
LEGAL GUIDE AND INFORMATION SERVICES (LEGIS)

Cyprus Companies

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1 What every Businessman Needs to know about offshore companies

1.1 *The need for offshore companies*

As our world becomes smaller, and businesses aim at a larger global market, they gradually lose their local, or even national character and acquire an international identity extending their activities to all corners of the globe. For years now, businessmen have used the corporate vehicle as a way of expanding their business to various parts of the world.

The average businessman today is far more sophisticated than the businessman of twenty, or even ten years ago. Successful business strategies and cost-effective operations have achieved higher levels of complexity than ever before, while at the same time the need for securing anonymity has increased. This modern concept for expansion, steadily becoming a second nature to all businessmen around the globe has created a need for the use of a corporate vehicle for the implementation of international business strategies such as expansion, protection of assets and minimisation of tax liabilities.

1.1.1 Offshore companies as a vehicle for business expansion and growth

Offshore Companies are, as a rule, incorporated in tax efficient international business centres and are used to operate outside the place of their incorporation, for a seemingly limitless variety of activities. A few of the most popular examples are the following:

- trading, trade financing, holding assets, manufacturing and tax minimisation
- For trading with or in countries where satisfactory local commercial or corporate law is deficient or absent
- Joint ventures often use foreign corporations when the participants are from different countries and prefer to incorporate in a jurisdiction neutral to all the parties
- Foreign corporations can also serve to isolate or separate activities, assets or profit centres for tax, accounting or liability reasons
- Where assets are cumbersome or expensive to transfer, like patents, copyrights or trademarks, it is sometimes feasible to have such assets held by separate corporations allowing the individual to transfer the shares in the corporation rather than the asset itself

Sometimes, a foreign corporation, is recognised as a “citizen” or “national” of the place of incorporation, and as such may confer a trade advantage or may help avoid a disadvantage. It may also be used as an integral part of a trust structure.

1.1.2 Offshore Companies as a vehicle for personal property management and security

In addition to the classic concept of a “tax shelter”, offshore companies can be used to

- enhance financial privacy,

- eliminate real estate transaction costs
- achieve “financial immortality”
- limit personal liability
- allow other family members to have access to the property without in fact relinquishing control

1.2 *Criteria for selecting an offshore business centre*

There are many offshore centres offering a wide choice of offshore vehicles. The following criteria should be borne in mind when selecting an offshore centre

1.2.1 The policy and general attitude of the country towards commercial activities;

Generally, an amenable jurisdiction should be politically neutral, follow a policy of free trade, and should not interfere with the commercial activities of corporations established there. Formal diplomatic recognition as well as commercial recognition and acceptability are also very important.

1.2.2 Features of the corporate legislation that facilitate incorporation and continuing management;

Most popular jurisdictions have a legal system derived from a major western country and greatly favour corporations, which are non-resident in nature. Professionals prefer their western style legislation since it provides a familiar basis for legal interpretation and facilitates understanding of their laws in international practice particularly in developed countries. In addition, there is inherent in the western tradition the protection of private property and the promotion of international trade.

In order to be successful, a corporate law must provide those entities under which it is formed with the legal capacity to conduct all forms of commercial activities anywhere in the world, allow for a simple management structure and provide the corporation with broad financial powers. In addition, they should be highly confidential and have minimal requirements for maintaining the legal existence of the corporation according to the laws of the place of incorporation.

1.2.3 The level and speed of service obtainable in and from the jurisdiction; Cost

It is important that the offshore centre chosen maintains high professional standards and that the professionals to be engaged are experienced reliable and efficient. Furthermore the civil service departments with which an offshore company will directly or indirectly come into contact need to be well organised and efficient without to great an affection to red tape.

2 Cyprus - The right Forum

Cyprus, with its unique geographical location, in the eastern Mediterranean hub, lying between three continents, its vibrant economy and the country's sophisticated infrastructure its modern banking and telecommunications facilities, as well as the political neutrality of the island-republic offers itself as an ideal base for international operations and is steadily becoming a threshold for linking business between East & West.

Cyprus is a member of the United Nations and the Council of Europe. Its modern and effective legal system which is very similar, to some extent identical, to English law. guarantees complete freedom of trade and the international recognition of Cyprus companies. The international recognition of Cyprus companies is further enhanced by the protection offered to Cyprus Companies by the Double Taxation Treaties currently in force between Cyprus and a large number of countries.

3 Cyprus Offshore Companies - The Perfect Vehicle

There are many ways in which Cyprus Offshore Companies may be used as a vehicle for international operations:

- a) As a vehicle for managing one's affairs, for tax or estate planning or for other fiduciary purposes. This is achieved by establishing legal presence on the island, through the incorporation of a company.
- b) As a fully-fledged base by maintaining physical presence on the island. In certain cases it may be in the form of a branch¹ (mostly used by banks) or a wholly owned subsidiary (usually used by multinational companies to manage their operations in the Middle East or former "Eastern Block Countries").
- c) As a vehicle for setting up and managing offshore trusts, offshore pension funds and captive insurance companies².

3.1 Cypriot Business entities (The Law)

The legal system in Cyprus derives its roots from the English legal system. Consequently, business entities in Cyprus are found in almost the same forms as they are used in England, i.e. simple Firms, Partnerships and Companies with limited liability. Another form of business entity is the branch of a company incorporated overseas and operating in Cyprus, or offshore from Cyprus.

1 See paragraph 3.1.3 above

2 Separate information is available on request on Offshore Trusts and Captive Insurance Companies.

3.1.1 Partnerships

The Partnership is a business entity offering itself as a convenient means of sharing profits. The members of such entity - the partners - are liable jointly, with no limitation for all debts and liabilities of the Partnership. This form of business entity is more commonly used by professionals, such as lawyers, architects, accountants etc., who must have an unlimited liability towards their clients in view of the nature of their profession.

Partnerships are also popular amongst the business world because they may be set -up for a limited period of time, after the lapse of which they are automatically dissolved.

Another interesting form of Partnership is the "Limited Partnership". The main characteristic of this form is that one of the partners is a "sleeping" or "dormant" partner. He does not participate in the management of the firm and his liability is limited to a certain amount declared in advance.

3.1.2 Limited Companies

Companies with limited liability - more commonly known as "Limited Companies" - is a form of business entity that is most widely used to conduct business and investments. They offer not only the advantages of their corporate character, but allow their members to set a calculable ceiling to their liability. Limited Companies are found in the following forms:

Public Companies (more commonly known in the UK as PLC): Their main characteristics are the power to extend an invitation to the public for subscription in their shares and the fact that there is no limit regarding the maximum number of members allowed.

Private Companies: This is the most widely used form of company. They have the character of "closed corporations" and are thus prohibited from inviting the public to subscribe to their shares. The maximum number of members allowed is fifty. Being "closed corporations" they permit that certain restrictions are imposed on the transfer of shares (thus protecting the interests of existing shareholders, as regards the management of the company. A most common restriction is the introduction of the so-called "pre-emption" rights, which restrict the right of sale of the shares to outsiders unless the shares have been first offered to the existing members.

Companies Limited by Guarantee: This form of company does not require its members to subscribe to, or provide share capital, but simply to provide for the members' liability, in the event of the winding up of the company. This form of company is quite common in the case of non-profit organisations and may offer an interesting alternative to persons who are citizens of countries with exchange control or other restrictions as regards foreign investments.

3.1.3 Branches of Overseas Companies

Companies incorporated and operating anywhere in the world may register in Cyprus a branch. Such registration is effected by filing with the Registrar of Companies a copy of the charter of the company as registered in the country of origin, a list of its directors and the name of a person in Cyprus, who is authorised to accept service of documents on behalf of the Company.

4 Special Advantages of Cyprus Companies

The most popular form of legal entity used is the Private Company with limited liability by shares or as it is widely known as "Limited Company". One of the main reasons is that a Limited Company may, under certain conditions, may be an "Exempt" private Company and as such it may enjoy certain privileges, e.g. exemption from statutory restrictions for making loans to its directors, or the obligation to file with the Registrar of Companies a copy of its Annual Financial Report.

Cyprus Companies enjoy certain special advantages such as:

- Low taxation: the net profits of the Company (i.e. after deduction of all operational costs) are subject to tax at the rate of only 4.25%.
- There is no withholding of tax on dividends.
- No Estate Duty is payable in Cyprus upon the inheritance of shares in the above companies.
- The company may operate accounts in any freely convertible currency and in any part of the world.
- No annual taxes or fees are payable for keeping the company alive and in good standing.
- Expatriate employees of offshore companies working in Cyprus enjoy tax deductions of up to 50% on the prevailing tax rates and expatriate non-resident employees are wholly exempted from the payment of tax.
- Exemption, in certain cases, from payment of customs and import duties, i.e. the import free of duty of all office machinery, installations, cars, equipment, etc.
- Bank interest earned in Cyprus is tax-free. This exemption is also available in respect of interest earned on foreign loans for approved projects.
- Profits of a ship under the Cyprus flag from operation in international waters are totally exempt from tax.
- Last but not least, Offshore Companies may enjoy the benefits or crave the aid of double taxation treaties. There are a number of double taxation treaties now in force between Cyprus and most European countries, e.g. Denmark, Greece, France, Ireland, Italy, Norway, Sweden, and UK. and the Federal Republic of Germany, as well as the US, Russia, Hungary, .
- Full anonymity is secured if desired. Anonymity of the shareholders can be secured. Also anonymity of bank accounts may be established. Although Cyprus banks have established a reputation worldwide for the high level of confidentiality it is possible to secure anonymity in the operation of bank accounts.

5 Types of companies

Many types of companies may be registered. Herebelow are a few examples:

Holding Companies: A holding company can be the parent of a number of companies registered in Cyprus or abroad. This is of particular interest in the case where different investors are participating in various companies or projects and wish to control and

direct their investments through a holding company. Such companies are mainly set up in order to take advantage of the various Treaties for the Avoidance of Double Taxation, which Cyprus has concluded with other countries.

Investment Companies: Cyprus Companies may be set up for the purpose of making or managing investments.

Trust Companies: In common with other European countries, trust companies may be set in Cyprus with the object of managing Trust Funds or Pension Funds. The Trust Funds may be held and managed outside Cyprus. This vehicle is of particular interest to financial institutions and investment managers.

Trading and Re-invoicing Companies: Such companies are used for the negotiation, co-ordination and conclusion of purchasing contracts and the re-invoicing of materials, goods and services from any country to any destination. It is particularly useful to merchants and exporters who may take advantage of the low taxation of Cypriot companies on the additional profit arising out of the re-invoicing of their sales through the Cypriot company.

Shipping Companies: The Cyprus flag is not a flag of convenience. It is, however, an internationally attractive flag because of the important advantages it offers both to seamen and to shipping companies because it provides for good and safe working conditions and many tax advantages (e.g. low tonnage tax). These types of companies are mainly used for ship-owning, which are totally exempt from tax. Ship-management companies are especially attractive to Germans, since Cyprus has signed in addition to the Double Taxation Treaty with Germany, a Treaty for the Double Registration of ships.

Banking Companies: The location of Cyprus and the excellent banking system and banking laws provide ideal conditions for the foreign banks to manage their international operations more profitably and effectively. Locally incorporated Offshore Banking Units, Branches and Representative Offices of International Banks are an excellent vehicle for this purpose.

Insurance Companies: Insurance Companies may be registered in Cyprus either as newly set-up Cyprus based offshore companies or as captive insurance companies.

Management companies: These are usually wholly owned subsidiaries of foreign companies for the purpose of managing the operations of the mother company, in the Middle East, the Gulf and North Africa. This is particularly interesting from a taxation point of view for foreign companies employing people abroad, since their income is not liable to tax in Cyprus.

Professional services companies: Offshore partnerships are used in the services industry by accountants, architects and other professionals to minimise tax liability, or to advantageously use pension and retirement schemes for partners.

Intellectual property companies: In addition to the fact that income from royalties, licences or other use of intellectual property rights is subject to very low tax these companies are used often as vehicles for transferring rights in intellectual property in a cost effective and quick way.

The above are just a few examples of the possibilities that are offered to the foreign investor through the vehicle of the offshore company. More detailed reports on such types of company, e.g. shipping or banking are available on request.

6 Formation and Management of Offshore Companies

The formation of a Company in Cyprus is effected by the subscription to the Charter by the shareholders and its submission for Registration.

The following procedure is adopted when registering a company in Cyprus:

- Obtaining an approval for the desired company name.; this is done within 24 hours by filing the relevant application with the Registrar of Companies.
- The subscription to the Charter of the Company by the founding shareholders.
- The appointment of the first Directors and Secretary of the company.

6.1 The Charter

The Charter of the company consists of two documents called the Memorandum and Articles of Association. The Memorandum of Association contains clauses regarding the name of the company, its objects or activities, the amount of its share capital and the types of its shares (e.g. ordinary, preferential, non-voting etc.).

The Articles of Association contain rules governing the internal structure and management of the company and they deal with such matters as the appointment and removal of directors, the general meetings of the company, the transfer of shares, the voting rights of members, the paying of dividends and other matters.

6.2 Shareholders

The maximum number of shareholders allowed in a private limited company, is fifty. The Law requires that all shares be registered in the name of the shareholder. This in effect means that there are no bearer shares. This is one of the reasons why Cyprus companies are well respected. Nevertheless anonymity can be secured by appointing “nominees”, who will hold the shares in trust for the beneficial owners. This makes it also possible for one person to be the sole proprietor of the company, although by law a minimum of two subscribers to the memorandum are necessary.

6.3 Capital

The minimum authorised capital required is CY£ 5,000. At least CY£ 1,000. - must be issued and paid up. The remaining part of the authorised capital may be issued at any time and paid-up either in cash or in kind, immediately upon issue or by calls. Further increases of the authorised capital may be made at any time. The capital is expressed in Cyprus pounds but may be provided in any foreign currency.

6.4 The Officers of the Company

6.4.1 The Directors

The first directors are appointed by the founding shareholders. The directors so appointed are responsible for the day to day management of the company and hold office until the next Annual general Meeting of the Company, at which they are eligible for re-election. During their term of office directors may be removed by the shareholders subject to certain conditions provided for in the Law. There is no necessity to have local directors. Should, however, this be desired in order to facilitate the management of the company or to obtain tax advantages in other countries, by

making use of the provisions of any of the double tax treaties in force, our office may provide you with nominee directors at a small annual fee.

6.4.2 The Company Secretary

The Company secretary is responsible for maintaining a proper register of members, to keep minutes of all meetings of the shareholders and meetings of the board of directors, and to notify the Registrar of Companies of all changes in the structure of the company (e.g. increase of capital, transfer of shares, appointment or removal of directors etc). The Company secretary must also ensure compliance with the annual reporting requirements by filing with the registrar of Companies the Annual report of the company. It is recommended that the Company secretary is a professional.

6.5 Meetings

It is not necessary to hold any Board or General Meetings in Cyprus, although this may some times be desirable in order to prove that the effective management of the company lies in Cyprus and thus crave the benefits under a certain Double Taxation Treaty.

6.6 Bank Accounts:

There is no legal obligation to maintain a bank account in Cyprus. A Cyprus Offshore company may bank with any institution in the world. Nevertheless, it is strongly recommended to make use of a Cyprus bank account, as this brings additional benefits (e.g. interest earned from money deposited with a Cyprus bank is completely free of tax). Cyprus banks have earned a worldwide reputation for the careful preservation of the banking secrecy and their high degree of efficiency. Most of them have correspondents in the remotest spots on the globe. Their modern methods guarantee that money transfers to any part of the world are made within 24 hours. Privacy is fully protected and guaranteed and in certain special cases anonymity of the account holder may also be safeguarded.

Most banks will allow access to the account via a computer or the Internet from anywhere in the world. The software and basic training is provided by the bank at no charge. In addition to the above holders of Cyprus bank accounts enjoy certain tax advantages, as already mentioned above.

6.7 Language:

The Memorandum and Articles of Association are registered in the official language of the Republic, which is Greek, but a translation in English will also be registered. The name of the Company may be registered in any language.

6.8 Auditing Requirements:

Every company must keep proper books of account and must have these audited by an independent auditor. Companies' books may be kept in any currency and, subject to arrangement with the auditors, may be kept in any country. The company's financial year may be the calendar year or any other suitable yearly period. The company's audited accounts consist of the balance sheet, the profit and loss account, an auditor's report and a director's report.

6.9 Time and Cost:

The time required for the registration of a company is usually 5 working days. The costs of the registration, consist of a small fee payable at the Registrar of Companies, the Capital Duty which is paid on the nominal capital of the company and some other minor disbursements and of course the legal fees. Details may be provided on request.

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