Cyprus intellectual Property Regime (IP)

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Introduction
Cyprus has introduced a new IP regime which is in full compliance with international developments and the recommendations of the OECD's BEPS project.
The new IP regime can reduce the effective tax rate to 2.5% of the profit that relates to IP.

NEW IP regime
Under the new regime, 80% if **qualifying profits** granted from **qualifying assets** will be deemed to be tax deductible expenses.

Qualifying assets are those acquired, developed or exploited by a person in the course of its business and that relates to IP, are a result of R&D expenditure and for which the person is the economic owner, excluding any IP relating to marketing (trade names, brands, trademarks, image rights).

Qualifying profits are calculated based on the "nexus approach". More specifically, the level of profits eligible for the 80% tax exemption will depend on the level of R&D expenditure carried out by the taxpayer to develop the qualifying asset. The qualifying profits are calculated based on the following fraction that captures this:

$$OI \; X \; \frac{QE + UE}{OE}$$

Where:
OI is the "overall income derived from the QA";
QE is the "qualifying expenditure on the QA";
UE is the "uplift expenditure on the QA";
OE is the "overall expenditure on the QA".

Overall income (OI) derived from qualifying assets is defined as the gross profit from the assets (i.e. gross income less any direct expenditure). Overall income includes, but is not limited to:
· Royalties or any other amounts relating to the use of qualifying assets;
· Any amount for the grant of a license for the exploitation of the qualifying assets;
· Any amount relating to the insurance or compensation of the qualifying assets;
· Trading income from the disposal of the qualifying asset; and
· Embedded income on qualifying assets, which is derived from the sale of goods, the provision of services or use of any processes that are directly related to the qualifying assets. Capital gains arising from the disposal of a qualifying asset under the new IP regime are not included in qualifying profits and are fully exempt from income tax.

Qualifying expenditure (QE) relating to a qualifying asset is the sum of all R&D expenditure incurred in any tax year wholly and exclusively for the development, enhancement or creation of a qualifying asset and that is directly related to that asset.

Qualifying expenditure includes, but is not limited to:
· Salary and wages;
· Direct costs;
· General expenses associated with R&D activities;
· Commission expenditure associated with R&D activities; and
· R&D expenditure outsourced to unrelated parties.

Qualifying expenditure does not include:
· The acquisition cost of a specific intangible asset;
· Interest paid or payable;
· Expenditure relating to the acquisition or construction of immovable property that has been paid or is payable directly or indirectly to a related person carrying out R&D, regardless of whether the amounts relate to a cost sharing agreement;

Uplift expenditure (UE) of a qualified asset is the lower of (i) 30% of the qualifying expenditure, and (ii) the total acquisition cost of the qualifying asset and any R&D costs outsourced to related parties.

Overall expenditure (OE) of a qualifying asset is the sum of (i) qualifying expenditure, and (ii) the total acquisition cost of the qualifying asset and any R&D costs outsourced to related parties incurred in any tax year.

Qualifying tax payers include Cyprus tax resident persons and permanent establishments (PEs) of non -resident persons. Qualifying tax payers are required to keep track of the relevant income and expenditure to be able to accurately calculate the nexus fraction.

Capital allowances on intangible assets
The amendments to the ITL also include the introduction of capital allowances for all intangible assets (except goodwill and assets qualifying for the current IP regime). A s result the capital costs of such intangible assets will be tax deductible and will be spread over the useful economic life of the asset, as determined by generally acceptable accounting principles (up to a maximum useful life of 20 years).

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