Personal tax residency (under the 183- and 60-day rules)

Where an individual is already in Cyprus and his presence as well as his stay are due exclusively to Covid-19 pandemic reasons and of the relevant travel restrictions, the period from 21 March 2020 to 9 June 2020 will not be taken into consideration for the purpose of determining the tax residency of such individual.

In order to prevent abuse of the provisions therein, an individual staying in Cyprus for a period exceeding 183 days and wishing to call upon the provisions of this Directive, should furnish relevant evidence to support his claim (e.g. a tax residency certificate issued by a foreign tax authority).

The presence abroad of individuals during the period 21 March 2020 to 9 June 2020 will be ignored, and for the purpose of imposing taxation such individuals will be deemed to have been physically present in Cyprus on the presumption that the rest of the conditions are met (i.e. maintain of permanent residence in Cyprus, business or employed or holds an office in Cyprus, not to have spent more than 183 days in any other country).

