

Cyprus Substance Solutions

The absence of economic substance triggers an alert for the possibility of tax avoidance in many jurisdictions. A fully operational basis provides a more rational and beneficial solution than the traditional agency structure.

Under the OECD model convention, a company may qualify for tax treaty benefits if the following criteria, which are usually present in tax treaties, are met:

1. The company is a tax resident of the State it is registered in ; and
2. The company is the beneficial owner of the income distribution (dividends, interest, royalties)

According to the Cyprus Company Law, a Cyprus company is considered as a Cyprus tax resident if its effective management and control is exercised in Cyprus.

Effective management and control means that the:

- registered office address in Cyprus;
- the majority of directors are Cyprus tax residents;
- all board meetings are held in Cyprus;
- Board Decisions are taken in Cyprus.

According to OECD definition, the place of effective management is the place where key management decisions and commercial decisions that are necessary for the conduct of the entity's business are in substance made.

Place of incorporation VS Place of effective management

Management and control may not be at the same place as incorporation. A jurisdiction therefore that classifies as tax resident a company organized under its laws may seek to claim tax residency of the company, even though the company is managed and controlled in another jurisdiction. As such, it is possible that double taxation may occur. Double taxation may be avoided with the use of double tax treaties;

The Cyprus resident directors should be the top managers of the company and should be in a position to exercise the management function in full.

Board meetings should be held in Cyprus, to discuss substantive issues relating to the management and control of the company and its investments. Important strategic decisions should be taken in Cyprus as well as negotiations of major contracts.

All financial and other transactions of the company should be prepared and kept in Cyprus. This includes the issue of invoices and receipts, bookkeeping, preparing of management accounts, financial reports and financial statements in line with the IFRS

should be performed in Cyprus. The accounts should be audited in Cyprus and their discussion and approval should take place in Cyprus.

Physical substance in Cyprus means that the company has (some or all of the below):

- Majority of directors are resident in Cyprus.
- its own physical office space (rented or owned);
- website, telephone and fax line in the name of the company;
- preferably email address and website;
- employees (registered with the Social Insurance);
- business activities mainly undertaken from Cyprus;
- accounting records must be kept in Cyprus;
- local bank account.
- Registered with the VAT authorities, depending on its activities.
- Annual Audit by Certified Public Accountants of Cyprus.
- Invest via the Cyprus company.
- Manage interest income and dividends.
- Hold international assets to the Cyprus company.
- Establish a Cyprus International Trust. Setting up such a trust to own the shares of a Cyprus company is a further step to secure beneficial ownership.

We can assist you with issues of Cyprus economic substance. We can offer:

- complete setting up and maintenance of physical business office of the company, including the staff needed;
- full-fledged modern offices and workstations;
- own phone and fax lines of the company, answering of phone calls in the name of the company,
- automatic call forwarding possible, notification via email;
- forwarding of incoming mail via email (physical forwarding is possible as well).

We can assist you with setting up a customized infrastructure as well as with customized re-structuring of the company from the legal and tax point of view in order to be in compliance with all the regulations and to eliminate the potential challenges and liabilities.

A trading company which implements all or some of the above will not only enhance its 'substance' but will also strengthen its Cyprus tax residency claim beyond any doubt.

The above information provides a general guidance. We can provide specialized, tailor made advice based on specific needs.

For more information you may contact our director Mrs. Chrysanthi Varnava.
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