
Cyprus

International Estate Planning Guide Individual Tax and Private Client Tax Committee

Contact:

Christos Malikkidis

Royal Pine, Limassol

cmalikkidis@royalpine.com

Updated 09/2023

Table of Contents

I. Wills	3
A. Will formalities	3
B. Enforceability of foreign wills	3
II. Estate administration and probate.....	4
A. Administration procedures	4
B. Recognition of probate	5
C. Intestacy and forced heirship.....	5
III. Trusts and other planning structures	6
A. Overview of structures.....	6
B. Fiduciary duties	8
C. Treatment of foreign structures.....	8
IV. Taxation	8
A. Domicile and residency	8
B. Gift, estate and inheritance taxes	9
C. Taxation of trusts	9
D. Taxes on income and capital	10

I. Wills

A. Will formalities

The principal law that regulates wills is the Wills and Succession Law, Cap 195 (the 'Wills and Succession Law'). A will is defined as the legal declaration by a person, the testator, by which the individual specifies his or her intentions regarding the disposal of his or her assets, property and possessions in terms of how they should be distributed following the testator's death.¹ The testator can appoint an executor to administer his or her estate and ensure the testator's wishes are carried out.

The Wills and Succession Law does not impose an obligation for an individual to state how his or her estate shall be disposed in the event of his or her death; however, if the individual's estate is left intestate, it will be distributed in accordance with the rules of intestacy and succession.

Certain prerequisites are required in order for a will to be validly formulated, namely the testator must be of sound mind when making the will, and must be 18 years and above.² Once the will is signed by the testator or any person on his or her behalf, it must also be witnessed and attested by two or more witnesses present at the same time.³ It is noted that the witnesses must be older than 18 years old, of sound mind and able to sign their names.⁴ It is noted that the validity of a will may be questioned if it was executed involuntarily under the circumstances of duress, fraud and undue influence.⁵

Provided that the formalities mentioned above are satisfied and none of the limitations that form the grounds for challenging the validity of a will are present, the will of a disabled person will be deemed as valid for as long as they are of sound mind and in a position to instruct an appointed representative to proceed with the drafting of his or her will.

The registration of a will is not compulsory in Cyprus, nevertheless it is advisable to register it with the Registrar of Probate to guarantee its safeguarding, and its easy and accessible recovery following the testator's death. A deposited will may only be withdrawn with obtaining the court's approval.

A will can be revoked expressly by a subsequent will or the revocation can be implied by a subsequent will that is inconsistent with the provisions of the former, to the extent that the two are inconsistent.⁶ A will can also be revoked by tearing or otherwise destroying it in the presence and at the instruction of the testator, or by him or herself directly.⁷

A will is deemed to be revoked by the marriage of the testator after the execution of the will or the birth of his or her child, unless the will has been executed in contemplation of these events.⁸ A will may also be reinstated, provided that it has been re-executed in accordance with the formalities prescribed by the law and an intention of it being revived.⁹

B. Enforceability of foreign wills

In most cases, foreign wills are recognised under the law, once the court is satisfied that the formalities required for a will to be valid are satisfied. Probate orders for the recognition of foreign wills are usually issued within one to two months, if no objections arise.¹⁰

As Cyprus is a member of the European Union, the EU Succession Regulation (Regulation (EU) No 650/2012), commonly referred to as Brussels IV also applies (the 'EU Succession Regulation').

In accordance with the EU Succession Regulation, a person may choose the law of the state whose nationality he or she possesses at the time of making the choice or at the time of death as the law to govern his or her succession.¹¹ In the absence of such explicit reference as to the choice of law in the will, the estate of a person domiciled in Cyprus at the time of his or her death will be subject to the laws of Cyprus.

It is important to note that, the provisions of the Wills and Succession Law regulate the succession of immovable property situated in Cyprus, irrespective of the domicile of the deceased.¹² For this reason, it is recommended that advice is obtained and a separate will is drafted to govern any assets of the testator that are located in Cyprus.

II. Estate administration and probate

A. Administration procedures

The Administration of Estates Law, Cap189 (the 'Administration of Estates Law') is the governing framework for the execution of wills and the administration of estates of deceased persons. The estate is defined as 'the movable or immovable property of which a person dies possessed'.

The power to administer the estate of the deceased is vested with the executor where a valid will exists or with the administrator where a person has died intestate. The grant of probate is the legal document issued by the court to the executor of a will authorising him or her to manage the estate of the deceased by executing the will. In the event that the deceased has passed intestate, a letter of administration is issued granting similar authority to the administrator of the estate.

Following the grant of either probate or a letter of administration, the executor or administrator, respectively, shall proceed with the preparation and submission to the court of an inventory of the estate.¹³ Upon the collection of the estate, and the payment of all funeral and testamentary expenses, and all just debts of the deceased, the executor or administrator shall proceed with the valuation and distribution of the estate in accordance with the provisions of the will or the rules of intestacy as applicable.¹⁴

It is important to note, as far as the executor's and administrator's obligations are concerned that within 12 months from the grant of the probate or letter of administration, the grantee shall prepare and file with the court the accounts of his or her administration. The obligation to periodically file such accounts continues until the completion of the administration procedure.¹⁵

In order for the court to issue the grant of probate, it will first serve the executor with a notice to prove the will and its validity. Where an executor appointed in the will has either survived the deceased but died without taking out probate for the will; is cited as having taken out probate for the will but does not appear in the citation; or expressly renounces probate of the will, all rights in respect of executorship of the will shall cease in their entirety and administration of the deceased's estate shall be committed as if that person had not been appointed executor.¹⁶

In such an event, the court may grant the so-called administration with the will annexed in order to facilitate the administration of the deceased's estate. The court may also proceed with this in the event that no executor is being appointed by the will, where the appointment of the executor is invalid on grounds of uncertainty or where the executor is deemed incompetent to fulfil his or her duties either due to being a minor, being mentally incapable or otherwise disabled, or if they are resident outside Cyprus.¹⁷

In general, the court retains the discretionary power to grant administration in the way they see fit by giving due regard to the rights of all persons with an interest in the estate. In the event where the deceased has died intestate, the court will grant administration to such persons as are interested in the estate, following an application to this effect.¹⁸

The court may either at its own motion or following an application by any party with a vested interest in the estate, remove any executor or administrator on the grounds of willful neglect or misconduct in the administration of the estate and proceed with his or her replacement.¹⁹

B. Recognition of probate

The Probates (Re-Sealing) Law, Cap 192 regulates the process of resealing the grant of probate or letters of administration from Commonwealth countries. In accordance with this, letters of administration or grant of probate from a Commonwealth country can be recognised in Cyprus by being resealed by a Cyprus Court, in the event that the deceased had assets in Cyprus at the time of death.

C. Intestacy and forced heirship

Succession and other matters related to heirship are governed by the Wills and Succession Law. Succession to an estate may be either: (1) by will *or* by the operation of law; or (2) by will *and* by the operation of law. In order to establish the applicability of the Wills and Succession Law to the estate of the deceased, in the case in which the deceased has not provided for such in his or her will or in the absence of a will, the domicile of the deceased at the time of death shall be determined.

There are four classes of kindred who, in the absence of a will, are entitled to inherit an intestate person:

- first class: legitimate living children of the deceased and living descendants of any of the deceased's children who died during his/her lifetime;
- second class: any living parent or full or half-blood sibling of the deceased;
- third class: the closest in degree of kindred living ancestors of the deceased; and
- fourth class: the nearest relatives of the deceased alive at the time of his/her death within the sixth degree of kindred.²⁰

Interestingly, the freedom of a person to dispose of his or her estate is limited by certain statutory restrictions. Succession to an estate in Cyprus is subject to the so-called 'forced heirship' regime, whereby the estate of a deceased person is divided into the statutory portion, which is to be distributed to the deceased's closest living relatives, such as his or her spouse, children and grandchildren, and the remaining estate, the disposable portion, which can be disposed of in accordance with the wishes of the deceased as stated in the will.²¹

In accordance with the rules of forced heirship, where the deceased is survived by a spouse and a child; a spouse and the descendant of a child; or no spouse, but a child or descendant of a child, the disposable portion must not exceed one-fourth of the net value of the estate.

Where the deceased is survived by a spouse or father or mother, but no child or descendant of a child, the disposable portion shall not exceed one-half of the net value of the estate.

Where the deceased is not survived by a spouse, child or descendant of a child, father or mother, the entire estate is disposable at the testator's free will.

A will that violates the rights of the lawful heirs in accordance with the principles of forced heirship will not be invalid, but the percentage of the distributable estate will be adjusted accordingly in order to comply with the requirements of the law.

III. Trusts and other planning structures

A. Overview of structures

The establishment of trusts in Cyprus is governed by the International Trusts Law 69 (I)/1992 as amended by the Law 20(I)/2012, (the 'Cyprus International Trusts Law') and the Trustees Law of 1955, Cap 193. Common law and the principles of equity are also relevant, to the extent that they do not contradict the applicable legislation.

The definition of what constitutes a trust, stemming from definitions given under various laws and judicial precedent, is that of a legal agreement, between two or more persons, where one individual, the settler, transfers his or her assets to another individual, the trustee, to hold the settler's assets for the benefit of another individual, the beneficiary.

Further, powers can be vested in a person other than trustee through the vehicle of trust, namely the appointment of a protector, whose powers include advising on the exercise of the powers of a trustee, vetoing their decisions, or even appointing or removing a trustee.²²

A trust must be registered with the trusts registries which are administered by the Cyprus Securities and Exchange Commission (CySEC), the Cyprus Bar Association or the Institute of Certified Public Accountants of Cyprus (ICPAC), depending on which person manages the trust, that is, a regulated administrative service provider, lawyer or accountant, respectively.

Further, and in accordance with the Prevention and Suppression of Money Laundering and Terrorist Financing Law, incorporating the provisions of the 5th Anti-Money Laundering EU Directive, corporate entities, including trusts, are obliged to disclose the beneficial owners of the entity to a centralised registry of beneficial owners kept by CySEC. A dedicated registry for trusts has been established to this end, which is not open to the public, but only to competent authorities, and specified entities and natural/legal persons under certain conditions.²³

Depending on the residency of the settler and the beneficiaries, a trust can either be categorised as a local trust where either the settler or the beneficiary is a Cyprus resident, or as a foreign trust where neither of them are a Cyprus resident, but the settler has elected the governing law of the trust to be Cyprus law.

A somehow hybrid approach is achieved by the Cyprus International Trust, where the following characteristics must be met simultaneously: the settler is not a resident of Cyprus during the year preceding the establishment of the trust; at least one of the trustees is a resident of Cyprus

during the entirety of the trust's duration; and no beneficiary is a resident of Cyprus during the year preceding the establishment of the trust.²⁴ It is noted that reference to residency shall have the meaning assigned to it under the Income Laws of Cyprus, laid out in section IV below.

Understandably, the above characteristics have earned the Cyprus International Trust a prominent position among other wealth planning tools because it allows for planning ahead, thus creating a strong incentive for potential relocation. Another notable characteristic of this trust structure is its irrevocable nature, whereas, in contrast to the equitable rule against perpetuities, unless a trust contains an express power of revocation, it shall be deemed to be irrevocable by the settler or his or her legal personal representatives, notwithstanding that it is voluntary.²⁵

Depending on the method and purposes for which they are being established, Cyprus trusts may further be categorised as falling under different headings: express trusts, resulting trusts and constructive trusts, of which express trusts can be further subdivided into other categories, the most notable for present purposes being charitable trusts.

It is worth noting that, for the purposes of establishing an express trust, namely the ones created via an express and clear declaration by either the settler or trustee, the so-called 'three certainties' must be present, a long-standing principle first recognised in the case of *Knight v Knight*,²⁶ where it was established that, in order for a trust to be valid, there must be:

- certainty of intention to create a trust;
- certainty of the subject matter of the trust; and
- certainty of the objects (the beneficiaries) of the trust.

Apart from wills and trusts, estate planning in Cyprus enjoys the option of a variety of not-for-profit structures, such as the charitable trust, non-profit companies and foundations, the latter falling under the scope of the Societies and Foundations Laws 1972 and 1997 (57/1972).

Although no specific definition of what constitutes charity is provided for in the Charities Law 1959, Cap 41, the International Trusts Law provides an indication of what can be considered as a charitable trust, namely a trust that has as its main purpose the achievement of one or more of the following: the prevention or relief of poverty; the advancement of education; the advancement of religion; the advancement of health or the saving of lives; the advancement of citizenship or community development; the advancement of the arts, culture, heritage or science; the advancement of amateur sport; the advancement of human rights, conflict resolution or reconciliation, or the promotion of religious or racial harmony or equality and diversity; the advancement of environmental protection or improvement; the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage; the advancement of animal welfare and protection of animals; and any other purpose beneficial to the public in general or which may reasonably be considered to be relevant to any of the preceding.²⁷

This being said, a charitable trust need not necessarily meet the criteria of a Cyprus International Trust and may be registered as an express trust accordingly.

Similarly, the set-up of a non-profit company is governed by the Companies Law, Cap 113 (the 'Companies Law') and states that a non-profit company may be set up for the promotion of commerce, arts, science, religion, charity or other public good, provided that they utilise all of

their profits for the promotion of the cause for which they have been incorporated. It is important to note that, companies set up as non-profit are forbidden from distributing dividends to their shareholders.²⁸

Lastly, regarding foundations and societies in Cyprus, the entirety of the assets of the entity must be dedicated for the achievement of a specific purpose. A foundation must have at least one member to be established, whereas a society must be established with a minimum of 20 members. Both entities require the authorisation of the Ministry of Interior for their establishment.

B. Fiduciary duties

Due to the broad powers conferred upon them, trustees and other persons administering trusts and other structures are under certain obligations when fulfilling their responsibilities, widely referred to as fiduciary duties. Notably, they must act honestly and in good faith, and observe the principles of confidentiality to information collected during the exercise of their duties. Trustees are also expected to observe the provisions of the Prevention and Suppression of Money Laundering Activities Law as this is amended from time to time.

The provision of fiduciary services falls under the scope of the Law Regulating the Business Providing Administrative Services and Related Matters of 2012, Law No 196(1)/2012, as amended (the 'Business Providing Administrative Services and Related Matters Law'). Fiduciary services in relation to trusts include management or directing of trusts including, without limitation, the undertaking or provision of trustee or protector of trusts or the management or investment or marketing of assets of a trust.²⁹

Licensed legal persons shall offer these services assuming they have obtained their license by the CySEC. Alternatively these services may be offered by licensed lawyers in Cyprus, who are registered with the Cyprus Bar Association or accountants who are members of the ICPAC and their subsidiaries.

The person providing the services does not, however, need to be licensed in the case in which the protector of a trust is one of the beneficiaries of the trust or the settler; is a relative up to the third degree of the settler; or where the undertaking of trustee duties in a trust is created under the will of a natural person.³⁰

C. Treatment of foreign structures

Foreign trusts are recognised in Cyprus under the Hague Convention on the Law Applicable to Trusts and their Recognition, which has been ratified by Cyprus under Law No 4(III)/2017.

The convention sets out certain parameters that should be met, namely that apply only to trusts created voluntarily and evidenced in writing,³¹ and further that, a state may disregard the provisions of the convention when their application would be manifestly incompatible with public policy.³²

IV. Taxation

A. Domicile and residency

Tax residency and tax domicile are the criteria that determine whether an individual will be taxed in Cyprus. An individual can be considered as domiciled in Cyprus either by domicile of origin or

by domicile of choice. The terms are defined based on the provisions of the Wills and Succession Law.

The domicile of origin is the domicile a person has from birth. A legitimate child takes the fathers domicile, whereas a non-legitimate child takes the domicile of the mother. The domicile of origin remains with an individual until the individual decides to acquire a domicile of choice. The domicile of choice is the domicile that a person chooses to replace its domicile of origin.³³

To become a tax resident in Cyprus according to the Income Tax Law of 2002, an individual shall reside in the country for at least 183 days per calendar year. An individual can also be a tax resident of Cyprus, even if he or she spends less than 183 days per calendar year in the country, if the individual fulfils other criteria, namely he or she does not spend more than 183 days in any other country; the individual is not a tax resident in any other country; the individual spends at least 60 days in Cyprus; the individual maintains a permanent home in Cyprus that is either owned or rented; or the individual carries on a business in Cyprus, is employed in Cyprus or holds an office in Cyprus at any time during the tax year.³⁴

B. Gift, estate and inheritance taxes

There is no inheritance, gift or estate tax applicable in Cyprus. However, transfer fees and stamp duty may be payable on transfers of immovable property.

Transfer fees are calculated on the market value of the property as determined by the Department of Lands and Surveys and in accordance with the provisions of the Department of Lands and Surveys (Fees and Charges) Law, Cap 219.

For properties with a value of up to €85,000, the applicable transfer fee rate is three per cent; for properties between €85,001 and €170,000 the rate is five per cent; and for properties with a value of over €170,000 the transfer fee rate is eight per cent of the property value.

In the case of free transfers of property (gifts) from a parent to children, no transfer fees apply. In case of a gift between spouses or third-degree relatives, the transfer fees are calculated as 0.1 per cent of the value of the property.

Transfers under a qualifying reorganisation or restructuring; transfers in the context of liquidation, bankruptcy or disposal of mortgaged property by the lender (where the sales proceeds do not exceed the amount of €350,000); and transfers that are subject to VAT are also exempt from transfer fees.³⁵

In the case in which a transaction is not subject to VAT (eg, resale property), legislation provides an exemption of 50 per cent on the amount of transfer fees.

Stamp duty is tax paid by property purchasers when the property sales agreement is registered with the land registry. Documents relating to transactions that take place in the context of a qualifying reorganisation or qualifying loan are exempt from stamp duty.³⁶

C. Taxation of trusts

Trusts are not legal entities and as such, their tax treatment is determined by the tax status of their beneficiary.

In accordance with the International Trusts Law of 1992 as amended, the income and profits of an international trust that are acquired or deemed to be acquired from sources both within and

outside Cyprus are subject to every tax that is applicable in Cyprus, provided that the beneficiary is a tax resident of Cyprus.

In the event that the beneficiary is not a Cyprus tax resident, only the income and profits of an international trust that are acquired or deemed to be acquired from sources in Cyprus are subject to Cyprus taxes.³⁷

D. Taxes on income and capital

A Cyprus tax resident individual is taxed on income accruing or arising from worldwide sources. The applicable taxes for Cyprus tax resident individuals are income tax, capital gains tax and special defence tax.

Income tax in Cyprus is governed by the Income Tax Law of 2002, as amended from time to time. Personal income tax is imposed on tax residents of Cyprus on their income derived from sources in Cyprus and abroad, and the applicable tax rates are progressive, in accordance with the below table:³⁸

Taxable income (€)	Tax rate (%)	Tax (€)	Cumulative tax (€)
0–19,500	0	0	0
19,501–28,000	20	1.700	1.700
28,001–36,300	25	2.075	3.775
36,301–60,000	30	7.110	10.885
Over 60,000	35	Based on amount of funds above €60,000	Based on amount of funds above €60,000

A number of exemptions apply both for income derived from sources in Cyprus and from income derived from abroad. Most notably, dividend income and interest income are exempt from personal income tax. It is emphasised that dividend and interest income are subject to special defence tax at the rates mentioned below.

A 50 per cent exemption is provided under income tax laws on remuneration from any employment exercised in the Republic of Cyprus by an individual who was a tax resident outside of Cyprus 15 years before the commencement of the employment, provided that the annual remuneration exceeds the amount of €55,000. The exemption applies for a period of 17 years.³⁹

An income tax exemption also applies to foreign employment; remuneration from rendering services outside of Cyprus to a non-resident employer or to an overseas permanent establishment of a resident employer for more than 90 days in a tax year is exempt from income tax.

Additionally, no income tax is levied on any profits earned from the disposal of securities, including shares and bonds, on any lump sum received as a retirement gratuity or on lump sum repayments from life insurance schemes or approved provident funds.⁴⁰

Capital gains tax is levied at a 20 per cent rate on gains from the disposal of immovable property situated within Cyprus; gains resulting from selling shares of companies that are not listed on a recognised stock exchange and own immovable property within Cyprus; and gains arising from the sale of shares of companies that indirectly own immovable property situated in

Cyprus, and at least 50 per cent of their market value is derived from such immovable property.⁴¹

Cyprus tax resident and domiciled individuals are subject to special defence tax on dividend income at the rate of 17 per cent and on interest income at the rate of 30 per cent, except for interest earned from ordinary business activities.⁴²

Special defence tax is also applicable on interest earned or credited from savings certificates and development bonds issued by the Republic of Cyprus; corporate bonds and bonds listed on a recognised stock exchange, which are issued by local authorities or state organisations; an approved provident fund; and the Social Insurance Fund; and rental income is subject to a rate of three per cent.⁴³

Foreign nationals who have chosen Cyprus as their tax residence can claim non-domiciled status. This status is obtained, provided they submit a non-domicile declaration to the Cyprus tax authorities providing evidence that they have a domicile of origin in a country other than Cyprus. The non-domiciled status allows full exemption from the Special Defence Contribution for a period of 17 years from the date they become Cyprus tax residents. Therefore, dividends and interest received from Cyprus and/or abroad will be completely exempt from taxes in Cyprus.

Irrespective of the domicile of origin or choice, individuals who have been tax residents in Cyprus for at least 17 out of the 20 years prior to the tax year in question, will be deemed to be domiciled in Cyprus for the purposes of the Special Defence Contribution Law.⁴⁴

As of March 2019, dividends and interest are also subject to General Health System contributions. The current applicable rate is 2.65 per cent,⁴⁵ restricted to a maximum of €180,000 income per annum.⁴⁶ Non-domiciled status does not provide for an exemption to this taxation.

Notes

¹ Wills and Succession Law, Art 2.

² *Ibid*, Art 22.

³ *Ibid*, Art 23.

⁴ *Ibid*, Art 24.

⁵ *Ibid*, Art 29.

⁶ *Ibid*, Art 37.

⁷ *Ibid*.

⁸ Wills and Succession Law, Art 38.

⁹ *Ibid*, Art 39.

¹⁰ *Ibid*.

¹¹ EU Succession Regulation, Art 22.

¹² Wills and Succession Law, Art 5.

¹³ Administration of Estates Law, Art 40.

¹⁴ *Ibid*, Art 41.

¹⁵ *Ibid*, Art 45.

¹⁶ *Ibid*, Art 16.

¹⁷ *Ibid.*, Art 18.

¹⁸ Administration of Estates Law, Art 17.

¹⁹ *Ibid.*, Art 52

²⁰ Wills and Succession Law, Art 46

²¹ *Ibid.*, Art 41.

²² Cyprus International Trusts Law, Art 2.

²³ Prevention and Suppression of Money Laundering and Terrorist Financing Law, Art 61 (c) 12.

²⁴ Cyprus International Trusts Law, Art 2.

²⁵ *Ibid.*, Art 4.

²⁶ *Knight v Knight* (1840).

²⁷ Cyprus International Trusts Law, Art 7.

²⁸ Companies Law, Art 20.

²⁹ Business Providing Administrative Services and Related Matters Law, Art 4.

³⁰ *Ibid.*

³¹ Hague Convention on the Law Applicable to Trusts and their Recognition, Art 3.

³² *Ibid.*, Art 18.

³³ Wills and Succession Law, Art 6.

³⁴ Income Tax Law, Art 2; Cyprus Tax Department Circular 1/2022.

³⁵ Department of Lands and Surveys (Fees and Charges) Law, Schedule.

³⁶ Stamp Duty Law as amended 77(I)/2023, Art 4.

³⁷ Cyprus International Trusts Law, Art 12.

³⁸ Income Tax Law, Art 25.

³⁹ *Ibid.*, Art 8(23A).

⁴⁰ *Ibid.*, Art 8(9).

⁴¹ Capital Gains Tax 1980 (52/1980), Art 4.

⁴² Special Contribution for the Defence of the Republic, (as amended) Law 117(I)/2002, Art 3.

⁴³ *Ibid.*

⁴⁴ Special Contribution for the Defence of the Republic, (as amended) Law 117(I)/2002, Art 2.

⁴⁵ General Health System Law of 2001 (89(I)/2001), Art 19

⁴⁶ *Ibid.*