

# Tax - Breaking News

December 2019



Consistent with our commitment to keep you updated on the most significant tax developments, we outline below the most significant changes introduced with the new ratified Tax Bill:

## Taxation of individuals

### Tax residence

- Regarding the criteria for the determination of the tax residence status, the reference to 'social ties' is erased, since based on the OECD Model Tax explanatory notes, social ties are included in the notion of 'personal ties'.
- It is clarified that an individual who is present in Greece for a period exceeding the 183 days «cumulatively» (and not continuously as currently in force) during any twelve month period is a Greek tax resident as of their first day of presence in Greece.
- A new paragraph was added based on which a ministerial decision shall determine, amongst others, the procedures for the amendment of the tax residency as well as any other details regarding the implementation of the respective provisions.
- The above provisions are in force from the bill's publication date.

### High Net Worth Individual Regime

- In an effort to attract high net worth individuals, an alternative taxation on foreign source income earned by individuals (and/or their relatives) who transfer their tax residence to Greece is introduced, if the following conditions are cumulatively met (a) the individual was not a Greek tax resident for the 7 out of 8 years preceding the transfer of his tax residence to Greece and (b) can prove that they or their relatives or a legal entity in which they hold the majority of the shares, invests in real estate or moveable assets or shares of legal entities based in Greece. The amount of the investment should not be lower than EUR 500 000 and must be completed within a period of 3 years. Condition (b) is not required in case of an individual who has obtained a residence permit due to investment activity in Greece (based on article 16 of Law 4251/2014).
- In particular, individuals who will utilize the alternative taxation method, should pay a lump sum

tax of EUR 100 000 on an annual basis, regardless of the level of their foreign source income. In case where a relative utilizes respective provisions, they should pay a lump sum tax of EUR 20 000 on an annual basis. Utilization of these provisions cannot exceed a period of 15 tax years.

- The Greek source income of the individuals subject to the alternative taxation method should be reported in the annual income tax return and taxed according to its classification, whilst their foreign source income is not subject to reporting and is taxed based on the lump sum tax.
- It is worth mentioning that settlement of the annual lump sum tax exhausts any further tax liability for the individual on their foreign source income, whilst any tax paid abroad is not offset against any Greek tax liabilities. Furthermore, this individual is exempt from inheritance and donations tax on any foreign assets.
- The required categories of investments, their retention period in Greece, the application process as well as any other details required for the implementation of respective provisions shall be determined amongst other by ministerial decisions.
- The above provisions are in force from the bill's publication date.

### Tax year

- The uncollected accrued salaries collected as of 2014 onwards are subject to tax based on the year to which they correspond.
- The above provisions are in force from the bill's publication date.

### Benefits in kind

- All paragraphs regarding benefits in kind are restated. It is clarified that only the excess amount of EUR 300 (which now serves as a tax free limit) is considered as benefit in kind.
- The taxable base of company cars is being recalculated by introducing a new progressive scale,

which takes into consideration the Retail Price Before Taxes of the vehicle. Furthermore the tax exempt ceiling, applicable only to tool cars, is being increased from EUR 12 000 to EUR 17 000.

- Benefit in kind in the form of loan is redefined. It sets the difference between the interest paid by the employee and the average market interest rate, as the amount of benefit regardless of whether a written agreement exists or not. Furthermore, the phrase 'the advance payment of more than 3 months' salaries is considered as a loan' is erased.
- A new stock options tax framework is introduced, where if the shares that are acquired upon exercise, are retained for a period exceeding 24 months, or 36 months under certain conditions, are taxed as capital gains at a flat tax rate of 15%, or 5% for shares of newly established companies and if certain conditions are cumulatively met. It is worth mentioning that share plans in general (e.g. grant of free shares, etc.) do not appear to be covered by this provision.
- The above provisions are applicable to income earned in tax years after 1 January 2020.

### Employment income exemptions

- The following are exempt from the calculation of employment and pension income:
  - reimbursement of the Public Means of Transport monthly or yearly card purchase
  - the purchase price of granted company cars with zero or low emissions (up to 50 CO2/km) and with Retail Price Before Taxes up to EUR 40 000, during any time of the tax year
  - the benefit in kind in the form of shares, provided to an employee or partner or shareholder by a legal entity, regardless of whether the employment relationship continues, if such shares are acquired upon exercise and are only transferred after 24 or 36 months (under certain conditions) following their acquisition date.
- The above provisions are applicable to income earned in tax years after 1 January 2020.

### Tax rate

- A new income scale and tax rates for employment, pension and business income is introduced:

Income scale (EUR)	Tax rate (%)
0 – 10 000	9%
10 001 – 20 000	22%
20 001 – 30 000	28%
30 001 – 40 000	36%
> 40 001	44%

- A new paragraph is added based on which employees, pensioners, freelancers and other independent earners should incur expenses by using electronic means of payment within E.U. or E.E.A. equal to 30% of their actual income, with a

maximum expenses ceiling of EUR 20 000. A penalty of 22% on the difference between the required versus the amount spent, will incur. While calculating the actual income, solidarity contribution and alimony payments are not considered. Special provisions for certain categories of taxpayers apply.

- It is worth mentioning that the above provisions regarding expense receipts equally apply to rental income.
- Company group pension payouts distributed to employees due to their participation in voluntary employment termination programs is no longer considered as early redemption and thus not subject to the increased tax rate by 50%.
- A new paragraph is added regarding the special taxation of athletes under certain conditions. Specifically, it is stipulated that income earned by professional athletes from sports corporations, departments of remunerated athletes or recognized sports clubs, is taxed at a flat tax rate of 22% exhausting any further tax liability provided that the amounts received in one lump sum or in installments for a transfer contract or the renewal or termination of their contract, exceed EUR 40 000 within the respective tax year. Otherwise, the regular employment income tax scale applies.
- The above provisions are applicable to income earned in the tax years after 1 January 2020.

### Income tax credit

- The available tax credit based on the number of dependents is redefined as follows:

Taxpayer's dependents	Tax credit (EUR)
0	777
1	810
2	900
3	1 120
4	1 340
For each additional dependent child	+220

The amount of tax credit is reduced by EUR 20 (instead of EUR 10 currently in force) for every additional EUR 1 000 of income exceeding the threshold of EUR 12 000 (instead of the threshold of EUR 20 000, which is currently in force). This provision does not apply to taxpayers with 5 or more dependent children.

- The above provisions are applicable to income earned in tax years after 1 January 2020.

### Donation tax credit

- The donations tax credit is increased to 20% on the donations made, versus 10% currently in force, on donations exceeding EUR 100 and amounting in total to lower than 5% of the taxable income.

- The above provisions are applicable to tax deductions for donations taking place after 1 January 2020.

### **Real estate income**

- A new tax credit is being introduced as a percentage of the expenses made for aesthetic, functional and energy upgrade of buildings (which are not or will not be subject to the buildings' upgrade program), on condition that such expenses are made via electronic means of payment or via a payments service provider. Respective expenses are considered as tax credit in 4 equal installments at 40% of their value, with a total maximum value of expenses of EUR 16 000.
- The above provisions are applicable to expenses incurred in tax years after 1 January 2020 and until 31 December 2022.

### **Special Solidarity Contribution**

- By analogy to income tax exemption provisions, all categories of taxpayers having 80% disability or more, are exempt from solidarity contribution.
- The above provisions are applicable to income earned during the tax years after 1 January 2020.

### **Interest source income**

- Individuals who are non-Greek tax residents are tax exempt on interest income earned:
  - a) by corporate bonds issued by companies which are listed in the E.U. or in an organized financial market outside E.U. that is regulated by the International Organization of Securities Commission (IOSCO), as well as
  - b) by bonds issued by cooperative banks that operate as credit institutions.
- Furthermore, the above mentioned individuals are exempt from solidarity contribution on interest income earned on Greek Government Treasury Bills as well as listed corporate bonds as described above.
- Furthermore, it is stipulated that the said individuals are not subject to annual tax return obligations if their income is solely derived from interest earned from Greek Government T-Bills and corporate bonds as aforementioned.
- The above provisions are applicable to income earned in tax years after 1 January 2020.

### **Capital gain upon transfer of immovable property**

- Capital gains tax arising from the sale of immovable property is being postponed until 31 December 2022. This provision is in force upon publication of this law.

### **Luxury Tax Exemption**

- As of tax year 2019 onwards, private cars of tax payers having at least 4 dependent children are exempt from luxury tax.

## **Corporate Income Taxation**

The benefit arising from the waiver of debt in the context of a mutual agreement or a judicial settlement is taxed as business income and not as donation. Nevertheless, the exemption from income tax and donation tax available for the benefit arising from the waiver of debt (in full or partially) towards credit and financial institutions or companies servicing NPLs in the context of an out-of-court settlement or by way of executing a judicial decision according to the provisions of article 62 of L.4389/2016, still applies.

### **Deductibility of expenses**

- The general deductibility rule is broadened to include expenses incurred for corporate social responsibility (CSR) actions provided that the legal entity has accounting profits in the financial year (unless the relevant CSR action is carried out upon Public Sector's request)
- Companies are allowed to an increased by 30% deduction of the following expenses:
  - purchase of monthly or annual travel cards for public transportation means;
  - leasing of zero or low (up to 50 g CO<sub>2</sub>/km) emissions company cars with PTRP up to EUR 40 000;
  - purchase, installation and operation of publicly available charging stations for zero or low (up to 50 g CO<sub>2</sub>/Km) emissions vehicles.
- A new category of non-deductible expenses is introduced for rental expenses that are not settled via electronic means of payment or via a payment service provider.
- Non-for-profit organizations are allowed to deduct from their taxable income any donations towards the Public Sector and the local authorities.
- The above provisions apply as of 1 January 2020 onwards.

### **Depreciations**

- The option available to lessees to depreciate a leased asset for financial lease agreements concluded as of 1 January 2020 is aligned either according to IFRS or according to GAS depending on the applicable accounting principles.
- The depreciation rates applying to passenger transportation means, cargo and mass transit (16%, 12% and 5%, respectively) remain valid, unless the underlying asset is of zero or low (up to 50 g CO<sub>2</sub>/km) emissions, for which new types of assets and increased depreciation rates are introduced as of 1 January 2020 onwards.

### **Bad debts**

- The write-off of low value bad debts (up to EUR 300 including VAT per counter party) after a 12 month period is tax deductible, regardless of whether a bad debt provision had been booked and thus regardless of whether the appropriate actions in order to ensure collection of the relevant amounts were taken, provided that the debtor is notified for the write-off



(where possible) and the total amount of the write-offs does not exceed 5% of total receivables at year end.

- The write-off of receivables in the context of mutual agreements or judicial settlements is deductible, regardless of whether a bad debt provision had been booked or appropriate actions for the collection of respective amounts were taken.
- The above provisions apply as of 1 January 2020 onwards.

### **Shares transfer**

- Capital gains arising from the transfer of shares as of 1 July 2020 is exempt from income tax provided that certain conditions are met, e.g.:
  - the company whose shares are transferred, takes one of the legal forms listed in the Directive 2011/96/EE Appendix and is a tax resident in an EU member country, subject to one of the taxes listed in the Appendix without eligibility for option or exemption; and
  - the company transferring the shares maintains at least 10% equity holding in the company whose shares are transferred for at least 24 months.
- Business expenses associated with these participations are not deductible for corporate income tax purposes.
- By exception, any loss from the transfer of the aforementioned shares is recognized for tax purposes, provided that shares' valuation takes place by 31 December 2019 and is recorded in the accounting books or presented in the financial statements approved by the statutory auditors and provided that the loss is realized by 31 December 2022. The loss recognized for tax purposes is the lower between the revaluation loss and the realized loss.

### **Interest from bonds**

- Interest income earned by foreign legal entities with no permanent establishment in Greece from corporate bonds listed in an EU capital market or in a non-EU capital market supervised by IOSCO (including bonds issued by credit associations acting as credit institutions) are exempt from income tax and thus withholding tax.
- Exemption from withholding tax is further introduced for covered bonds, issued according to the provisions of L. 3601/2007 or being issued in the context of L. 4261/2014.
- The above provisions apply as of 1 January 2020 onwards.

### **Corporate income tax rate**

- The corporate income tax rate is reduced to 24% for business income earned in tax years 2019 onwards, whereas the same corporate income tax rate may also apply to credit institutions, which have not opted for the special provisions regarding deferred taxation.

- Specifically for the tax year 2018, the tax advance is reduced to 95%, whereas any excess income tax already paid will be refunded.

### **Intra-group payments**

- It is clarified that the beneficial regime of the Directive 2003/49/EK for the exemption of interest and royalties from tax withholding applies to payments between domestic affiliated legal entities as well.

### **Dividends**

- The dividends tax rate is reduced from 10% to 5% for dividends distributed as of 1 January 2020 onwards.

### **Reserves**

- Tax-free reserves of SAs (listed or not) and Ltd companies formed according to various Incentive Laws may be capitalized subject to 5% special tax (which exhausts any further tax liability, including dividend tax and solidarity contribution as a result of a distribution) without time constraints for the capitalization.
- Reserves formed according to the provisions of L. 2238/1994 may also be capitalized subject to 5% special tax (which exhausts any further tax liability, including dividend tax and solidarity contribution as a result of a distribution), without the right however, to offset any tax already remitted in the past for these reserves.
- Share capital may be increased either by issuing new shares or by increasing the par value of the existing shares or by a combination of both ways.
- The time limitation for the company's (share) capital reduction in order to return capital to the shareholders/unit holders or for the company's dissolution is set to 5 years (instead of 10) following the aforementioned capitalization of the reserves.
- The above provisions apply as of 1 January 2020 onwards.

### **Other Tax provisions**

#### **Sharing Economy Digital platforms**

- The tax authorities shall be entitled to request from administrators of sharing economy digital platforms any information or evidence related to taxpayers transacting through such platforms as sellers. In case of non-compliance to such requests, it is stipulated that the tax authorities may request from the relevant Internet Service Providers (ISP) to restrict access to the respective platforms, as well as impose penalties to ISP, to the platforms' administrators, to the taxpayer and any other person or entity to which such requests are addressed.

#### **Extension of the statute of limitation period**

- The five-year statute of limitation period, during which the Greek State is entitled to impose taxes and penalties/interest, may be extended by one more year, in case the Greek tax authorities obtain new evidence during the fifth year of the respective statute-of-limitation period.

— Furthermore, the statute-of-limitation period is extended to ten years, in cases of non-filing, as well as in cases where the Greek tax authorities obtain new evidence following the expiration of the ordinary five-year statute-of-limitation period. Such provision appears to abolish the extension of the ordinary statute-of-limitation period to twenty years in cases of tax evasion, as it was in force up to date for years from 2012 onwards.

— The statute-of-limitation period is also extended (i) during the whole period within which an application for the initiation of the Mutual Administrative Procedure (MAP) is filed and accepted as well as until the MAP process is completed, and (ii) for one year following from the issuance of the respective MAP decision.

— The statute-of-limitation period is extended for one year, in case the Greek tax authorities obtain new evidence with regards to fiscal years that were considered as closed by means of special settlement provisions, or for which a tax audit assessment has been issued, only in case such new evidence were made available to the Greek tax authorities during the fifth year of the ordinary statute-of-limitation period.

#### ***E-invoicing and Electronic transmission of data to the Independent Authority for Public Relations (IAPR)***

— The electronic invoice template as determined by the European Directive 2014/55/EU shall be implemented by all legal entities for any kind of transaction apart from transactions carried out with the public sector (B2G) – as these are governed by a special legal framework.

— The new tax law expressly introduces the obligation of companies falling under Law 4308/2013 (ELP law) to electronically transmit to the IAPR (Independent Authority for Public Revenues) data of their accounting records and accounting books through MyData web platform.

#### ***Amendments to the Joint liability of legal representatives***

— The provisions relating to the joint liability of legal representatives (and of other explicitly defined as jointly liable persons e.g. Directors, etc.) for any outstanding tax and social security liabilities and payments of the legal entities that they represent are amended. More specifically, a set of targeted conditions for determining such liability is introduced with the aim for the latter to be further rationalized. In addition, the relevant provisions also expand the range of taxes covered while they determine the period to which such liability refers.

#### ***Extension of the favorable treatment of written-off debts***

— The favorable arrangements (providing for exemption from income and donation taxation) applicable for the writing-off of bad debts of individuals and legal entities within the context of an out-of-court

settlement or in accordance with a court decision are extended until 31 December 2020.

#### ***Amendments to the framework for tax debt settlements***

— Amendments are being introduced to the scheme for the settlement of tax debts assessed from tax and customs authorities as of 1 January 2020 in an effort to improve the responsiveness of individuals and companies in settling their tax liabilities (e.g. maximum number of installments increases from 24 to 48, interest calculation changes, a possibility is introduced to include again in the settlement scheme old tax debts of a debtor for the second and last time, rewards to consistent tax debtors with exemption from the last installment are granted, etc.).

#### ***Amendments to the State's restrictive measures***

— The freezing of 50% of the taxpayers' deposits, bank accounts and safe deposit boxes in the context of restrictive measures imposed against them by the Greek State, is limited to twice the outstanding amount due to the State.

#### ***Special Real Estate Tax (SRET)***

— The SRET exemption is broadened to include new investment vehicles (explicitly named) and other entities regulated according to the domestic and European legal framework currently in force. This is also extended to companies the shares of which are listed in a regulated market or a Multilateral Trading Facility. Such an extension of the SRET exemption aims to prevent SRET provisions to become an obstacle to genuine investments efforts in the Greek real estate market.

#### ***Amendments to the taxation of UCITS, Real Estate Investment Companies (REICs), Portfolio Investment Companies (AEAX)***

— The tax rates applicable to UCITS, REICs and Portfolio investment Companies (AEAX) remain the same. The minimum tax thresholds however, which were introduced by virtue of Law 4389/2016, are now abolished. Such thresholds often resulted in a disproportionate tax burden on the above collective investment vehicles, as compared to the more favorable tax rates applicable on other Greek collective investment organizations and other similar European vehicles.

#### ***Amendments to the changes in the taxation of donations, inheritance etc. (L. 2961/2001)***

— The deadline for the filing of inheritance tax returns shall be nine (9) months from the time of death (instead of six (6) months as applicable until now); while no further extension of such deadline is provided (i.e. three-month extension applicable until now).

— It is clarified that the acquisition of any income being considered as subject to tax as per the provisions of the Income Tax Code, shall not be treated and taxed as a donation.

## Shipping industry

- A new special duty is introduced applicable to all Greek flagged fishing vessels and to qualifying tug vessels. The qualifying criteria relate to the time they are engaged in shipping transportation activities.
- The tonnage tax rates applicable to vessels of the second category under the Greek flag (as per article 12 of Law 27/1975) or under an EU/EOA flag (as per article 26a of Law 27/1975) are amended.
- Rights and obligations of ship owning entities that are subject to tonnage tax, as well as rights and obligations up to the level of their ultimate shareholders according to Law 27/1975, are extended from a tax perspective to bareboat chartering entities and ship lessees (by virtue of financial lease) as well as to their shareholders respectively.

## Value Added Tax (VAT)

- The imposition of VAT on the transfer of new buildings is suspended until 31 December 2022 through the filing of an application by the constructor. In such cases the relevant Real Estate transfers will be subject to Real Estate Transfer Tax. The right to deduct the input VAT related to respective construction expenses is also suspended. To this end, it is stated that any input VAT already recovered by the constructor should be adjusted at the time of the real estate's transfer, by means of filing an extraordinary return. Respective adjusted VAT amount will be deductible from the seller's/constructor's taxable profits for Greek income tax purposes.
- Pharmaceutical products for human medicine (TARIC code 3002), which were subject to the reduced VAT rate of 13% up to now, are transferred to the super reduced VAT rate of 6%.

## Annual contribution of Law 128/1975

- The annual contribution of 0.6% of Law 128/1975 which applies on factoring and leasing contracts is abolished. The said abolishment applies as from the 1st day of the month following the publication of the new tax law.

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