

TAX update

09/15

INTELLECTUAL PROPERTY


KINANIS

A. INTRODUCTION

Major developments are currently in progress with regards to Intellectual Property (IP) tax regimes as part of the Organisation's for Economic Co-operation and Development (OECD) Action 5 of the Base Erosion and Profit Shifting (BEPS) Action Plan.

One of the approaches considered under Action 5 with regards to IP regimes is that there should be a "direct nexus" between income, tax benefits and Research and Development (R&D) expenditure.

In particular, this approach has to ensure that the major economic activities must be undertaken in the jurisdiction of the country in which the preferential tax regime for IP exists and requires that the tax benefits have to be connected with the R & D expenditures.

Further analysis as to the modified nexus approach and the grandfathering rules is provided to our article IP Tax Regimes: A New Tomorrow which can be found at the following link <https://lnkd.in/dZYD5mk>.

B. THE CURRENT CYPRUS REGIME

According to the current Cyprus regime, 80% of "Royalty Profit" generated from a Qualifying IP is considered as a deemed expense for corporation tax purposes. The remaining 20% is subject to the normal corporation tax rate of 12.5%.

The above principles also apply upon sale of a Qualifying IP and 80% of the profit from the sale of the Qualifying IP will be considered as a deemed expense and only the remaining 20% will be subject to the normal corporation tax rate.

Given the above mentioned possible changes which the OECD is considering, the current Cyprus Regime will change in the near future and the benefits gained from the Cyprus IP regime will be relevant only to royalties generated from Patents developed in Cyprus as explained in section C below.

Nevertheless there is an opportunity to benefit from the existing tax regime until 2021 provided that a company enters into the Cyprus preferential tax regime before June 2016.

In this respect with careful tax planning Trademark and Copyrights can still have tax savings from using the current tax regime for the next 6 years.

C. THE FUTURE OF CYPRUS IP BOX

Trademarks and Copyrights

As mentioned above Trademarks and Copyrights will continue to enjoy the benefits of the current Cyprus IP tax regime provided they will enter the Cyprus IP regime until June 2016.

In case they don't enter the scheme until June 2016 then they will not be able to benefit from the Cyprus IP regime.

Patents

The same rules with Trademarks and Copyrights apply also with Patents therefore if they enter the scheme before June 2016 the "grandfathering rules" will apply until 2021.

Under the new proposed scheme, Cyprus patent holding companies will still be able to benefit from the Cyprus IP tax regime after 2021, within the confines of the Modified Nexus. A Cyprus patent holding company, provided that it establishes substance in Cyprus for R&D purposes and there is direct connection between income and production, can use the Cyprus IP tax regime beyond 2021.

D. CONCLUSION

There is still a lot of work to be done to finalize the proposed provisions as stated above and clarification is needed for a number of issues in order for the new rules to be analyzed further and understood entirely by the business world. One thing is certain however, that businesses need to take the proposed changes from now into account when they structure their operations.

Cyprus with its infrastructure, supply of highly qualified personnel, lower operating costs and possibilities of obtaining EU funding, provides the optimum economic environment ability to a wide range of companies, whether small, medium or large, to establish themselves in Cyprus and continue to benefit from the Cyprus IP tax regime.

E. HOW KINANIS LLC CAN ASSIST

Kinanis LLC will be in a position to offer a one-stop-shop solution and can provide you with the following services:

- Registration of IP whether national, community or international.
- Providing International Tax Optimization Advice.
- Consultation if an IP asset is protected under the law.
- Advising and drafting IP transactions, including financing, acquisitions, sales and licenses.
- Restructuring advice to groups in order to retain relief under the new regime.
- Assistance in setting up offices in Cyprus
- Assistance in setting up an appropriate board of directors for the IP company

F. DEDICATED PUBLICATIONS

Our firm regularly publishes dedicated publications regarding subjects of interest to the International Investors. Please visit www.kinanis.com for an exhaustive list of our publications.

Relevant publications regarding the subject are:

- Cyprus – The ultimate IP holding jurisdiction

G. DISCLAIMER

This publication has been prepared as a general guide and for information purposes only. It is not a substitution for professional advice. One must not rely on it without receiving independent advice based on the particular facts of his/her own case. No responsibility can be accepted by the authors or the publishers for any loss occasioned by acting or refraining from acting on the basis of this publication.

September 2015

Our Firm

Kinanis LLC, a law and consulting firm, is one of the leading and largest business law firms in Cyprus and advises for over 30 years the international investor and private clients on all aspects of law, tax and accounting.

Kinanis LLC absorbed the business of its shareholders which are in the legal and consulting profession since 1983, with local and international dimensions.

Experience and practice over the years brought forward the need for transformation from a traditional law firm to a more innovative multidisciplinary firm providing a full range of services combining law and accounting with the extensive expertise in corporate and tax advice to ensure that our clients will obtain the best possible spherical advice adopting the principle as to the services offered "All in one place", so that the client will find a quick, correct and efficient solution to its daily legal, accounting and tax issues in a trustworthy environment.

This combination of legal, accounting and tax services through our well qualified personnel and our involvement and participation in international transactions over the years, have established our firm as one of the key players in the field. Our involvement in international financial transactions has also provided us with the extensive expertise in representing groups, corporations, funds as well as the private client.

The firm is staffed with around 80 young, energetic and ambitious professionals, including lawyers, accountants and administrators who provide prompt, efficient and high quality services and who are capable of meeting the current demanding challenges of the local and international business environment.

We always look to give solutions in a simple and as possible quick way focusing on the needs of each client trying to anticipate the issues before becoming a problem.

Contact Us

If you would like to receive further information or to contact us on any relevant matter, please contact the below persons at the respective divisions or departments.

Kinanis LLC

Lawyers' Limited Company
 12 Egypt Street, 1097, Nicosia
 P.O. Box 22303, 1520 Nicosia, Cyprus
 Tel: + 357 22 55 88 88
 Fax: + 357 22 66 25 00
 E-mail: KinanisLLC@kinanis.com
 Web site: www.kinanis.com

Corporate Division

Christos P. Kinanis
 Fax: +357 22 76 28 08
corporate@kinanis.com

Accounting Division

Charalambos Meivatzis
 Fax: +357 22 75 14 74
accounting@kinanis.com

Litigation Division

Andrianna Solomonides
 Fax: +357 22 45 81 95
litigation@kinanis.com

Banking Department

Myroulla Kyriacou
 Fax: +357 22 75 39 15
banking@kinanis.com

Tax Department

Marios Palesis
 Fax: +357 22 75 14 74
tax@kinanis.com

Accounting & VAT Department

Demetra Constantinou
 Fax: +357 22 75 14 74
accounting@kinanis.com

KINANIS refers to the service mark through which Kinanis LLC of Cyprus, Kinanis Fiduciaries Limited of Malta and their affiliated companies are conducting business, each of which is a separate legal entity.