

## Cyprus introduces changes regarding taxation of intangible assets

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### Executive summary

On 17 July 2020, the Cypriot House of Representatives approved a bill amending Section 9(1)(l) of the Income Tax Law (ITL) which introduced a number of changes with respect to the tax treatment of intangible assets.

The relevant law implementing the new provisions will take legal effect once it is published in the *Official Gazette of Cyprus*, which is expected to take place within two weeks from the enactment date.

### Detailed discussion

As per section 9(1)(l) of the ITL, any expenditure incurred for the acquisition or development of an intangible asset, which is incurred by a person carrying on a business for which the Commissioner is satisfied that it has been incurred for the benefit of such business, is deductible for income tax purposes.

The amended provisions are summarized below.

#### **No obligation to prepare a balancing statement**

Under the existing provisions, a taxpayer has an obligation to prepare a so-called balancing statement in the event of a sale of an intangible asset. This effectively means that any cumulative deductions claimed in accordance with section 9(1)(l)

of the ITL in the form of tax depreciation may be clawed back and taxed in the year of disposal via the so-called balancing addition made to the taxable profit of the year.

As of 1 January 2020, the obligation to prepare a balancing statement upon a transfer/sale of an intangible asset is abolished.

### Carryforward of unused tax depreciation

Under the existing provisions, any expenditure incurred for the acquisition or development of an intangible asset which is of a capital nature is allocated to the useful life of the intangible asset in a reasonable manner according to acceptable accounting standards, with a maximum period of 20 years. A person may elect not to claim tax depreciation or claim part of it (a different election can be made every tax year). To determine the written down value of an asset for tax purposes, the cumulative deductions previously claimed by the taxpayer are taken into consideration.

The current wording was ambiguous and for this purpose, the law was amended to provide that the unused tax depreciation and the right to claim such depreciation can be carried forward. The carried-forward tax depreciation may be claimed by the taxpayer as additional tax depreciation during the remaining useful life of the asset. The above change in the law is effective as from 1 January 2020.

## Implications

The amended provisions are expected to have a positive impact on companies engaged in commercial exploitation (including licensing) of intangible assets as it allows for greater flexibility in determining the amount of tax depreciation without forfeiting any tax deductions. This may be relevant given the friction of the deduction for tax depreciation with other rules such as the notional interest deduction (NID) on corporate equity which is limited to 80% of taxable income before NID, and the carryforward of tax losses for a period of five years. Moreover, the abolishment of the obligation to prepare a balancing statement implies that if the future disposal of an asset is treated as a capital nature transaction, the resulting capital gain (or loss) should not be taxable (or deductible) assuming relevant conditions are met.

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For additional information with respect to this Alert, please contact the following:

### Ernst & Young Cyprus Limited, Nicosia

- ▶ Petros Krasaris, *Head of International Tax and Transaction Services*      petros.p.krasaris@cy.ey.com
- ▶ Eleni Papachristodoulou, *International Tax and Transaction Services*      eleni.papachristodoulou@cy.ey.com
- ▶ Panayiotis Tziogouros, *International Tax and Transaction Services*      panayiotis.tziogouros@cy.ey.com

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