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Cyprus Funds: ICIS

Legal and regulatory framework

The object of an International Collective Investment Scheme ("ICIS") established in accordance with Cyprus laws, is the collective investment of funds. The units issued by an ICIS can be redeemed or repurchased at the option of the unit holders directly out of the ICIS assets.

Legal form of the ICIS

There are 4 different legal forms of ICIS which can be incorporated in Cyprus, enabling investments in transferable securities:

- International Fixed Capital Company (closed-ended investment fund)
- International Variable Capital Company (open-ended investment fund)
- International Investment Limited Partnership
- International Unit Trust

The above categories of ICIS may be marketed a) to the general public, b) to "experienced investors" or c) to private investors (private ICIS).

A private ICIS is a scheme where its constitutional documentation restricts the right to transfer its units and limits the number of its unit holders to 100. Any invitation to the public to subscribe to any units of the scheme is prohibited.

The most commonly used forms of private ICIS are:

a) Variable capital company

This is a limited liability company and can operate as an international variable capital company in accordance with ICIS law. Its assets and unit holders are typically non-residents of Cyprus and the share capital of the company may vary to equal the net asset value of the shares of the company. The shares issued by the scheme may, at the option of the investors, be redeemed or repurchased directly out of the assets of the ICIS. The ICIS may be established with limited or unlimited duration.

b) Limited partnership scheme

This is a limited partnership and can operate as an international investment limited partnership in accordance with the ICIS law. The partnership must appoint a general partner who will act as the manager of the fund and will be responsible for the debts and obligations of the partnership/scheme. The investors, that is, the limited partners, are also members of the scheme and their liability is limited to the capital contributed. A legal entity can also be a limited partner.

The limited partners or unit holders of the fund should not take part in the carrying on of the business of the partnership/scheme or have the power to conclude contracts on behalf of the partnership/scheme. All contracts should be entered into and executed by the general partner on behalf of the partnership/scheme.

Minimum capital requirements

- There is no minimum capital requirement in the case of private ICIS
- ICIS marketed to the general public or solely to experienced investors which take the legal form of an international fixed capital company need to have a minimum share capital of USD 100.000 or the equivalent amount in any other currency

Investors – minimum subscriptions

- Private ICIS and ICIS marketed to the general public do not require a minimum subscription by the investor
- The minimum subscription in an ICIS marketed solely to experienced investors is USD 50.000 or to the equivalent amount in any other currency

Framework

ICIS enjoy considerable tax advantages and as a result constitute attractive international investment vehicles. The main taxation benefits are summarised below:

No tax on gains from disposing "securities"

Gains arising from the trading of "securities" are tax exempt. This exemption applies irrespective of the percentage or the holding period. "Securities" are defined under Cyprus Income Tax Law as:

- Ordinary Shares, Founder's Shares, Preference Shares
- Options on titles
- Debentures, Bonds
- Short positions on titles
- Futures/forwards on titles
- Swaps on titles
- Depositary receipts on titles such as ADRs and GDRs
- Rights of claim on bonds and debentures without including the rights on the interest of those products
- Index participations only if they result in titles
- Repurchase agreements or Repos on titles
- Participation in companies (Russian OOO and ZAO, USA LLC, Romanian SA and SRL and Bulgarian AD and OOD)
- Units in open-ended or closed-ended collective investment schemes provided that they are registered and operate in accordance with the provisions of the laws in the country of their registration.

No capital gains tax

No capital gains tax is applicable on the sale of securities. Capital gains tax is only payable on disposals of immovable property situated in Cyprus or on sales of shares in companies which own immovable property situated in Cyprus.

No taxation on dividend income

Dividend income is exempt from income tax and is generally exempt from defence tax.

The only possibility for paying defence tax is where **both** conditions below are satisfied:

1. The tax burden of the company paying the dividend is significantly lower than the Cyprus tax burden (this in practice has been interpreted as a tax burden of lower than 5%) **and**
2. The company paying the dividend is engaged directly or indirectly more than 50% in activities that lead to investment income.

The term "investment income" is defined in the tax legislation as "any income which is not derived or arising from any business, employment, pensions or annuities which are paid by reason or in connection with a past employment".

No withholding taxes

No withholding taxes are applicable in Cyprus in respect to dividend payments from the Cyprus ICIS to the investors irrespective of the country of residence of the investors. Further, the use of Cyprus' extensive Double Tax Treaty network and the adoption of EC Directives may result in zero or reduced withholding taxes on payments of dividends from the underlying investments into the Cyprus ICIS.

No inheritance, estate or wealth taxes for the investors

There are no Cyprus inheritance, estate or wealth taxes applicable to the investors during the life of or when exiting the investment.

Our services

- Advising on the tax and legal aspects of the different types of ICIS and assisting with choosing the most appropriate vehicle for the client's structure
- Setting up the ICIS and preparing and filing all the necessary forms and documents with the relevant Cypriot authorities
- Administration and management services in respect to an ICIS

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