Focus Business Services

TAX SERVICES ■ COMPANY FORMATIONS ■ TRUST & CORPORATE SERVICES

International Tax Advice
Statutory Audit
Company & Other Entity Formations
Management Services
Tax
Trust
Bank Introductions
Accounting
Corporate Secretarial & Legal Administration
Comprehensive Corporate Services

Aris Kotsomitis
BSc FCA CPA TEP MoID
Chairman
Head of International Tax Planning

Focus Business Services International Group

Focus Business Services (Int'l) Ltd

Focus Business Services (Cyprus) Ltd

Focus Business Services (Malta) Ltd

AKKotsomitis chartered accountants ltd

A K Kotsomitis Chartered Accountants Limited

Regulated EU Professionals

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Cyprus corporate structures in international tax planning

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Structure of the Presentation

1. Brief Introduction to the FBS Int'l Group
2. Overview of the Cyprus Tax System
3. Specific Features of the Cyprus Tax System
4. Tax Planning Ideas – Structures

*(**Critical** Structuring Issues To Bear in Mind – Fees/Costs/Budget **…found in appendix**)*

Introducing the FBS International Group

Leading Professional Services Group Cyprus (HO) – Malta

- Established 1998 we are now a **leading professional services and corporate services provider**, located mainly in **Cyprus (Head Office) and Malta (2nd biggest office)**
- We provide the **entire range of services** needed **under one roof. From formation ... to liquidation!**
- Independent, **full-scope multi-disciplinary professional group** (our **in-house partners** are lawyers, accountants, auditors, tax practitioners / advisors, wealth managers)

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Recognized locally and Internationally

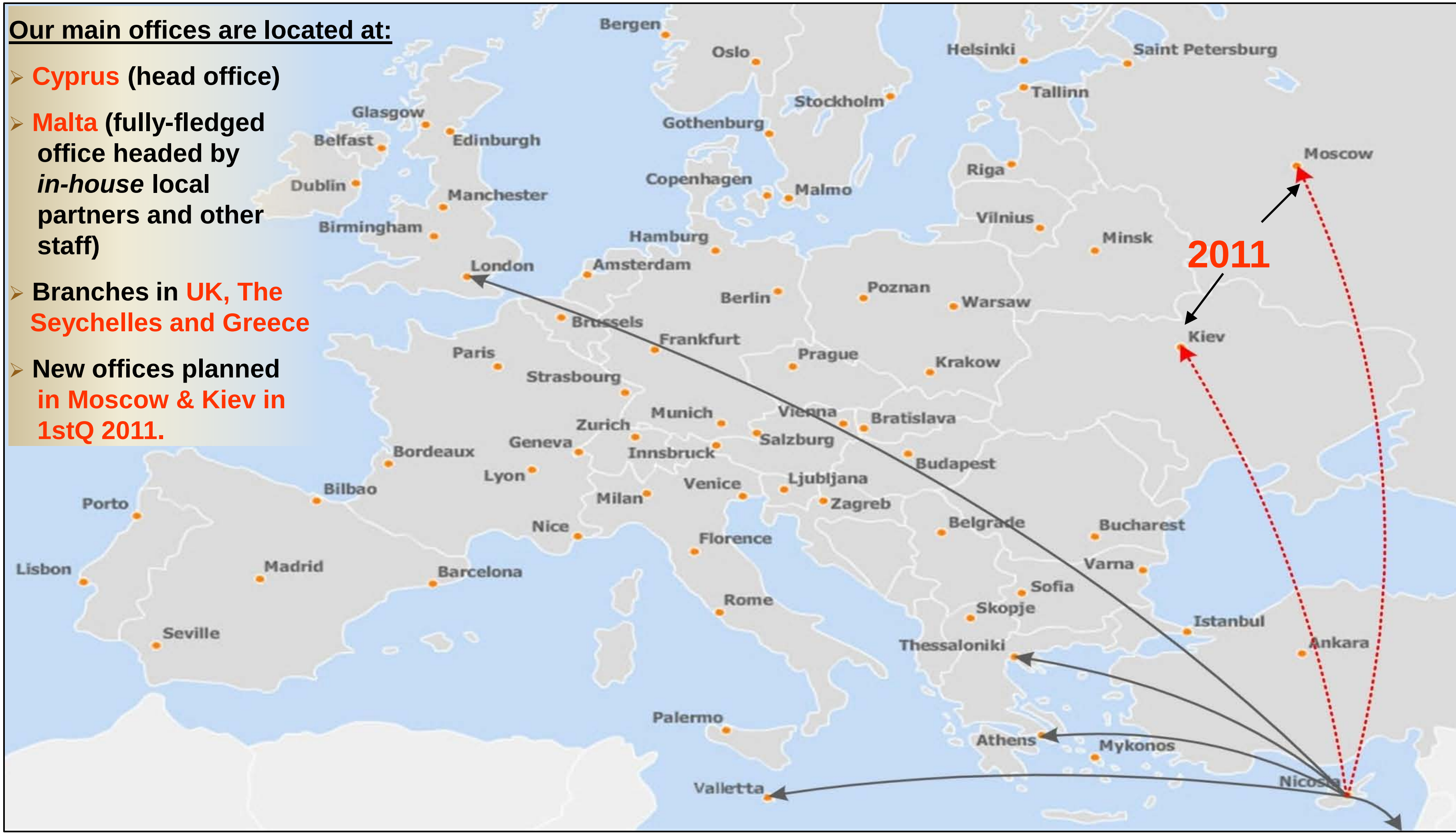
- Fox TV Network in the US (**Fox 5 News** – 25 million business viewers!) is **producing a special program on Cyprus** as an international financial centre – currently under filming…

- Our **Chairman (Aris Kotsomitis) was selected to represent the Cyprus professional sector** in the program along with the President, the Finance Minister and the Minister of Commerce of The Republic of Cyprus

Focus Business Services (est. 1998)

<u>Our main offices are located at:</u>

- **Cyprus (head office)**
- **Malta (fully-fledged office headed by *in-house* local partners and other staff)**
- **Branches in UK, The Seychelles and Greece**
- **New offices planned in Moscow & Kiev in 1stQ 2011.**



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Our Offices…

Cyprus – Nicosia (left and top right)
Malta (Strand Towers) - stunning view, literally from our “office window”

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Overview of the Cyprus Tax System

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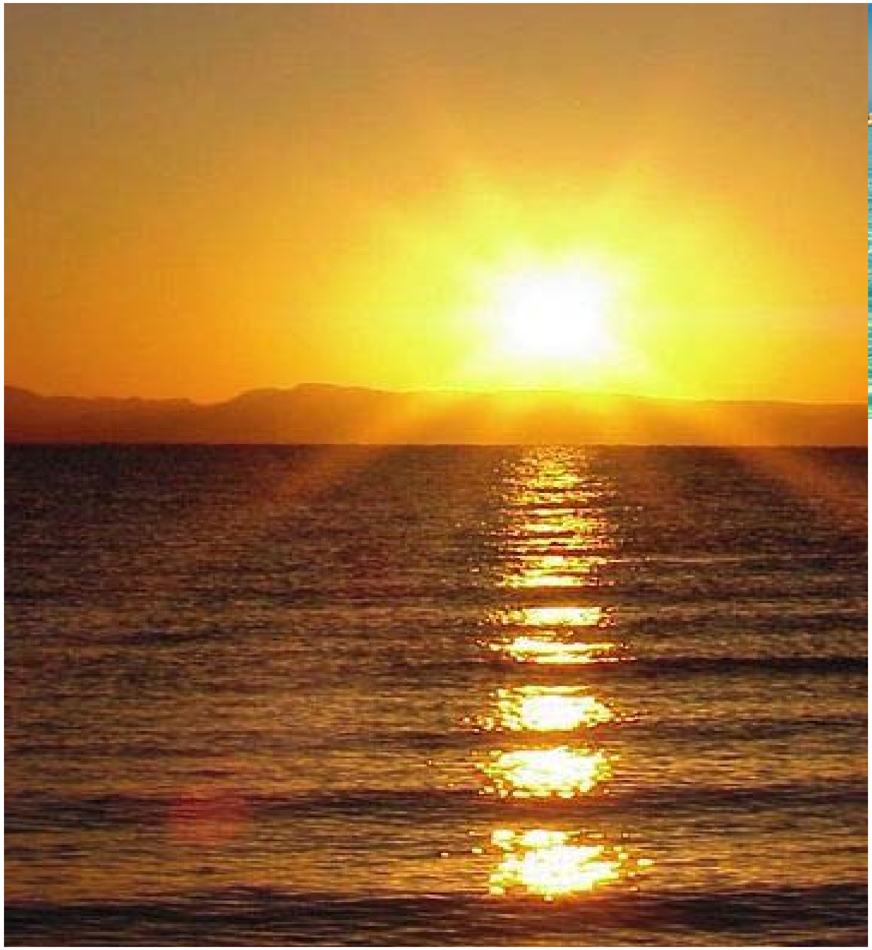
People come to Cyprus for….



But investors come to (invest *via)* Cyprus to...

Obtain Tax Advantages!

** $$$ **

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Cyprus – 35 years as an IFC
A Transparent, Mainstream EU Jurisdiction

The tax system is fully OECD and EU compliant. After 35 years as an IFC, Cyprus is now a mature and transparent financial centre

Cyprus is for 7 years now a full member of the European Union, has EURO as its currency, is **not a tax haven** and as a result appears on *OECD's white list*

Cyprus is now a *mainstream EU jurisdiction offering exciting tax planning potential and unparalleled tax advantages!*

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A Successful and Transparent Tax System…

- It is a Successful Tax System

- It is very popular – 25.000 – 35.000 incorporations per year (!) on average for the last 3–4 years

- It is a transparent EU Tax System – Removal from “black lists” (e.g. fall 2010, Italy – **Paves the way for Italians to invest in the Russian, Eastern European and other markets through Cyprus**)…

A Successful Tax System…

- Cyprus was, for the first half of 2010, the **biggest investor into Russia** accounting for 19.6% of foreign inbound direct investment

- And for the same period the **biggest investor into Ukraine** accounting for 22.6% of Foreign inbound direct investment

- Virtually thousands of Russian-Ukrainian nationals live and work in Cyprus (a very big number as qualified lawyers and accountants working for local firms)

- **Significant loan financing flows into India are routed via Cyprus** to take advantage of the favorable interest withholding tax provisions of the India-Cyprus DTT

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Compelling Tax Advantages
Unique Tax Treaties

Cyprus has a domestic tax system affording compelling tax advantages

…that *combined together* with uniquely advantageous *specific* double tax treaty provisions (and EU directives)

…allow investors to minimize tax leakages in their investments to other countries and thereby …maximize return on investment …in other words…maximise the final repatriated amount of money sent back home …or offshore!

…this is especially true for **Investments into Russia & CIS, India, Central & Eastern Europe** and the EU

Special advantages for…

- Holding, Portfolio Investment / Securities, Trading Companies
- Finance Companies
- Royalty companies
- International Trading Companies
- *Employment Companies (& Contractor Structures)*
- South Europe, Middle East, Russia and Central and Eastern Europe Head office operations

Friendly Tax Authorities – Wide Treaty Network – Access to EU Directives

- **Investor-friendly tax authorities** and an established tax-ruling system (flexible / reliable with respect to advance tax agreements)

- **Uniquely advantageous tax treaty network** providing treaty protection and minimising “tax leakages” (with 45 countries & 50 more under negotiation)

- Access to **EU directives** (effect is like a tax treaty but with zero **(0%) withholding tax** rate for dividends, interest & royalties)

No or Low Taxes
with No or Minimal Conditions

- No or low tax on dividends, capital gains, interest, royalties or trading income and no withholding taxes imposed – with no or minimal conditions

- The lowest corporation tax rates in the EU!

- Ability to retain / efficiently redeploy cash with no restrictions

- Sound and stable economy

- Qualified resources on the ground (professional and financial services)

Specific Features – Details of The Cyprus Tax System

Low Corporation Tax – Liberal Expense Deduction – No Transfer Pricing

- 10% corporation tax – the lowest in the EU – can be lowered further with proper tax structuring – suited to low tax international trading structures

- Under Cypriot law all expenses incurred for the production of the income are deducted before arriving at the taxable income

- No transfer pricing rules BUT arm's length principle is there

- **Thin spreads of profit** on all structures / transactions are acceptable by the Cypriot Tax Authorities (spreads on trading, interest and royalty routing transactions)

Choice of Resident (10%) Or Non Resident Companies (0%)

- Possibility for:

(1) Tax Resident Entities – 10% tax on worldwide income – suited to low tax EU & International Trading Structures

OR

(2) Non-Tax Resident Companies – 0% tax but no treaty access (used instead of BVI or Seychelles Cos) and in addition…may obtain EU VAT number! – suited to zero tax EU & International Trading Structures

No Tax on Sales of Securities

- Profits from sales of shares or other securities are totally tax exempt in Cyprus (no conditions attaching)
- Great for holding company structures
- …as well as banks and private banking clients having portfolio investments

No Tax on Incoming Dividends

- Dividend income from foreign subsidiaries (subject to easily met conditions) **with no participation threshold** is totally tax exempt in Cyprus

- This opens the doors for an even more advantageous use of a Cyprus company as a holding or a portfolio investment company (trading and receiving income from shares and other securities)

No Withholding Taxes on Outgoing Dividends, Interest or Royalties

- No withholding tax on *outgoing* dividends, interest and on almost all royalties – no conditions attaching
- Cyprus is an "ideal entry and exit route" into and out of the EU in this respect

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No Tax on PE – No Thin Caps or CFC Rules – No Anti - Avoidance

- Profits from foreign permanent establishments (PE) outside Cyprus are tax-exempt
- No controlled foreign corporation (CFC) legislation
- No thin capitalisation rules (funding by high debt/equity ratio possible)
- No specific anti-avoidance provisions

A Simple Tax System
With Easy Entry and Exit Routes

- It is a simple system – not a lot of "flaws" or complications requiring further "structuring out"

- No need for complex tax structuring, leaving time for proper company administration & management

- Simple & tax effective exit strategies available

Any Currency – Low Stamp & Capital Duty – Easy Company Migration

- Possibility to elect any functional currency
- Stamp duty capped at low levels
- Capital Duty that can be structured down to nominal levels
- Easy migration of legal entities into and out of Cyprus from/to other jurisdictions

Wide Double Tax Treaty Network (45 Countries)

Armenia *
Austria
Azerbaijan *
Belarus
Belgium
Bulgaria
Canada
China
Czech Republic
Denmark
Egypt
France
Germany
Greece
Hungary
India

Ireland
Italy
Kuwait
Kyrgyzstan *
Lebanon
Malta
Mauritius
Moldova
Montenegro **
Norway
Poland
Qatar
Romania
Russia
San Marino
Serbia **

Seychelles
Singapore
Slovakia
Slovenia **
South Africa
Sweden
Syria
Tatzikistan *
Thailand
Ukraine *
United Kingdom
USA
Uzbekistan *

* CIS Countries applying the Cyprus/ USSR DTT

** Countries applying the Cyprus/ Yugoslavia DTT

All DTTs based on OECD model

Zero or Low Withholding Taxes on Payments to Cyprus from Key Countries

Treaties with CIS countries	**Dividends %**	**Interest %**	**Royalties %**
Russia	5	0	0
Ukraine	0	0	0
Armenia	0	0	0
Azerbaijan	0	0	0
Kirghizstan	0	0	0
Moldova	0	0	0
Tadzhikistan	0	0	0
Uzbekistan	0	0	0

Treaties with other countries	**Dividends %**	**Interest %**	**Royalties %**
South Africa	0	0	0
India	10	10	10
Bulgaria	5	7	10
Poland	10	10	5
Romania	10	10	5

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Fast Expanding Treaty Network - 50 Tax Treaties Under Negotiation!

Luxembourg *
Spain
Netherlands
Portugal
Finland
Estonia
Lithuania
Latvia
Morocco
Indonesia
Malaysia
Iran
Sri Lanka
Iceland

** Negotiations concluded. DTT awaiting ratification.*

Tax Residence

(necessary for treaty access)

- When applied to a company, means one whose *management and control* is exercised in Cyprus

- Substance in other forms is also important in certain structures (see appendix re: structuring issues / considerations)

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Management & Control

No definition exists in the law. In practice, as a minimum:

- the place where the majority of the members of the BOD reside (FBS can provide Cypriot directors)
- the place where the majority of the board meetings take place and the significant decisions taken (a number – all, if possible - of the BOD)
- meetings should be organised in Cyprus with the foreign directors flying in to attend

British Legal System

And High Anglo-Saxon Professional Standards and Business Etiquette

Cyprus was a British Colony for 85 years (1878 – 1960) like Hong Kong & Singapore

- UK Legal System, Shareholder agreements and many classes of shares permitted, certainty, ideal for corporate JOINT VENTURES
- English Widely Spoken / Accepted by Banks and Tax Authorities
- Vast Majority of Professionals (Lawyers, Accountants) Graduate from Top US and UK Universities – Many with UK & US Work Experience

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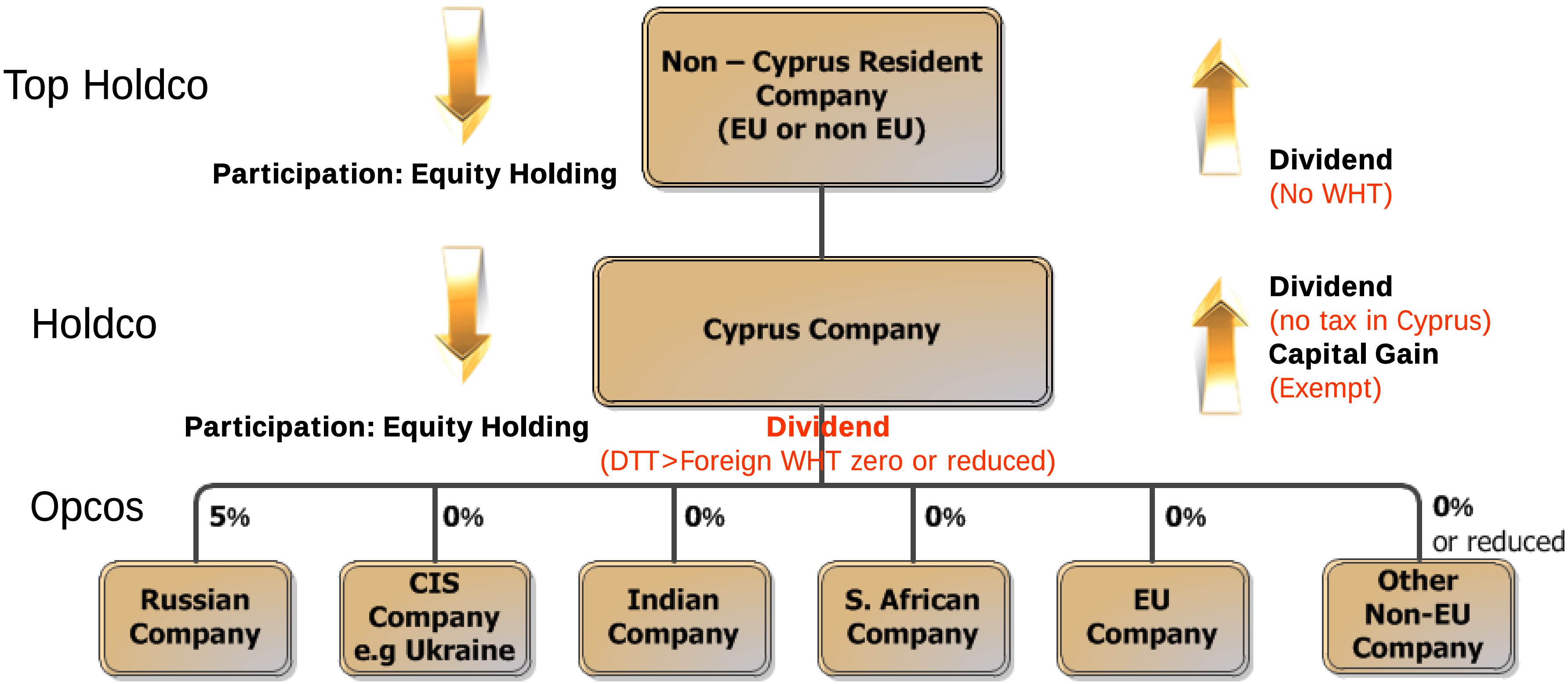
Popular Tax Structures / Ideas

Holding Company - Dividends



High Tax DTT Countries – Main Objective: Minimisation of tax leakages

...via capital gains tax exemption, dividend tax planning / repatriation of return on investment

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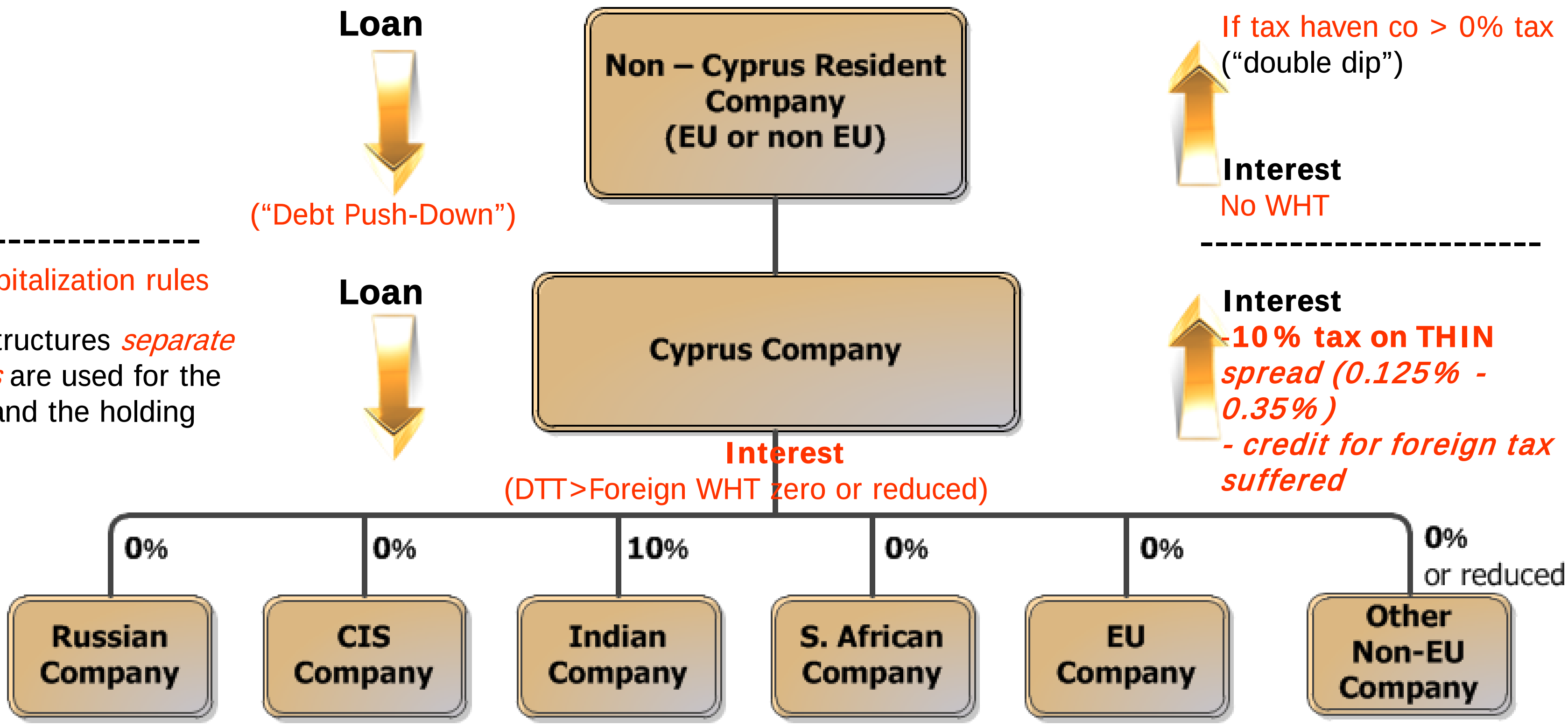
Financing Company (and/or Back-To-Back Financing)



No thin capitalization rules

In many structures *separate companies* are used for the financing and the holding

High Tax DTT Countries – Main Objective: Minimisation of tax leakages

...via a deduction of interest expense from "highly-taxed" taxable profits (via "Debt Push-Down")

Royalty Routing Company

-Depending on treaty sometimes routing is NOT possible and final owner of IP MUST be Cypco ("beneficial owner" problems)

Right to use IP / Licencing

Non – Cyprus Resident Company (EU or non EU)

If tax haven co > 0% tax ("double dip")

Royalty (No WHT)

Right to use IP / Licencing

Cyprus Company

Royalty
- spread of 1% taxed at 10 % tax
- *credit for foreign tax suffered*

Royalty

(DTT>Foreign WHT zero or reduced)

Russian Company	CIS Company	Indian Company	S. African Company	EU Company	Other Non-EU Company
0%	0%	15%	0%	0%	0% or reduced

High Tax DTT Countries – Main Objective: Minimisation of tax leakages

...via a deduction of royalty expense from "highly-taxed" taxable profit (via "IP Push-Down")

Real Estate Structure Example - Russia

One Russian Company / structure for each real estate unit

EU / Non EU Resident

Usually sale is effected at this level
Easier - avoiding having to apply for treaty benefits (anti-avoidance rules permitting)

Cyprus Company

Disposal of Russian shares
- As per DTT taxed only in Cyprus
- No Cyprus tax on capital gain

Russian Company

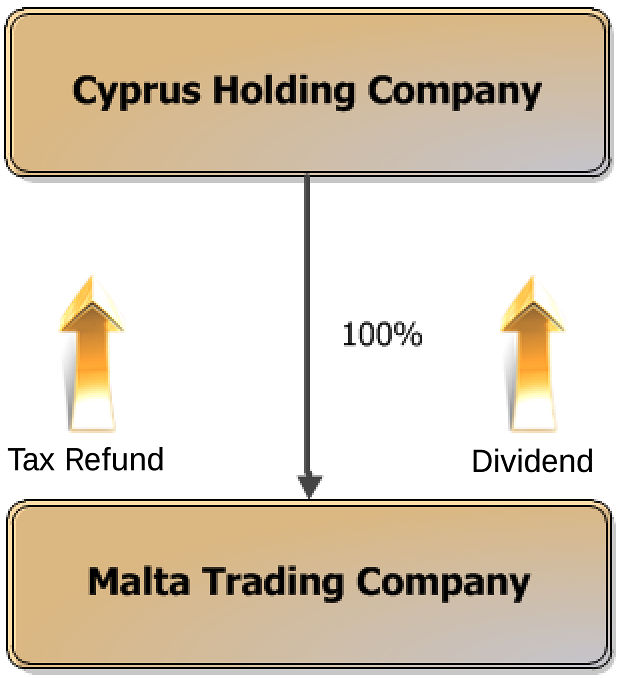
Property in Russia

The same structure would work for almost all of Cyprus's treaty partner countries

Cyprus Company as Holding of a Maltese Trading Company

{VERY POPULAR WITH MALTESE & CYPRIOT CORP. SERV. PROVIDERS}

…to enhance the "Double Maltese Structures" (*Dividend Feeder)* AND combine the advantages of Cyprus and Malta …in ONE structure!



» **No WHT in Malta on dividends or refund to Cypco**

» **No tax on dividend OR tax refund received in Cyprus (supported by a tax ruling)**

» **Effective tax rate** of Malta trading company - **5% or less** (by means of a 30%-35% refund on the 35% tax rate) – effective tax rate **LOWER THAN CYPRUS**

» **KYC / DD documentation kept in Cyprus *****
(preferred by **Russian** clients, already *familiar with Cyprus professionals / regime*)

Malta Tr. Co Used to achieve a "*High Headline Tax* Rate (35%) – *Low Effective Tax* Rate (5%)"

**** Whilst at the same time respecting Maltese Regulatory Rules – qualified person rules*

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Do Not Forget to Take Into Account…

- Critical Structuring Issues for Cyprus Structures

- Fees – Costs – Budget

See appendix…

Thank You!

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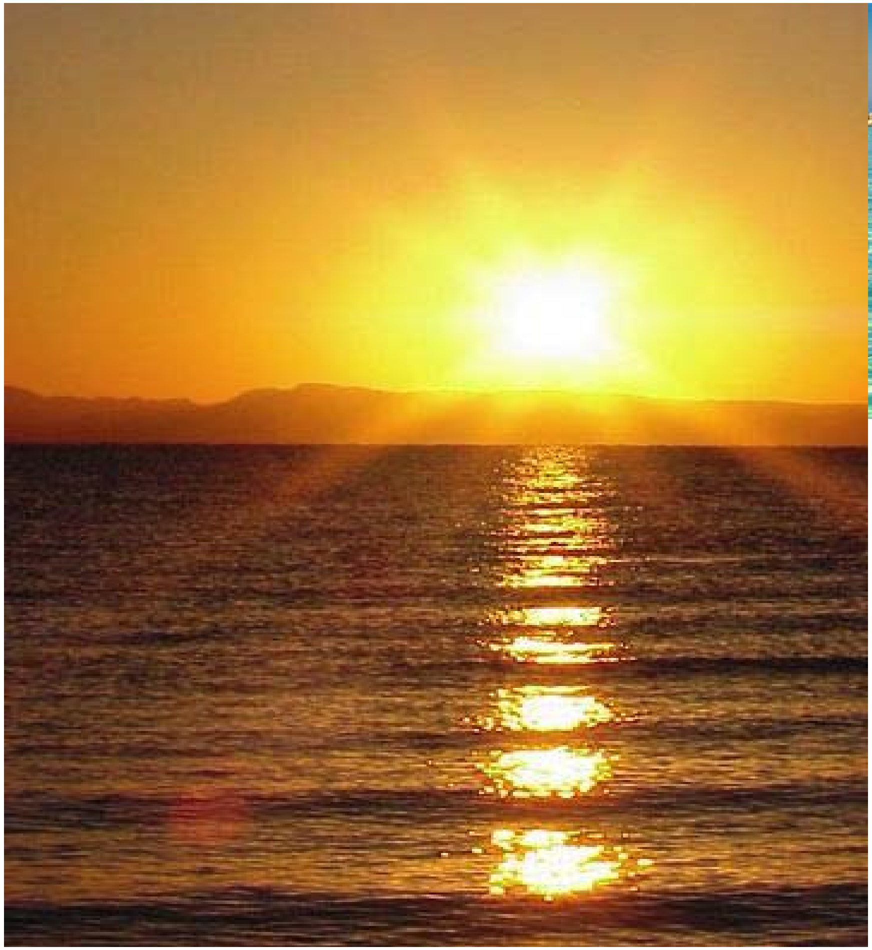
You are welcome to Cyprus ….



Appendix

Do Not Forget to Take Into Account…

- Critical Structuring Issues for Cyprus Structures
- Fees – Costs – Budget

{included Speaker Profile - Aris Kotsomitis}

Structuring issues – the Cypriot perspective

- Plan ahead (avoid “last minute” structuring or administration)

- Address adequately all company law issues – financial assistance issues, memorandum and articles issues to expressly give power to the company to effect the intended transactions, *ultra vires* issues relating to the specific transactions, director power issues, proper registration of charges and pledges, to name but a few

- Address adequately all financial reporting (group consolidation issues) and practical issues as well as transactional tax issuesfor the intended transactions (e.g. capital duty, stamp duty)

Structuring issues – the Cypriot perspective

- Substance arrangements – requirements should also be seriously considered, especially post – Cadbury Schweppes, depending on the jurisdiction where a potential challenge is most likely to come from

- Management & control is key and due consideration should be given as well as Business & economic purpose of entities

- Implementation – operation – corporate secretarial: Proper execution and documentation of all aspects is a must

Structuring issues – the Cypriot perspective

- *Comply with all relevant Company Law, Tax Law, Social Security & other Law and Regulation provisions / deadlines

- *Keep proper books and records, submit audited accounts – financial statements and tax returns

- Pay tax

- Be reasonable!...

Setting up and Operating Cyprus Companies

- UK Legal System (Cyprus was an ex- British Colony like Hong Kong & Singapore) allowing classes of shares and shareholder agreements – ideal for international joint ventures

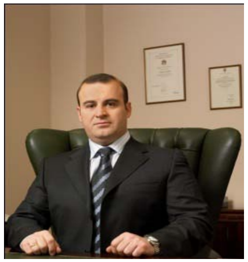
- Fast incorporation & responsive services - mature professional attitude adopting high Anglo-Saxon professional standards and business etiquette (however the <u>choice of professional service provider is critical</u>)

Fees – budget …reasonable!

{information on our fees as an indication}

- **Set up fees from 475 – 750 EURO** …for a simple Cyprus Ltd. company
- **Annual flat fee from 1.450 EURO for ALL basic services** (directors, secretary, reg. office, nom. shareholders, annual returns, bookkeeping, accounting, financial statements, tax returns and audit)… for a small trading or holding company
- **Basic - minimum "VO-Substance" Packages from 1.450 EURO per year** / 120 EURO per month (Virtual office PLUS unbranded prestigious business address with actual professional "visitor reception and management" during business hours AND mail fwd, dedicated tel. & fax line with personalized call answering and message forwarding incl. 10 hours of conference room use) - Unbranded Physical Serviced Office Space (in a prestigious building) also available in the commercial centre of Nicosia.

Introductions - speaker



- Chairman & Head of International Tax
- Considerable International Tax Structuring experience near to 20 years – apprx. 1300 structures actually implemented …and advised on thousands of other structures / tax plans
- Fellow Chartered Accountant - UK Qualified (8 years "Big 4" experience – qualified with KPMG London and went on to practice at PWC Athens - Corporate Finance & Tax Structuring) before setting up FBS in 1998
- Graduated with BSc from The London School of Economics (LSE) as a **Royal Commonwealth Scholar**

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