

# PRIVATE CLIENT

## Cyprus



# Private Client

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Quick reference guide enabling side-by-side comparison of local insights, including into tax; trusts and foundations; same-sex marriages; civil unions; succession; capacity and power of attorney; immigration; and recent trends.

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### Cyprus



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## LEGAL FRAMEWORK

### Key legislation

What key legislation and regulations are relevant to foreign individuals moving to or investing in your jurisdiction? What government bodies are charged with enforcing these laws and what is the extent of their powers?

The main laws that are relevant to foreign individuals moving to or investing in Cyprus and that also implement the European Directives relating to the areas of free movement of EU citizens, immigration and trafficking in human beings, are the following:

- the Law on the Right of Union citizens and their family members to move and reside freely within the territory of the Republic;
- the Aliens and Immigration Law (Cap. 105);
- the Law on the Prevention and Combatting of Trafficking and Exploitation of Human Beings and Protection of Victims;
- the Aliens and Immigration Regulations; and
- the Law on Immovable Property Acquisition (Aliens) (Cap. 109).

The Immigration Department of the Ministry of Interior Affairs of the Republic of Cyprus is the competent authority to deal with the following matters:

- managing applications and issuing Certificates of Registration to Union citizens and Residence Cards to members of their family who are third party nationals;
- managing applications and issuing entry and residence permits to third-country nationals who wish to enter or are in Cyprus;
- managing the various requests related to the points above, etc; and
- managing other general issues concerning immigration (illegal migration, sham marriages, solidarity funds, borders, judicial applications, etc).

The Immigration Department is divided into different sections, with each one responsible for a number of the above competencies.

*Law stated - 19 September 2022*

### Real property

Are there any particular rules or restrictions on foreign individuals purchasing or investing in real property in your jurisdiction?

Following the accession of Cyprus in the EU, there are no restrictions on the purchase of real estate by natural or legal persons who are EU nationals or nationals of a member state of the European Economic Area (EEA). Such persons are treated as local residents; hence, they can purchase any type of real estate without any restrictions and without obtaining any permission.

However, in accordance with the provisions of the Immovable Property Acquisition (Aliens) Law (Cap 109), Directives of the Central Bank of Cyprus and various circulars issued by the Ministry of Interior, citizens of non-EU/EEA countries

or foreign companies wishing to purchase real estate in Cyprus must obtain permission from the Council of Ministers through the district officer in whose district the relevant property is located. Therefore, a person who is not an EU/EEA citizen must submit an application in the district administration.

A purchase permit is granted to bona fide applicants for the purchase of an apartment, house or plot of land with an area of no more than three units (about 4,014 m<sup>2</sup>) in order to build only one house for the exclusive residence of the buyer and their family. The Ministry of Interior of Cyprus has allowed the possession of a maximum of two units in one or different buildings.

Real estate may consist of:

- two residential blocks;
- one residential block and a store of up to 100 m<sup>2</sup>; or
- one residential block and an office of up to 250 m<sup>2</sup>.

An entire commercial building or a floor in a building with several office premises, for which a common title is issued, is considered one unit.

When buying more than two units of real estate, the title will not be issued. The property can be operated in the usual mode (live, rent, sell, etc), but it is impossible to get a loan for them.

At the same time, family members of the buyer (excluding their spouse) can also acquire property, provided that they are not financially dependent on the buyer. However, the permit is granted for personal use only, not for rental or commercial use.

Such complications can, however, be avoided if such property is registered in the name of a Cyprus company set up by or for the benefit of such foreign individuals.

*Law stated - 19 September 2022*

## Establishing a business

Are there any particular rules or restrictions on foreign individuals establishing a business in your jurisdiction?

There are no restrictions on any natural or legal person wishing to establish a business in Cyprus. In accordance with the official governmental advice, the most important steps to be taken by a person wishing to launch a business in Cyprus can be found in the list below:

- to decide on the aim of your business and its legal structure (eg, limited liability company, partnership);
- to build a business model and a financial plan;
- to build their marketing strategy;
- to incorporate their business model, financial plan, marketing strategy and all other relevant information into their business plan;
- to identify financing resources and opportunities;
- to choose their premises (physical address);
- to choose a name for their entity;
- to incorporate as a legal entity;
- to register with the Tax Department;
- to register for VAT;
- to register for VIES (the VAT exemption when trading with other EU countries);

- to register at the Social Insurance Services;
- to register any intellectual property rights;
- to recruit a team of professionals; and
- to start promoting their business.

*Law stated - 19 September 2022*

## TAX

### Residence and domicile

#### How does an individual become taxable in your jurisdiction?

An individual becomes a tax resident in the Republic of Cyprus pursuant to a numerical day test. A person residing in Cyprus for a period exceeding in aggregate 183 days in the year of assessment is taxable in Cyprus. The 183 days do not need to be consecutive. The year of assessment means the period of 12 months commencing on the first day of January of each year (ie, the calendar year). The Cyprus Income Tax Law provides that:

- the day of departure is considered to be a day out of Cyprus;
- the day of arrival is considered to be a day spent in Cyprus;
- the arrival and departure from Cyprus on the same day is considered to be a day spent in Cyprus; and
- the departure and return to Cyprus on the same day is considered to be a day spent out of Cyprus.

As from 1 January 2017 a new test was introduced to determine the tax residency of an individual. According to this test an individual will be considered to be a Cyprus tax resident provided that such person:

- resides in Cyprus for one or more periods within the same tax year for at least 60 days;
- does not reside in any other country for an aggregate period of more than 183 days;
- is not considered a tax resident in any other country;
- carries out a business in Cyprus or is employed in Cyprus, or is a director in a Cyprus tax resident company, or both; and
- has a permanent place of living in Cyprus. For someone to apply based on the 60-day test all the above conditions need to be met.

Pursuant to the provisions of the Cyprus tax legislation, applicable after 15 July 2015, an individual who is a tax resident but is 'non-domiciled' in Cyprus will be exempt from special defence contribution (SDC). SDC is a tax payable on passive income (rents, dividends and interest). Domicile is defined in accordance with the provisions of the Wills and Successions Law; a domicile of origin is acquired at birth and a domicile of choice is acquired by the establishment of a home by the individual intending to permanently live there. Individuals who have obtained and maintained a domicile of choice outside Cyprus, if they were not Cyprus tax residents for a period of at least 20 consecutive years prior to the tax year in question, are considered as non-domiciled. Similarly, persons who were not Cyprus tax residents for a period of at least 20 consecutive years immediately prior to the entry into force of the relevant provision are also non-domiciled in Cyprus. An individual remaining a Cyprus tax resident for at least 17 years is considered as domiciled in Cyprus.

Cyprus tax residents are taxed on their worldwide income. Also, Cyprus grants credit for any foreign tax suffered on foreign income, irrespective of the existence of a double tax treaty. A comparison is made between the equivalent Cypriot tax and foreign tax suffered, and the credit granted is the lower of the two.



*Law stated - 19 September 2022*

## **Income**

What, if any, taxes apply to an individual's income?

Income for individuals is subject to income tax at progressive tax rates. The first €19,500 is tax free; the next €8,500 is subject to a tax rate of 20 per cent; the next €8,300 is taxed at 25 per cent; the next €23,500 is taxed at 30 per cent and any amount above €60,000 at 35 per cent. Several deductions and personal allowances are available.

*Law stated - 19 September 2022*

## **Capital gains**

What, if any, taxes apply to an individual's capital gains?

No capital gains tax exists, apart from the taxation of gains arising from the direct or indirect disposal of immovable property situated in Cyprus.

*Law stated - 19 September 2022*

## **Lifetime gifts**

What, if any, taxes apply if an individual makes lifetime gifts?

No taxes on lifetime gifts apply in Cyprus.

*Law stated - 19 September 2022*

## **Inheritance**

What, if any, taxes apply to an individual's transfers on death and to his or her estate following death?

There are no inheritance taxes in Cyprus.

*Law stated - 19 September 2022*

## **Real property**

What, if any, taxes apply to an individual's real property?

Capital gains tax applies only to direct and indirect disposals involving immovable property situated in Cyprus. It is imposed at the rate of 20 per cent on gains from the disposal of immovable property or gains from the disposal of shares in companies, which directly or indirectly own immovable property situated in Cyprus. The Immovable Property Tax has been abolished as from 1 January 2017. Local (municipal or council) taxes are applicable to real estate property located in Cyprus; however, the applicable amounts are minimal.

*Law stated - 19 September 2022*

## Non-cash assets

What, if any, taxes apply on the import or export, for personal use and enjoyment, of assets other than cash by an individual to your jurisdiction?

Since its accession in the EU in 2004, Cyprus applies the EU customs procedures, as well as the EU trade policy. Essentially, no customs duties are paid on goods imported in Cyprus from another EU member state. When the country of origin of the goods is not part of the EU, customs and duties are calculated ad valorem on the cost, insurance and freight (CIF) value of the product in accordance with the Common Customs Tariff. For non-EU countries the applicable rates are relatively low (especially for manufactured goods, of which the rate is 4.2 per cent on average) and for the purposes of ascertaining the applicable rate the Cyprus integrated tariff system is available online. Value added tax (VAT) is also imposed on all imported products from other EU countries, whether the importer is a person liable to VAT or not. On importation VAT is considered as an import duty and is charged and paid at the time at which the import duty is paid in accordance with the applicable legislation.

*Law stated - 19 September 2022*

## Other taxes

What, if any, other taxes may be particularly relevant to an individual?

Other taxes that may be particularly relevant to individuals include the VAT, SDC and stamp duty.

The standard rate of VAT is 19 per cent, while reduced rates of 5 per cent and 9 per cent apply to certain supplies.

SDC is payable by Cypriot tax resident companies and individuals that are both tax residents and domiciled in Cyprus on passive income, namely rents, dividends and passive interest income. Dividends received by individuals (resident and domiciled in Cyprus) are subject to an SDC rate of 17 per cent. Dividends received by Cypriot tax resident companies are not subject to SDC (subject to specific exceptions). The SDC rate for interest for both natural and legal persons is 30 per cent. Rent received by companies and by tax resident and domiciled individuals are subject to SDC at the effective rate of 2.25 per cent (3 per cent on gross rents less 25 per cent).

Stamp duty is payable on any document that concerns any property located in Cyprus or on matters to be executed there. For contracts, the value of which ranges between €5,001 to €170,000, the current rate of stamp duty is €1.50 for each €1,000 or part thereof; for contracts the value of which is over €170,000, the current rate of stamp duty is €2 for every €1,000 or part thereof, with a ceiling of €2,000. This maximum amount is payable on any document or on any transactions that have several documents; in such case, the parties may choose which of the transaction documents is the main document and only that main transaction document will be subject to the full stamp duty. The other transaction documents may be stamped as secondary documents, in the amount of €2 each, provided they are dated the same day (or very close) as the main transaction document. Several instruments carry a fixed stamped duty, as per the provisions of Cyprus Stamp Duty law.

*Law stated - 19 September 2022*

## Trusts and other holding vehicles

What, if any, taxes apply to trusts or other asset-holding vehicles in your jurisdiction, and how are such taxes imposed?

Cyprus recognises the concept of trusts and in particular Cyprus international trusts (for settlors and beneficiaries that

are non-Cypriot tax residents on the year preceding the year of the trust settlement). A Cypriot trust is not a taxable person. The income of a trust is assessed in the name of the trustee, however since the beneficiaries are the persons entitled to the income, they are liable for any tax thereon. Trustees need to follow a matching approach when making distributions to the beneficiaries so that any Cypriot tax is deducted and paid. Hence, a look through approach must be applied.

*Law stated - 19 September 2022*

## Charities

### How are charities taxed in your jurisdiction?

Income of approved charities is exempt from income tax. Furthermore, donations to approved charity organisations are deducted from taxable income. Disposals to approved charities are exempt from capital gains tax and no immovable property taxes are chargeable on real estate property owned by an approved charity.

*Law stated - 19 September 2022*

## Anti-avoidance and anti-abuse provisions

### What anti-avoidance and anti-abuse tax provisions apply in the context of private client wealth management?

Section 33 of the Assessment and Collection of Taxes Law provides, in relation to the taxation of individuals, that the Tax Commissioner has the right to disregard any transactions appearing in their opinion to be non-genuine and to impose tax on the proper object of the tax. Essentially any transactions that are affected for the purposes of obtaining a tax advantage can be ignored if they are deemed by the Tax Commissioner to be non-genuine.

In any case, Cyprus has implemented the provisions of the EU Anti-Tax Avoidance Directive (ATAD) into Cyprus law. The first set of rules is applicable as of 1 January 2019 and includes the Interest Limitation Rule, the Controlled Foreign Company rule and the General Anti-Abuse Rule, pursuant to which Cyprus for the purpose of assessing the applicable corporate tax, shall ignore an arrangement that has been put in place for the main purpose of obtaining a tax advantage or is not genuine, having regard to all facts and circumstances surrounding the relevant case. The remaining ATAD measures – namely exit taxation and hybrid mismatches – have been transposed into Cypriot legislation in July 2020 and are applicable as of 1 January 2020 as regards exit taxation, hybrid mismatches and tax residency mismatches and as of 1 January 2022 as regards reverse hybrid mismatches. These provisions concern Cyprus corporate taxpayers; however, they might be relevant to private clients wishing to structure their corporate transactions by using Cypriot tax resident companies or Cypriot permanent establishments.

*Law stated - 19 September 2022*

## TRUSTS AND FOUNDATIONS

### Trusts

#### Does your jurisdiction recognise trusts?

Cyprus recognises the concept of trusts. The Cyprus Trustees Law (Cap. 193) is the main legal framework applicable to local trusts. The Cyprus International Trusts Law of 1992 (as amended) is applicable to Cyprus International Trusts (CITs). The Cyprus trust regime is considered one of the most modern trust regimes in Europe.

According to the provisions of the CIT Law, a CIT is a trust whereby the settlor is not a tax resident of Cyprus during the

year preceding the year in which the trust was formed, the beneficiaries are not residents of Cyprus but may relocate to Cyprus after a year following the trust settlement and at least one of the trustees must be a local resident throughout the duration of the CIT. The trust property can include all kinds of assets situated anywhere in the world and it can also comprise of real estate property located in Cyprus.

A CIT or a transfer of trust assets may only be set aside by the settlor's creditors to the extent that it is proven to the satisfaction of the court that the CIT was created with the intent to defraud creditors. The burden of proof is on the creditors who must prove that the CIT was made with intention to defraud them and that they were creditors at the time of the CIT settlement. An action must be brought within a period of two years from the date when the transfer or disposal of assets was made by the settlor to the CIT and only regarding those assets and not any assets transferred earlier.

The CIT Law is silent of any licensing requirements for a legal or physical person to act as a trustee. Nevertheless, as per the provisions of the Law Regulating Companies Providing Administrative Services and Related Matters of 2012 (the ASP Law), a person undertaking the duties of a trustee of a CIT should be a licensed person to provide the administrative services of the management or administration of trusts including, without limitation, the undertaking or provision of trustee, wherever these are set up or established, or the management or investment or marketing of the assets of a trust.

The ASP Law provides for the establishment of trust registries. The Cyprus Securities and Exchange Commission, the Cyprus Bar Association and the Institute of Certified Public Accountants of Cyprus are the three supervisory bodies and competent authorities for the purpose of maintaining a register of trusts established by the respective service provider they regulate, containing the following information: name of the trust, name and full address of every trustee, the date of establishment of the trust (or the termination thereof), the date of any change in the law governing the trust to or from Cyprus law. A Cypriot resident trustee of a trust governed by Cypriot law must notify its respective competent authority of the above stipulated information within 15 days from the creation of the trust or the adoption of Cypriot law as the law governing the trust. Subsequent changes in any relevant information, including termination of the trust or a change in the governing law from Cyprus law to another law must also be notified within 15 days.

The CIT Law provides that the law applicable to a CIT trust can be expressly changed to a foreign law provided that such foreign law recognises the validity of the trust and the beneficiaries' interests. Also, the change of the governing law of a foreign trust from a foreign law to the law of Cyprus is permitted, provided that such change is allowed by the law of the jurisdiction governing the foreign trust. In any case, Cypriot law recognises trusts governed by the laws of another jurisdiction.

*Law stated - 19 September 2022*

## Private foundations

Does your jurisdiction recognise private foundations?

Cypriot laws do not provide for private foundations.

*Law stated - 19 September 2022*

## Disputes

What issues typically give rise to disputes relating to trusts and foundations? How are these disputes resolved? (What are the most common causes of action? Which courts are used? Is alternative dispute resolution (ADR) available and commonly used? What remedies are commonly awarded?)

Existing case law suggests that several disputes arise in relation to trusts. Issues giving rise to disputes relating to trusts vary, but some common causes are in relation to the trustees. Actions have been initiated for breach of trust or negligence by the trustee, breach of the trustee's duty to exercise due care and skill while exercising their duties or failure to exercise their powers in a professional capacity. Additionally, actions have been brought in relation to the transfer of immovable property and land that was kept on trust. Disputes relating to trusts can be settled either judicially, before the competent courts or through alternative dispute resolution, if this is provided by the trust deed. The remedies awarded also vary and depend on what the parties seek to achieve. Such remedies could, inter alia, be monetary damages for loss or they could even be invalidation of the trust.

*Law stated - 19 September 2022*

## **SAME-SEX MARRIAGES AND CIVIL UNIONS**

### **Same-sex relationships**

Does your jurisdiction have any form of legally recognised same-sex relationship?

Pursuant to the provisions of the Cyprus Civil Partnership Law of 2015, as amended, any couple, either heterosexual or homosexual, has the right to have their relationship legitimised and enjoy the same rights as a married couple. Therefore, civil partners have the same status as spouses and are treated as such for the purposes of Cypriot law, save for the purposes of adoption.

For a civil partnership to be concluded the parties must be two adults of sound mind, who are able to realise and assess their decision and give their free consent thereto.

For the purposes of the conclusion of the civil partnership, the parties shall make an appointment with and appear before the Registrar of the district where one of the parties has his or her permanent residence, or at the district of their choice if they are not permanent Cypriot residents. The parties must file with the Registrar the relevant civil partnership form along with valid identification documents and valid proof of residence or permit of residence in the Republic. They should also swear an affidavit stating that they are not married nor have they concluded any other civil partnership, that they are unaware of any legal obstacle to the conclusion of the civil partnership and that all the consents necessary for the conclusion of the civil partnership have been obtained. The parties must also file a duly certified original or copy of the certificate of freedom issued by the relevant governmental authorities (ie, the Civil Registry and Migration Department) within the maximum three months prior to the date of filing of the civil partnership form. Non-Cypriot nationals are excluded from the requirement of obtaining the certificate of freedom by the governmental authorities of the Republic.

Upon examination of all the documents filed, the Registrar grants his or her consent to the conclusion of the civil partnership in the presence of two adult witnesses of sound mind, who must also sign the civil partnership form.

Civil partners are in practice treated for the purposes of any Cypriot law, other than the law on adoption, as spouses and enjoy the same rights and have the same obligations of a married couple. Hence, for the purposes of taxation and succession the same provisions that are applicable to married couples apply to civil partners.

*Law stated - 19 September 2022*

### **Heterosexual civil unions**

Does your jurisdiction recognise any form of legal relationship for heterosexual couples other than marriage?

Pursuant to the provisions of the Civil Partnership Law, any heterosexual couple has the right to have their relationship

legitimised and enjoy the same rights as a married couple by concluding a civil partnership.

*Law stated - 19 September 2022*

## SUCCESSION

### Estate constitution

What property constitutes an individual's estate for succession purposes?

The deceased's estate for succession purposes can comprise of both movable and immovable property. Immovable property includes, inter alia, land, constructions or other parts attached on the land or any constructions, trees, springs, water, rights to the water, freedoms, benefits relating to land or any constructions, etc. Movable property is defined as any property not falling within the definition of immovable property. However, any immovable property owned by the deceased that is situated abroad cannot be considered as falling under the provisions of Cypriot law and shall be administered in accordance with the laws of the jurisdiction where the immovable property is situated.

It is noticeable that in cases of beneficial ownership, the shares held by the deceased would fall into the movable property of the deceased for the purposes of succession and in cases of co-ownership, the deceased's part would be considered as his or her estate, as with any other property legally owned by him or her.

*Law stated - 19 September 2022*

### Disposition

To what extent do individuals have freedom of disposition over their estate during their lifetime?

Individuals have the freedom to gift their estate during their lifetime to any close relative (up to the third degree) for reasons of natural love and affection.

Any person over the age of 18 and who is of sound mind has the right to make a will whereby the disposition of his or her estate would be determined. For a will to be valid it must be in writing, executed and attested by at least two witnesses who are simultaneously present. Any beneficial legacy to any of the witnesses of the will, their spouse or child, other than and except charges and directions for the payment of any debt shall be declared as null and void but would not invalidate the will in its entirety.

Furthermore, any person of sound mind and over the age of 18, who is ill and expects to die shortly of his or her illness, may dispose any movable property by a gift made in contemplation of death if made in the presence of at least two witnesses of sound mind and of full age. A gift made in contemplation of death shall not take effect if the giver recovers from the illness during which the gift was made or the giver survives the person to whom the gift was made. Any such gift shall be treated upon the administration of an estate exactly in the same way as if it were a specific legacy.

A legacy shall be valid if made to a person who is in existence at the time of the death of the testator, including a subsequent child of the testator, and it expresses a definite intention. The legacy shall also be considered valid even if it is dependent upon an impossible, illegal or immoral condition, since only such condition would be deemed to be void.

It is noticeable that no person having any relation within the third degree of kindred shall have power to bequeath a legacy to any religious corporation, save by a will executed at least three months before their death. Such legacy shall only be valid if it relates to any land situated within the limits of the areas specified for these specific purposes, on the survey maps signed by the Director of Lands and Surveys and deposited to the District Lands Office.

*Law stated - 19 September 2022*

## To what extent do individuals have freedom of disposition over their estate on death?

The right of a person to dispose of his or her estate by will is limited to the disposition of only one part of the estate: the 'disposable portion'. The disposable portion of a deceased's estate is determined only after the death of the said person and after the settlement of all his or her obligations or repayment of all debts, or both. If the deceased person left a child or a descendant of a child, then the disposable portion shall not exceed one-fourth of the net value of the estate. If the deceased left a spouse or parent, but neither a child nor a descendant of a child, then the disposable portion shall not exceed one-half of the net value of the estate. If the deceased left neither a spouse nor a child or a descendant of a child, nor a parent, then the disposable portion shall be the whole of his or her estate.

*Law stated - 19 September 2022*

### **Intestacy**

If an individual dies in your jurisdiction without leaving valid instructions for the disposition of the estate, to whom does the estate pass and in what shares?

In cases where persons domiciled in Cyprus die intestate, their estate shall be distributed as it is statutorily prescribed among the entitled relatives.

More specifically the different classes of the kindred are the following:

- The first class includes the legitimate children of the deceased living at his or her death and the descendants of any of the deceased's legitimate children who died in his or her lifetime. The legitimate children shall be entitled to equal shares and the descendants of the legitimate children who died shall be entitled to equal shares per stripes.
- The parents of the deceased living at his or her death (or if not living, the nearest ancestor living at his or her death) and siblings of the deceased living at his or her death and descendants, living at the death of the deceased, of any of the deceased's brothers or sisters who died in his or her lifetime, are of second class.
- The ancestors of the deceased nearest in degree of kindred living at his or her death are of third class in the succession of the kindred and if there are ancestors of equal degree of kindred on both the father's side and on the mother's side, the ancestors on each side shall be entitled to take half of the statutory portion, and of the undisposed portion if any, and, if there are more than one of them on either side, they shall be entitled to equal shares.
- The fourth class of succession includes the nearest kin of the deceased alive at the time of his or her death.

Where a person dies leaving a spouse, such spouse shall, after the debts and liabilities of the estate have been discharged, be entitled to a share in the statutory portion, and in the undisposed portion if any, as follows:

- if the deceased has left besides such spouse any child or descendant thereof, the share of the surviving spouse shall be equal to the share of each and anyone of such children;
- if the deceased has left no child or descendant thereof, but has left an ancestor or a descendant up to the third degree, the share of the surviving spouse shall be the one half of the statutory and undisposed portions;
- if the deceased has left no child or descendant thereof, nor any ancestor or a descendant up to the third degree, but has left an ancestor or a descendant of the fourth degree, the share of the surviving spouse shall be the three-quarters of the statutory and of the undisposed portions; and
- if the deceased has left no child or descendant thereof, nor any ancestor or a descendant up to the fourth degree

of kindred, then the share of the surviving spouse shall be the whole estate.

If the deceased has no living relatives up to the sixth degree, he or she shall be taken to have died without heirs. Subject to the share of a surviving spouse, if any, the deceased's estate shall become the property of the government.

Any person who pursuant to a will becomes entitled to any part of the disposable portion, shall be in no way excluded from succeeding to receive any part of the statutory portion of the estate.

Any child or other descendant who becomes entitled to inherit any part of the estate, shall in estimating his or her share bring into account all movable and immovable property received from the deceased at any time by way of advancement or of gift made in contemplation of death, unless a will was made by the deceased specifying that such movable or immovable property shall not be brought into account.

*Law stated - 19 September 2022*

### **Adopted and illegitimate children**

In relation to the disposition of an individual's estate, are adopted or illegitimate children treated the same as natural legitimate children and, if not, how may they inherit?

Since adopted children have the same status as any legitimate child of the parents, adopted children shall be considered as any other child of a deceased for the purposes of succession. As per the illegitimate children of any deceased person, the law does not provide for any illegitimate children. Hence, the only possible way that such a child may inherit is by being included in a will.

*Law stated - 19 September 2022*

### **Distribution**

What law governs the distribution of an individual's estate and does this depend on the type of property within it?

As a rule of thumb, the applicable law for the purposes of succession shall be the law of the jurisdiction where the deceased was domiciled, unless the deceased chose otherwise by will, namely in choosing the law of the jurisdiction of nationality as the applicable one. Therefore, when a person domiciled in Cyprus dies, then all his or her movable property shall be governed in accordance with the provisions of the Wills and Succession Law, Cap. 195.

However, in relation to immovable property, the date of death is decisive. The distribution of the immovable property of a person domiciled in Cyprus who died before or on 17 August 2015 shall be governed in accordance with their domicile; namely, any immovable property situated in Cyprus shall be governed in accordance with the provisions of the Wills and Succession Law, but any immovable property of a person domiciled in Cyprus, shall be governed in accordance with the laws of the jurisdiction where the immovable property is situated (*lex loci rei sitae*).

Nevertheless, if a person died after 17 August 2015 then the distribution of both his or her movable and immovable property can be governed by the law of the jurisdiction of his or her residence, pursuant to the EU Succession Regulation 650/2012, by electing the applicable law in such person's will at the time of death.

*Law stated - 19 September 2022*



## Formalities

### What formalities are required for an individual to make a valid will in your jurisdiction?

In order for a will to be valid under Cypriot Law the following formalities shall be met:

- The testator must be of sound mind and of full age (over 18 years old); sound mind shall mean that they duly understand what a will is and which rights are created thereof.
- The will must be made in writing and executed in a specific way; namely, the will shall be executed at the end by the testator or by any other person on the demand of the testator.
- The execution of the will shall be attested by at least two witnesses who are present simultaneously and who shall be able to see the signature of the testator and they shall themselves execute the will as well in the presence of each other and the testator. The witnesses must be of full age and of sound mind and be able to sign underneath their names.
- If the will is comprised of more than one sheet of paper, then each page shall be signed or initialled by the testator or the person representing the testator and the witnesses.

*Law stated - 19 September 2022*

## Foreign wills

### Are foreign wills recognised in your jurisdiction and how is this achieved?

As per the provisions of the Probates (Re-sealing) Law, Cap. 192, any probate granted or other documents relating to the administration of an estate issued by a probate court of a commonwealth country or a British court seated abroad, may be submitted before any District Court of Cyprus and be sealed by the seal of that court and therefore have the same effect and application in Cyprus as if they were granted by such Cyprus court.

In any event, any Cypriot national may inherit or be inherited by any non-Cypriot national as per the provisions of the Wills and Succession Law.

*Law stated - 19 September 2022*

## Administration

### Who has the right to administer an estate?

In case a person dies without leaving a will or he or she is not able to administer his or her estate then the court grants a 'letter of administration to an individual' (the administrator), to administer such an estate. On the other hand, if the testator wishes that a specific person administers his or her estate and states this provision in the will, upon proof of the will, the court shall issue a probate whereby the administration of the estate of the deceased shall be granted to that person, who will be the executor.

In granting administration, the court shall take into consideration the rights of all persons interested in the estate of the deceased person or the proceeds of the sale, and more specifically, as per the provisions of the Administration of Estates Law, Cap. 189, the court may grant administration with the will annexed to a devisee or legatee if:

- A person died intestate as to his or her estate, administration should be given to one or more individuals interested in the residuary estate of the deceased, given that they file an application for the purpose.
- In the case of insolvency of the estate of the deceased or any other particular circumstances, it appears to the

court to be necessary or appropriate to appoint as administrator some person other than the person who, but for this provision, would by the law have been entitled to the grant of administration. The court may in its discretion, notwithstanding anything in this law, appoint as administrator such person as it considers expedient and any administration granted based on this provision may be limited in any way the court thinks fit.

Additionally, administration with the will annexed shall be granted in one of the following cases:

- where no executor has been appointed;
- where the executor appointed in the will has died;
- where the executor has renounced, or been cited by the usual process of the court, and not appeared;
- where the appointment of an executor is invalid;
- where the court exercises the discretion given to it under the relevant law;
- where the executor is incompetent because of his or her minority status, mental state or other disability; and
- where the executor resides out of the jurisdiction.

*Law stated - 19 September 2022*

### How does title to a deceased's assets pass to the heirs and successors? What are the rules for administration of the estate?

When the deceased has left a will, upon the issuance of the probate or the administration with the will annexed, the rights and obligations arising from the estate of the deceased shall be deemed to have passed to the personal representative of the deceased by the date of their death.

Where the deceased is intestate and his or her successors are disabled, if the value of the estate exceeds the amount of €10,100.63 then such estate, until the administration is granted, passes to the President of the District Court of the domicile of the deceased, and if they are abroad, then it passes to the President of the District Court of Nicosia. Upon the granting of the administration of the will, the estate passes to the executor or the person appointed by the court, as applicable.

Where an administration with the will annexed is not granted and the deceased dies intestate or without leaving any successors who are under disability or the value of the estate does not exceed the amount of €10,100.63, the estate of the deceased shall continue to bear all his or her debts and obligations and passes to his or her successors as such, and such successors shall be responsible to discharge the obligations up to the value of the estate they inherited or the value of the proceeds of the sale of such estate. The estate shall not be transferred unless an 18-month period lapses from the date of the death of the deceased.

If a probate is issued, the estate passes to the executor who shall be responsible for the distribution to the successors.

*Law stated - 19 September 2022*

### Challenge

Is there a procedure for disappointed heirs and/or beneficiaries to make a claim against an estate?

Cypriot courts have wide powers to resolve disputes in relation to the administration of the estate of the deceased person. Personal representatives, creditors, beneficiaries, next of kin and beneficiaries can apply to the court by originating summons for the determination of a number of issues, including:

- any question affecting the rights or interests of the person claiming to be a creditor, beneficiary, next of kin or heir;
- the identification of any class of beneficiaries or creditors;
- any account provided by a personal representatives;
- payment into court of monies held by personal representatives;
- instructions to the executors to act or to refrain from acting in relation to a particular matter;
- approval of any sale, purchase, settlement or any other transaction; and
- determination of any other matter relating to the administration of a deceased's estate.

No action against the validity of a will or in relation to the estate of a deceased person or any portion or part thereof or bequest can be brought after eight years from the date of death. The ability to file a court action extends to persons who claim to be entitled under the law, even though they may not be included in the will.

*Law stated - 19 September 2022*

## CAPACITY AND POWER OF ATTORNEY

### Minors

What are the rules for holding and managing the property of a minor in your jurisdiction?

A minor can have real estate property registered under his or her name and funds deposited in bank accounts in their name. However, any disposal of any assets on the name of a minor can only be performed pursuant to an order issued by a Cypriot court. For such an order to be issued the applicant must prove to the satisfaction of the court that the disposal is to the benefit of the minor.

*Law stated - 19 September 2022*

### Age of majority

At what age does an individual attain legal capacity for the purposes of holding and managing property in your jurisdiction?

Once a person reaches the age of 18 years he or she is considered of full legal capacity.

*Law stated - 19 September 2022*

### Loss of capacity

If someone loses capacity to manage their affairs in your jurisdiction, what is the procedure for managing them on their behalf?

A person is by law deemed to lose capacity if due to mental disorder, drug addiction, alcoholism, brain injury or other bodily harm, or any other disease or illness, which makes that person unable to exercise his or her discretion and will, is not able to administer his or her estate or direct his or her affairs. Incapacitated persons are by law prohibited from partaking in any action or omission that is to have a legal effect.

Upon the application to the court by (1) the spouse of the incapacitated person, his or her parents or descendants; (2) the Director of the Mental Health Service and the Director of the Social Welfare Service and (3) any other person that satisfies the court that he or she has an interest in the estate of the incapacitated person, the court is empowered to

take or arrange for all the necessary steps and actions to be taken in relation to the administration of the estate and the affairs of the incapacitated person.

The court also has the power to issue a court order for the appointment of an administrator of the estate of the incapacitated person, and any person appointed to act as the administrator of the estate of the incapacitated person would be considered as the personal representative of the incapacitated person.

*Law stated - 19 September 2022*

## IMMIGRATION

### Visitors' visas

Do foreign nationals require a visa to visit your jurisdiction?

Depending on their nationality, foreign nationals may require a visa to visit Cyprus. However, as Cyprus is a member of the EU, visa-free movement is permitted for all EU citizens, as well as citizens of other countries participating in the EU single market (ie, Switzerland).

*Law stated - 19 September 2022*

### High net worth individuals

Is there a visa programme targeted specifically at high net worth individuals?

A permanent residence permit (PRP) can be issued on an expedited basis for individuals who purchase residential property in Cyprus, amounting to at least €300,000. The Cyprus Investment Programme (CIP), pursuant to which individuals could obtain the Cypriot citizenship, has been discontinued as of 1 November 2020.

*Law stated - 19 September 2022*

## UPDATE & TRENDS

### Key developments

Are there any proposals in your jurisdiction for new legislation or regulation, or to revise existing legislation or regulation, in areas of law relevant to high-net worth individuals, particularly those coming to or investing in your jurisdiction? Are there any other current developments or trends relevant to such individuals that should be noted?

Cyprus aims to attract high net worth individuals and new business, and, to this effect, it has implemented a package of tax and other incentives to attract capital and talent in Cyprus. Recently, the Cyprus Income Tax Law has been amended to encourage transfer and relocation of personnel in Cyprus. One of the changes introduced was that a tax exemption of 50 per cent is available for a person employed for the first time in Cyprus as of 01 January 2022, who was previously not a Cyprus tax resident (for a period of 10 consecutive years) and was receiving an annual salary of at least €55,000 for a period of 17 years. Moreover, following the covid-19 pandemic, several other initiatives have taken place. Namely, the authorities have enacted a range of measures to assist new entities to set up operations in Cyprus, while a financial package by the EU is expected to enhance investments in renewable energy and digital transformation. Additionally, several intellectual property (IP) and software companies opted to transfer their headquarters to Cyprus for the purposes of benefiting from the Cyprus IP tax regime. Furthermore, the Cyprus government intends to relaunch the Cyprus investment programme in the future, after a consultation with all stakeholders, to promote foreign companies to relocate to Cyprus. It is expected that any new scheme will require

serious investments and contain incentives to attract new businesses and start-ups to relocate or establish their offices on the island. In parallel, Cyprus has an extensive network of double taxation treaties (DTT) with several countries.

*Law stated - 19 September 2022*

## Jurisdictions

	<b>Andorra</b>	Cases & Lacabra
	<b>Armenia</b>	Concern Dialog Law Firm
	<b>Australia</b>	Kalus Kenny Intalex
	<b>Austria</b>	DORDA
	<b>Belgium</b>	Loyens & Loeff
	<b>Canada</b>	Rogerson Law Corporation
	<b>Colombia</b>	Rimôn
	<b>Cyprus</b>	Patrikios Pavlou & Associates LLC
	<b>Germany</b>	POELLATH
	<b>Hong Kong</b>	Charles Russell Speechlys
	<b>Ireland</b>	Matheson
	<b>Italy</b>	Boies Schiller Flexner LLP
	<b>Japan</b>	Anderson Mōri & Tomotsune
	<b>Liechtenstein</b>	Gasser Partner
	<b>Malta</b>	GVZH Advocates
	<b>Monaco</b>	CMS Pasquier Ciulla Marquet Pastor Svara & Gazo
	<b>Spain</b>	Cases & Lacabra
	<b>Switzerland</b>	Kellerhals Carrard
	<b>United Kingdom - England &amp; Wales</b>	McDermott Will & Emery
	<b>USA</b>	Holland & Knight LLP