

# THE CYPRUS INTELLECTUAL PROPERTY BOX

The Cyprus Intellectual Property Box (IP) is fully aligned with the OECD/G20 Base Erosion and Profit Shifting (BEPS) Action 5 report. It presents attractive opportunities for structuring the use of IP assets through Cyprus particularly in conjunction with Cyprus' network of double tax treaties under which withholding tax on royalties is zero or minimal.

Cyprus is a member in all relevant IP international treaties including the Madrid Agreement, the TRIPS Agreement, the European Patent Convention, the Patent Cooperation Treaty, the Berne Convention and the WIPO Copyright Treaty.

The IP Box regime provides for favourable tax treatment in relation to income generated from any type of IP rights and gives capital allowances for the investment in or exploitation of these rights. The Cyprus IP box can result in a tax exemption of up to 80% on the qualifying IP income generated by eligible IPs thereby reducing the effective tax to as low as 2.5% per annum - the lowest effective tax rate on IPs in Europe.

*This publication should be used as a source of general information only. It is not intended to give a definitive statement of the law.*

## THE CYPRUS IP BOX AT A GLANCE

|                                    |  |
|------------------------------------|--|
| <b>Legal Framework</b>             | The Cyprus Intellectual Property Law (as amended)  |
| <b>IP Exploitation</b>             | <ol style="list-style-type: none"> <li>1. IP Licensing: Owner of IP receives royalties from licensing of IP. Profits derived from this licensing may be subject to tax as low as <b>2.5%</b></li> <li>2. Sale of IP: Owner of IP sells shares in Cyprus IP box. There is no tax on the profits earned</li> <li>3. Sale of IP: The disposal (capital nature) of an IP is tax exempted.</li> <li>4. Sale of products that have an embedded IP also falls under the IP box regime.</li> </ol> |
| <b>Qualifying Assets (QA)</b>      | Qualifying Assets (QA) includes i) Patents ii) Software Programs (copyrighted) and iii) Other useful innovative IP from which taxpayer does not exceed <b>EUR 7.5 Million</b> revenue per annum or <b>EUR 50 Million</b> revenue as a group over a five-year period.   |
| <b>Nexus Fraction</b>              | The nexus approach provides that there should be enough substance and an essential nexus between expenses, IP assets and related IP income in order to benefit from the IP regime.   |
| <b>Qualifying Profits (QP)</b>     | To calculate the Qualifying Profits (QP) the Qualifying Expenses (QE) and Uplift Expenditure (UE) are divided by the Overall Expenditure (OE) and multiplied by the Overall Income (OI) derived from Qualifying Assets <b>QP = [QE + UE / OE] * OI</b>   |
| <b>Qualifying Expenditure (QE)</b> | Qualifying Expenditure (QE) is the direct costs including salary, wages, commission expenditure and general expenses related to the R&D activities paid to unrelated parties. It excludes the cost of acquiring the QA, any interest, salary, wages and general expenses paid to individuals undertaking the R&D which cannot be directly linked to the QA.  |
| <b>Uplift Expenditure (UE)</b>     | Uplift Expenditure (UE) is calculated as the lesser amount of either: <ul style="list-style-type: none"> <li>• 30% of the Qualifying Expenditure (QE), or;</li> <li>• The total cost of acquiring the QA plus R&amp;D costs outsourced to related parties.</li> </ul>  |
| <b>Overall Expenditure (OE)</b>    | Overall Expenditure (OE) is the qualifying expenditure plus the total costs incurred to develop or acquire the QA, including R&D costs paid to related third parties in any tax year.  |
| <b>Overall Income (OI)</b>         | Overall Income (OI) is the gross income minus any direct expenses; <ul style="list-style-type: none"> <li>• Royalties or other income from exploitation of QA</li> <li>• Amounts sourced from Insurance/Compensation relating to QA</li> <li>• Trading income from sale of the QA</li> <li>• Embedded income from the QA.</li> </ul>   |

## THE CYPRUS IP BOX ADVANTAGES

|                                   |  |
|-----------------------------------|--|
| <b>Robust IP Legislation</b>      | The IP legislation in Cyprus is fully harmonised with the EU and modelled on the English legal system.   |
| <b>Sale of IP Box</b>             | Upon exit, if shares of the IP Box are sold <b>100%</b> of the profits are tax exempt. The disposal (capital nature) of an IP is tax exempted.   |
| <b>Royalty Payments</b>           | <ul style="list-style-type: none"> <li>• No withholding tax if Cyprus IP Box makes royalty payments to a non tax resident entity if the IP is not used in Cyprus</li> <li>• No withholding tax on royalty receipts/payments from EU entities under EU Royalty Directive</li> </ul>   |
| <b>Dividend Payments</b>          | <ul style="list-style-type: none"> <li>• No withholding tax if Cyprus IP box makes dividend payment to non-resident shareholder</li> <li>• Dividend income is fully exempt from Cyprus income tax and mostly exempt under double tax treaties.</li> </ul>  |
| <b>Lowest Effective Tax in EU</b> | Up to <b>80%</b> of profits can be exempted from tax, making effective tax rate as low as <b>2.5%</b> - the lowest effective tax rate on IPs in EU.  |
| <b>IP Treaties</b>                | <p>Cyprus is a treaty member to all the key international treaties and IP protocols offering the highest level of protection and assurances for IP owners, including:</p> <ul style="list-style-type: none"> <li>• Madrid Agreement Concerning the International Registration of Marks and Protocol to the Madrid Agreement</li> <li>• Berne Convention for the Protection of Literary and Artistic Works</li> <li>• WIPO Performance and Phonograms Treaty</li> <li>• TRIPS Agreement</li> <li>• European Patent Convention</li> <li>• Patent Cooperation Treaty</li> </ul> |
| <b>Residency Permits</b>          | <ul style="list-style-type: none"> <li>• IT and Pharmaceutical companies who set up an IP Box in Cyprus, can enjoy priority in residency permits for their directors and key employees.</li> <li>• Foreign investors who have over EUR 300,000 invested in the shares of a Cyprus Company that employs 5+ individuals can qualify for the Cypriot Permanent Residency permit, granting them the right to reside in Cyprus</li> </ul>   |

## WHAT WE CAN DO FOR YOU

We at ATG have built our expertise over the past two decades assisting our clients to protect and grow their wealth through bespoke advice. We monitor developments in the EU and global IP stage and support our clients evaluating solutions as laws evolve. Each of our clients is provided with a tailored solution in line with their tax residency, the IP assets/rights involved and their specific circumstances.

We offer a full range of services for the exploitation and structuring of IP rights through Cyprus. Our intellectual property law team provide advisory, corporate administration, patent and trademark registration and franchising support. We have experience in all matters pertaining to the tax and legal implications of establishing a Cyprus IP solution including in-depth knowledge on trademark disputes and copyright law. **For a FREE Initial Consultation to discuss the specifics of your enquiry please contact Andreas Athinodorou on + 357 22057560 or andreas.athinodorou@atgcorporate.com.**

| IP LICENSING   | OVERVIEW AND SET-UP   | ONGOING ADMINISTRATION   | TAX AND LEGAL COMPLIANCE   | EXIT AND GROWTH  |
|--|---|--|--|--|
| <ul style="list-style-type: none"> <li>• Valuating IP assets</li> <li>• Coordinating with specialised IP lawyers</li> <li>• Submitting software copyright licenses</li> <li>• Submitting patent and other innovative IP licenses.</li> </ul> | <ul style="list-style-type: none"> <li>• IP Box tax structuring</li> <li>• Incorporating and implementing the IP Box</li> <li>• Monitoring and mitigating risks for IP portfolio</li> <li>• Providing strategic evaluations on the IP portfolio.</li> </ul> | <ul style="list-style-type: none"> <li>• Central liaison for all corporate administration</li> <li>• Banking administration and royalty payment processing</li> <li>• Accounting and Audit assistance</li> <li>• Financial Reporting.</li> </ul> | <ul style="list-style-type: none"> <li>• IP Box tax compliance</li> <li>• Licensee tax considerations</li> <li>• Licensor tax considerations</li> <li>• Drafting IP sale/licensing agreements</li> <li>• Patent or trademark infringements.</li> </ul> | <ul style="list-style-type: none"> <li>• Sale of IP assets</li> <li>• Disposal of IP Box shares</li> <li>• Supporting Mergers &amp; Acquisitions</li> <li>• Sourcing investors for IP Box</li> <li>• Providing shareholders and investors private wealth structuring.</li> </ul> |