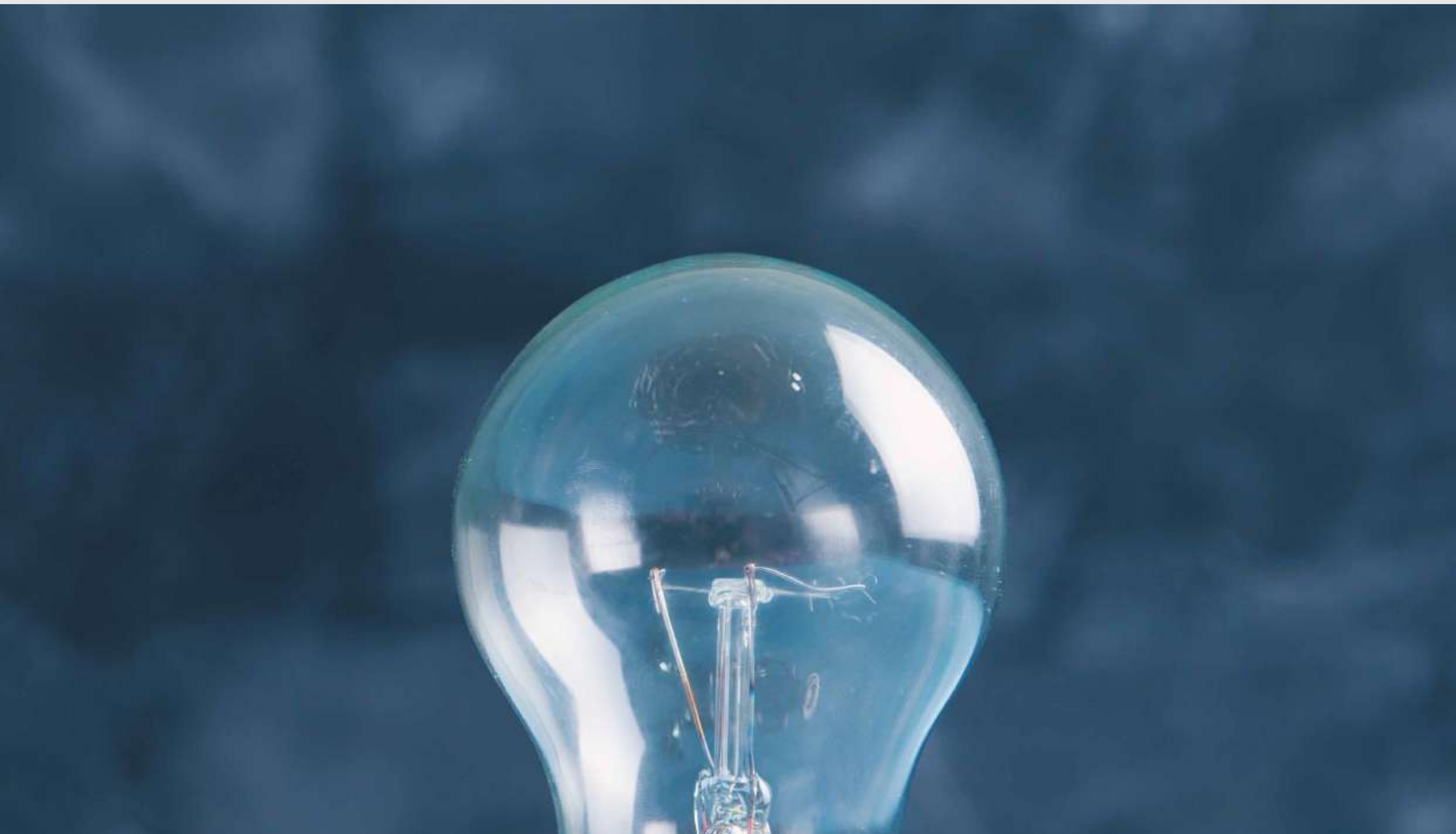
Cyprus Intellectual Property

Last updated on March 2022



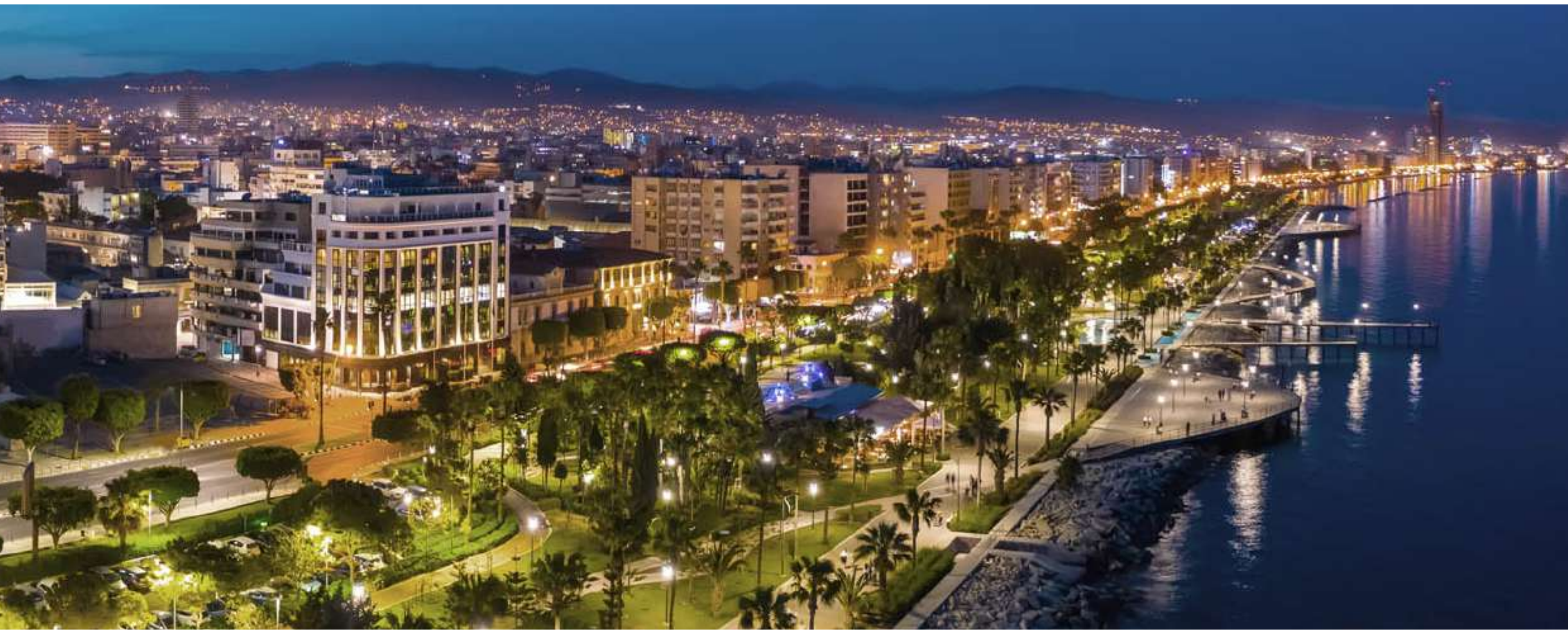
Author: Mary Trimithiotou

ROYAL PINE

Building Trust
with Consistency

Cyprus Intellectual Property

Cyprus has been established as an attractive jurisdiction for the development and holding of Intellectual Property (IP Regime). The IP regime in Cyprus is in line with OECD requirements, provides legal protection of the IP and gives an emphasis on the economic ownership and research and development (R&D) of qualifying assets.



In brief, under the Cyprus IP regime, a tax deduction equal to 80% of qualifying profits generated by qualifying assets will be applied by qualifying taxpayers which results in an effective tax rate of 2.5%. The tax benefits provided by the IP regime include the following:

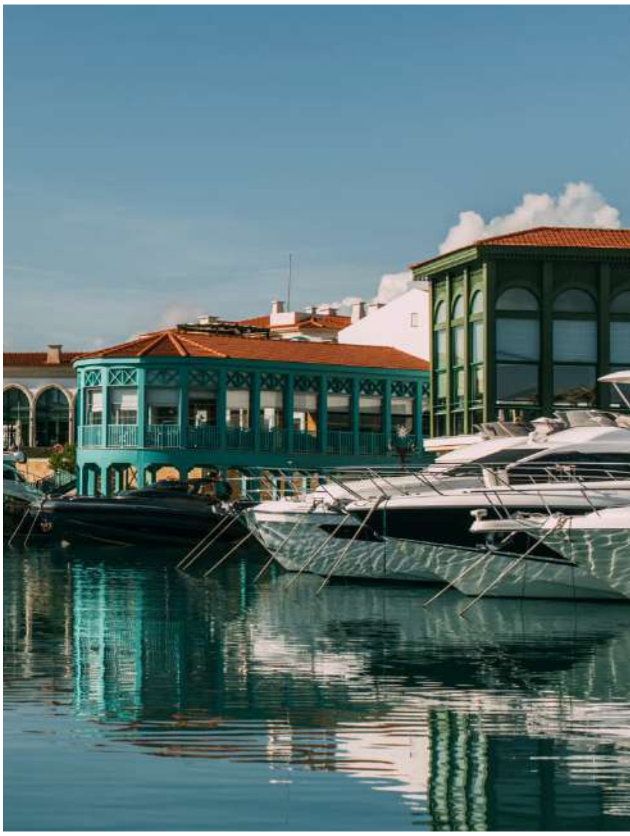
- 80% tax deduction from the worldwide royalty income (net of direct expenses)
- Qualifying expenditure and Capital allowances are tax deductible
- Additional tax benefits: Notional interest deduction on new equity introduced

Qualifying Assets
Qualifying assets mean assets acquired, developed or exploited by a person in the course of his business, (excluding intellectual property associated with marketing), are the result of R&D activities and the qualifying taxpayer is the economic owner of the assets.
These assets can be:

- patents as defined in the Patents Law
- computer software
- other IP assets that are non-obvious, useful, and novel, where the person which utilizes them in the course of his business does not generate annual gross revenues exceeding Euro 7.500.000 (in case of a group of companies not exceeding Euro 50.000.000)

Business names (including brands), trademarks, rights to public presence, image rights and other intellectual property rights used to market products and services are not considered as qualifying intangible assets.

Qualified assets should be certified as "qualifying" by a Specialized Firm abroad.



Qualifying Profits
Qualifying profits means the proportion of the overall income corresponding to the fraction of the qualifying expenditure plus the uplift expenditure, over the total expenditure incurred for the qualifying assets.

The qualifying profits are calculated by using the following ratio (the nexus fraction):

$$\textbf{Qualifying profits} = \textbf{Overall income} \times \frac{\textbf{Qualifying expenditure + Uplift expenditure}}{\textbf{Overall Expenditure}}$$

Where the calculation of qualifying profits results in a loss, only 20% of this loss may be carried forward or group relieved in accordance with the provisions of Income Tax Law.

Overall income derived from qualifying assets is defined as the gross profit from the assets and includes amongst other:

- Royalties arising from the use of qualifying assets;
- Grant of a license for the exploitation of the qualifying assets;
- Insurance or compensation of the qualifying assets;
- Trading income from the disposal of the qualifying asset; and
- Embedded income on qualifying assets, which is derived from the sale of goods, the provision of services or use of any processes that are directly related to the qualifying assets.

Profits arising from the disposal of a qualifying that are deemed to be of a capital nature transaction, are tax exempt in Cyprus. However, if considered as a trading nature transaction, then the accounting gain/loss will be taxable.

Qualifying expenditure
Qualifying expenditure for qualifying intangible asset includes, but are not limited to, the

following:

- wages and salaries, direct costs incurred wholly and exclusively for the production of income, general expenses relating to installations used for R&D, expenses for supplies related to R&D activities,
- costs associated with R&D that has been outsourced to non -related persons

However, the below expenditure is not considered qualifying expenditure:

- the acquisition cost of the assets
- interest paid or payable
- costs relating to the acquisition or construction of immovable property
- amounts paid or payable directly or indirectly to a related person to conduct research and development activities, regardless of whether these amounts relate to cost sharing agreement
- expenditure that cannot be proved directly connected to a specific qualifying asset.

Up-lift expenditure means the lower of 30% of the qualifying expenditure and the total amount of the cost of acquisition of the qualifying asset and any costs incurred for R&D outsourced to related parties.

Overall expenditure of qualifying assets is the sum of (i)qualifying expenditure, and (ii) the total acquisition cost of the qualifying assets and any R&D costs outsourced to related parties incurred in any tax year.

Qualifying taxpayers that are eligible for the new IP regime include Cyprus tax resident persons, permanent establishments (PEs) of non-resident persons and foreign PEs that are subject to tax in Cyprus. The taxpayer can elect whether a foreign PE is taxable in Cyprus, so that the PE can be classified as a qualifying taxpayer.

Capital Allowances
Capital allowances for all intangible assets (excluding goodwill and assets qualifying for the previous IP regime) are now allowable as a tax-deductible expense. Intangible assets will be amortised over the useful economic life of the asset, as determined by generally acceptable accounting principles (up to a maximum useful life of 20 years).

Example:
A Cyprus resident Company holding the IP licenses it to other entities and receives a royalty income of EUR 500,000 per annum.

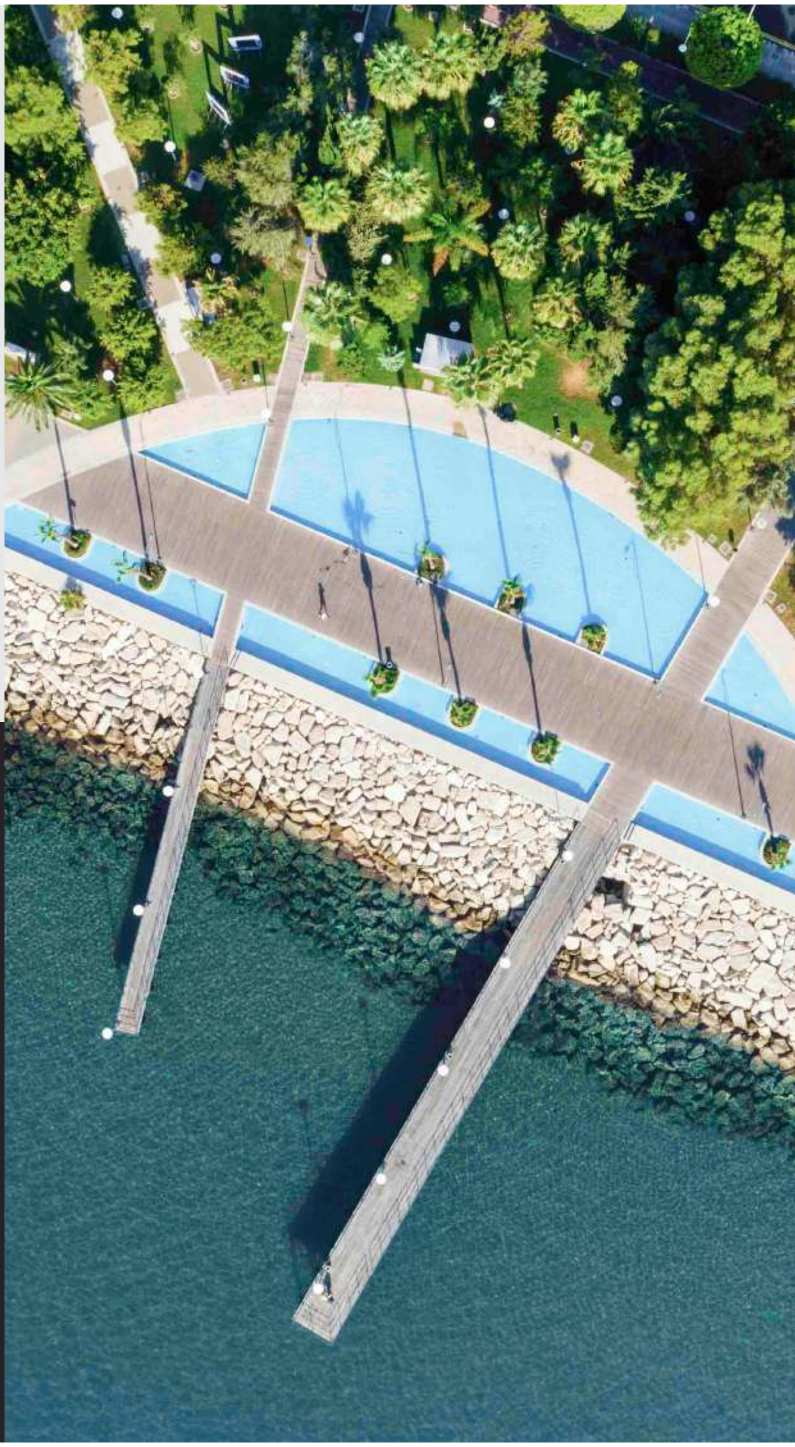
	EUR
Royalty income	500,000
Less: Qualifying expenditure	(150,000)
Net Profit	350,000
Less: 80% taxdeduction (with 100% nexus fraction)	(280,000)
Taxable income	70,000
Tax at 12.5%	**8,750**

The nexus approach requires a link between the income benefiting from the relevant IP rules and the extent to which the taxpayer has actually performed the underlying R&D cost that generated the IP asset. Therefore, a direct link between the qualifying income and own qualifying expenses is essential for the IP to qualify. The nexus approach limits the application of the IP box regime if R&D cost is being outsourced to related parties.

* This publication has been prepared as a general guide and for information purposes only. It does not purport to be comprehensive or to render professional advice. Before making any decision or taking any action that may affect you and/or your business, bespoke advice should be obtained.

About

Royal Pine is a boutique advisory firm offering a comprehensive spectrum of solution-based products addressing the needs of Corporate clients, Private clients or their family offices and Regulated institutions on areas of investments, financial, tax, legal and corporate matters.



Contact

Berengaria 25, 4th Floor
25 Spyrou Araouzou
3036 Limassol, Cyprus

+357 25040404 / +357 25050600

info@royalpine.com

www.royalpine.com

ROYAL PINE