



S&A

C. SAVVA & ASSOCIATES LTD

Cyprus

The Taxation of Intellectual Property

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(iii) An International Patent Certificate issued under the provisions of the Patent Cooperation Treaty, administered by the World Intellectual Property Organisation (WIPO).

b) Trademarks/Service Marks/ Designs

As far as Trademarks, Service Marks and Designs are concerned, protection can be granted through registration in the following:

(i) Under the provisions Trademark Law Cap. 268 offering protection at a national level.

(ii) EU Regulation 207/2009 of 26 February 2009 on the Community Trademark and EU Regulation 6/2002 of 12 December 2001 on the Community Design offer uniform protection throughout the territory of the European Union.

(iii) (Cyprus being a signatory to the Paris Treaty on the Protection of Industrial Property, as administered by the World Intellectual Property Organisation (WIPO) and a party to the Madrid Protocol, offers global protection of trademarks, service marks and designs.

c) Copyrights

(i) Copyrights vest automatically in works and are protected in Cyprus under Law N.59/76 on the Protection of Intellectual Property.

(ii) Cyprus is a signatory to the Bern Convention for the Protection of Literary and Artistic Works and the Rome Convention on Performance, Production and Broadcasting covering a broad range of rights, including software copyrights. Both Conventions have been transposed into Cyprus legislation. Consequently, copyright in works governed by the said International Treaties is automatically recognised in Cyprus with no further process being required.

Tax Benefits

In addition to the favourable IP tax rules introduced in 2012, Cyprus offers an extensive double tax treaty network that ensures withholding tax optimisation on royalty payments that may arise from IP arrangements and access to all EU Tax Directives.

It should be noted that under the majority of Cyprus double tax treaties, the withholding tax on royalty payments is 0%.

The IP Taxation Regime in brief

- An 80% exemption on profits derived from the sale of IP assets.
- An 80% exemption on the net profits derived from the use of IP assets.
- No recapture system for previously generated losses – losses can be carried forward for up to five years.
- Gross IP income is reduced by all direct expenses incurred wholly and exclusively for the production of IP income.
- Competitive tax amortisation provisions over a five year period (i.e. 20% per annum).
- Wide range of qualifying IP assets, including internally developed IP assets.
- Effective Tax rate of 2.5% or less.

Taxation of Royalty Income (Practical Example)

A Cyprus tax resident company holds IP rights of EUR 50,000 and derives royalty income amounting to EUR 100,000, incurs directly related expenses of EUR 30,000 and is allowed a tax amortisation of EUR 10,000 (being 20% of the EUR 50,000).

Under the new IP Regime the royalty income will be taxed as follows:

Income from royalties		€100,000
Direct expenses		(€30,000)
Tax amortisation		(€10,000)
Net Profit from royalties		€60,000
80% Statutory exemption	€60,000 * 80%	(€48,000)
Taxable Income		€12,000
Tax Liability	€12,000 @ 12.5%	€1,500
Effective tax rate		2.5%

Taxation of Disposal of IP Proceeds (Practical Example)

A Cyprus tax resident company disposes an IP right for EUR 1,000,000. The cost of the acquisition was EUR 500,000 and amortisation was claimed for two years. *Under the new IP Regime the proceeds from the disposal will be taxed as follows:*

Sales Proceeds		€1,000,000
Less: cost of acquisition		(€500,000)
Profit of Disposal of IP		€500,000
Add back: Amortisation claimed		€200,000
		€700,000
80% Statutory exemption	€700,000 * 80%	(€560,000)
Taxable Income		€140,000
Tax Liability	€140,000 @ 12.5%	€17,500
Effective Tax Rate		1.75%

IP companies in the EU

There are 12 European countries currently operating so called "IP Box" tax regimes that provide substantially reduced rates of corporate income tax (CIT), for income derived from important forms of IP. Recently, the Economic and Financial Affairs Council (ECOFIN) has been investigating the 12 above referenced countries regarding their IP Box tax regimes.

The following is a summary of the agreement recently reached with all 12 countries:

1. IP Box rules will continue to apply up to 30 June 2016.
2. After 30 June 2016, and until 30 June 2021, only existing IP Box companies can continue applying the beneficial tax regime.
3. Such "existing structures" can also introduce new IP within their structures up to 30 June 2021.
4. After 30 June 2021, normal local CIT rates will apply to income derived from IP assets. In the case of Cyprus, the current CIT rate of 12.5% is the second lowest in Europe, and compares favourably to other IP Box jurisdictions such as Luxembourg and the UK.

Cyprus Qualifying Intellectual Property rights

QUALIFYING IP RIGHTS	CONDITIONS	QUALIFYING IP INCOME
Copyrights	Acquired or developed post 1 January 2012	Royalty payments
Registered Patents		Damages
Registered Trademarks		Capital Gains
Service Marks		
Software		
Trade secrets		
Know-how		
Client lists		
WIP R&D		
Artistic and literal works (i.e. rights to book, movie etc.)		

In Cyprus, IP rights include patents, trademarks/service marks, designs/models, internet domain names, software copyrights, secret formulae, know-how, work in process R&D, lists, rights related to scientific, literary or artistic work, and rights related to industrial or commercial work.

It is important to note that an IP right registered outside Cyprus, on a European or International level, is eligible for the benefits of the IP Box Regime. In addition, in the case of internally developed IP rights, there is no requirement for the research and development to be undertaken in Cyprus.

Savva & Associates can assist with the implementation of a tax efficient Cyprus IP holding structure, and handle all ongoing corporate statutory compliance matters. We are also well positioned to evaluate existing structures, and undertake IP valuation services. For further information regarding this planning opportunity please contact *Charles Savva* at c.savva@savvacypprus.com

C. Savva & Associates Ltd

75 Prodromou Avenue, 1st Floor, 2063 Nicosia

Tel: +357 (22) 516 671, Fax: +357 (22) 516 672

Email: info@savvacypprus.com, www.savvacypprus.com