

CFC – Introduction into Cyprus Tax Law Newsletter– 10.12.2019

As part of the harmonization of the Cyprus tax system with the EU Anti-Tax Avoidance Directive (ATAD), Controlled Foreign Company (CFC) rules have been introduced by the Cyprus Tax Department with effect from 1.1.2019 onwards.

1. Applicability:

Firstly, it is noted that CFC rules apply to *low (or no) tax foreign companies (or PEs) owned in their majority (i.e. over 50% participation) by a Cyprus tax resident company on its own, or along with a related company/ies.

*Low tax is defined as less than 50% of the Cyprus tax levied on that same income.

2. Exemptions:

Furthermore, even if a low tax company is controlled by a Cyprus company, CFC rules will not apply in the instance where:

1. The foreign company's accounting profits do not exceed €750.000 per annum, and passive income is less than €75.000;
2. Accounting profits are less than 10% of operating cost (excluding cost of goods sold outside the EU).

3. Included Income:

Finally, only any undistributed income may have a CFC charge imposed on them. Therefore, if the foreign company were to distribute a dividend to its Cyprus tax resident shareholder, then there would be no CFC implications arising.

4. Conclusion:

As we can see then, it would be rare for any Cyprus company to be caught by the Cyprus CFC rules, as this could be avoided through distributing dividends to Cyprus, which are of course exempt from taxation in Cyprus (subject to certain conditions). Furthermore, the effective tax test would also exclude any dividends income received by the foreign company from a CFC charge, as the effective tax rate on dividends income in Cyprus is 0% (and so effective tax test would automatically be passed).

Therefore, the greatest risk to clients is that they accidentally breach the Cyprus CFC rules by not taking the necessary steps to avoid their imposition. AROSAL can help review an international structure and assess its exposure to Cyprus CFC rules, also recommending remedies in case of any breaches.