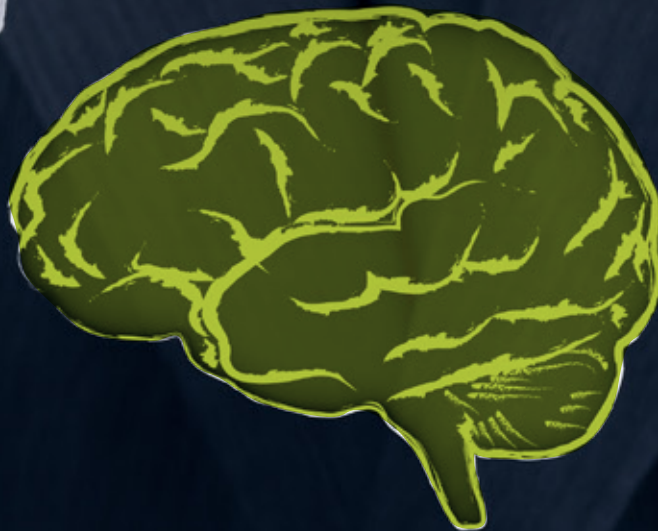
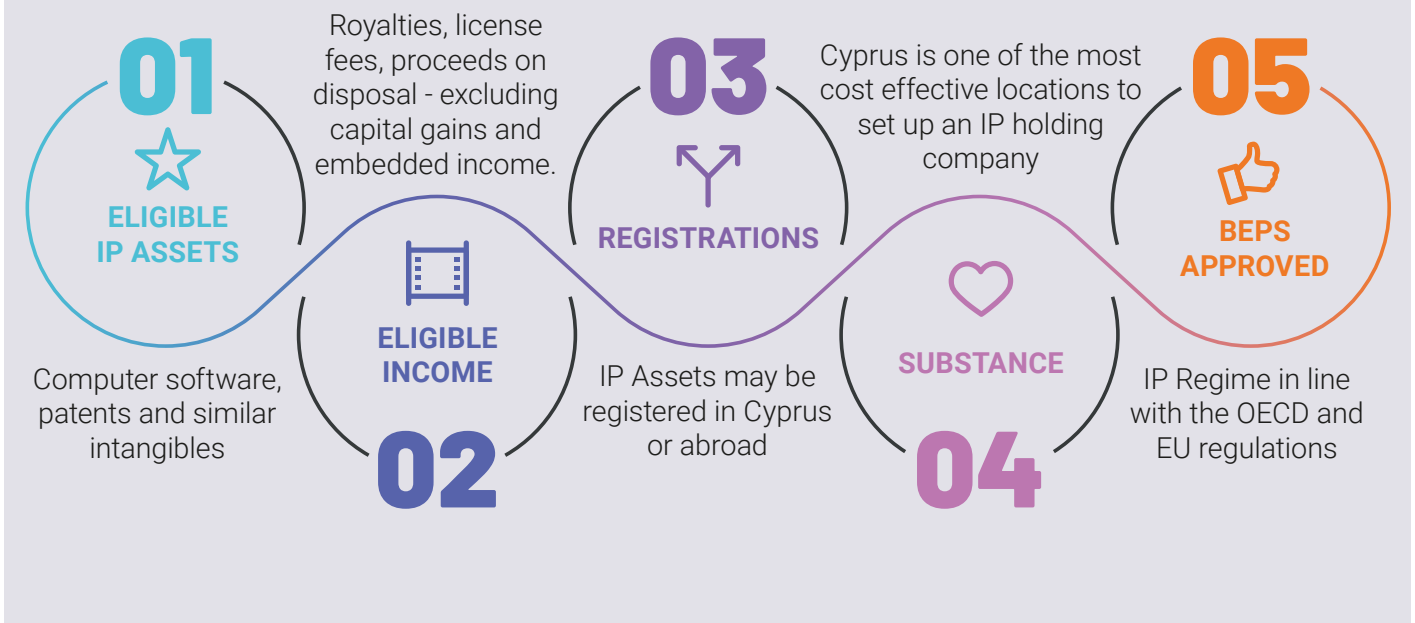


CYPRUS
IP REGIME



 **FIDES CORP**
CHARTERED ACCOUNTANTS & BUSINESS ADVISORS

2,5% Effective Tax Rate



THE INTELLECTUAL PROPERTY (IP) TAX REGIME IN CYPRUS

IP-intensive companies and R&D activities are key drivers of growth and employment globally. To attract such companies in Cyprus, on October 2016, the Cypriot laws governing the application of the Cypriot intellectual property regime (the IP box regime) have been modernised and amended according to international standards. The provisions of the IP box regime have therefore been aligned with the recommendations of the Organisation for Economic Co-operation and Development (OECD) Action 5 of the Base Erosion and Profit Shifting (BEPS) plan on Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance. The revised regime provides tax incentives for research and development (R&D) activities, provided that they are carried out according to certain principles set out in the law.

THE OPPORTUNITY

If properly structured, the effective tax rate of a Cyprus IP holding company can be as low as 2,5%. This generally applies to companies who either develop the IP themselves or outsource the development of their IP to an unrelated party. Companies who acquire the IP or outsource its development to a related party, can still benefit from the IP regime but to a lesser extent.

WE CAN HELP

We can review your structure and holdings and advise you how to potentially qualify under the Cypriot IP Regime. Moreover, we can handle the relevant IP filings and manage your tax compliance work in line with relevant regulations and laws.

QUALIFYING ASSETS

As per the Cyprus law, the IP Regime applies only to certain categories of 'qualifying intangible assets'. The categories of qualifying intangible assets include:

1. **patents**, as defined in the Cypriot Patents Law
2. **computer software**
3. other IP assets which are legally protected and fall within one of the following categories:
 - a) utility models, intellectual property assets which provide protection to plants and genetic material, orphan drug designations and extensions of patent protection .
 - b) Qualifying IP assets can also include IP assets that do not fall into either of the first two categories but that share features of patents (i.e. are nonobvious, useful, and novel) and are certified by a competent government agency in Cyprus or abroad.

The only taxpayers that may qualify for such benefits are those that have no more than €50m in global group-wide turnover and that do not themselves earn more than €7.5m per year in gross revenues from all intangible assets, using a five-year average for both calculations.

A "qualifying intangible asset" is defined as an asset which was acquired, developed or exploited by a person within the course of carrying out a business and it represents intellectual property which is the result of research and development (R&D) activities and includes intangible assets for which only economic ownership exists.

The definition of qualifying intangible assets specifically excludes business names, brands, trademarks, image rights and other intellectual property rights used for the promotion of products and services.

NEXUS APPROACH

The IP Regime mainly applies to royalties and similar income generated from qualifying IP. The overall qualifying income generated from qualifying intangibles is multiplied by the Nexus Ratio and the resulting figure is eligible to an 80% tax exemption.

Effectively, a qualifying taxpayer that generates the IP or outsources its development to a non-related party, would have a high ratio up to 100%. On the other hand, a taxpayer that acquires the IP asset or outsources its development to a related party would have a much smaller ratio, thus a much lower tax benefit.

THE NEXUS RATIO FORMULA

$$\begin{array}{l} \text{Qualifying Profit} \\ \text{(Income eligible} \\ \text{to the 80\% tax} \\ \text{exemption)} \end{array} = \text{Overall Income from IP Asset} \times \frac{\text{Qualifying Expenditures + Uplift Expenditure} \\ \text{incurred to develop the IP Asset}}{\text{Overall Expenditures incurred} \\ \text{to develop the IP Asset}}$$



QUALIFYING PROFIT

Qualifying profit (QP) is defined as the proportion of the overall income (OI) derived from the qualifying asset, corresponding to the fraction of the qualifying expenditure (QE) plus the uplift expenditure (UE) over the overall expenditure (OE) incurred for the qualifying intangible asset.

OVERALL INCOME

Overall income is defined as the gross income earned from qualifying intangible assets during the tax year, minus any direct costs incurred for generating the income. Overall income includes, but is not limited to:

- royalties or other amounts resulting from the use of qualifying intangible assets
- license income from the exploitation of qualifying intangible assets
- any amount received from insurance or as compensation in relation to qualifying intangible assets
- proceeds from the disposal of qualifying intangible assets, excluding profits of a capital nature
- embedded income of qualifying intangible assets arising from the sale of products or services, or from the use of procedures that are directly related to the assets

For the purpose of calculating overall income, direct costs include:

- all direct and indirect costs incurred wholly and exclusively for the purpose of earning the income from qualifying intangible assets
- notional interest on equity contributed to finance the development of the assets
- the amortization on the cost of acquisition or development of the assets

QUALIFYING EXPENDITURE

Qualifying expenditure for qualifying intangible assets is defined as the sum of all R&D costs incurred during any given tax year wholly and exclusively for the development, improvement or creation of qualifying intangible assets, and which costs are directly related to such assets. Qualifying expenditure includes, but is not limited to:

- costs associated with R&D that has been outsourced to non-related persons
- general expenses relating to installations used for R&D
- commission expenses associated with R&D activities
- wages and salaries
- direct costs

However, qualifying expenditure does not include:

- costs for acquisition of intangible assets
 - interest paid or payable
 - costs for acquisition or construction of immovable property
 - amounts paid or payable directly or indirectly to a related person to conduct R&D activities, regardless of whether such amounts relate to cost sharing agreements
 - costs which cannot be proved directly connected to a specific qualifying intangible asset
- It is noted that any expenditure for R&D that has been outsourced to non-related parties, as well as any expenses of a general nature for R&D, which cannot be allocated to the qualifying expenditure of a specific qualifying intangible asset, can be apportioned pro rata to the qualifying intangible assets.

UPLIFT EXPENDITURE

An up-lift expenditure will be added to the qualifying expenditure, equal to the lower of:

- 30% of the qualifying expenditure, and
- the total cost of acquisition of the qualifying intangible assets, plus the cost of outsourcing to related parties of any R&D activities in relation to such assets

OVERALL EXPENDITURE

Overall expenditure relating to qualified intangible assets is defined as the sum of:

- the qualifying expenditure, and
- the total cost of acquisition of the qualifying assets, plus the cost of outsourcing to related parties of any R&D activities in relation to these assets, incurred during any tax year.

DISCLAIMER

This summary is by no means exhaustive and does not purport to contain all applicable provisions or to be a complete guide. The information contained in this guide is provided for the general interest of our readers but is not intended to constitute advice. Clients and the general public are encouraged to seek specific tax advice.



Contact us for more information

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