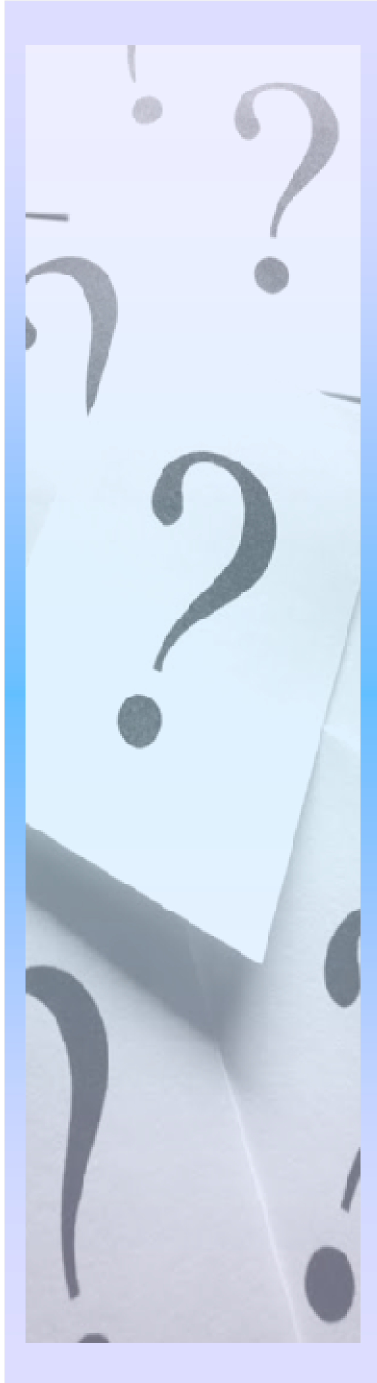

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# Bulgaria

*by Veneta Kutleva (Sofia)*

## New Rules of VAT Taxation of Financial Leasing

The VAT taxation of financial leasing has been changed as of 1st of January 2014. With the amendment of Article 6 paragraph 2 item 3 of the Value Added Tax Act, VAT on the total price of goods is chargeable upon handing over the goods in cases when this transfer of right to ownership is provided as an option and ***if the total amount of the lease installments, minus the interest payments, equals the fair value of the leased goods***.

Till 1st of January 2014 the VAT on the total price of goods was chargeable upon handing over the goods ***only in cases when the leasing contract provides explicitly the transfer of right to ownership of the goods.*** According to §29 of the Transitional and Concluding Provisions to the Act Amending and Supplementing the Value Added Tax Act the new rules shall apply to deliveries under leasing contracts, concluded after January 1st 2014.

# European Union

*by Dr. Katerina Perrou (Athens)*

## VAT: Commission Publishes Guidelines to Help Businesses Prepare for Change of e-services Rules

On April 4, 2014, the Commission published explanatory notes to help businesses prepare for the new VAT rules for telecom, broadcasting and electronic services which will enter into force in 2015. From that date, VAT will be charged where the customer is based, rather than where the seller is, in the case of cross-border business-to-consumer transactions. The explanations published by the Commission focus on the "place of supply" implementing measures which apply across all Member States. This information will help businesses to prepare and to comply with the new tax rules from day one. The explanatory notes on the place of supply rules should be read together with the guide to the VAT One Stop Shop, which was published last year by the Commission (IP/13/1004).

Source: http://europa.eu/rapid/press-release_MEX-14-0404_en.htm?locale=en

For more information: Telecommunications, broadcasting & electronic services - European commission.

# Greece

*by Stelios Psaroulis (Athens)*

## The Ministry of Finance Issued the Updated Lists of Uncooperative Jurisdictions and Jurisdictions with a Preferential Tax Regime

Under article 65§3 of the Income Tax Code any non E.U. member state that has not concluded an agreement for Administrative Assistance in Tax Matters with Greece or with a minimum of 12 other states is regarded as a non cooperative jurisdiction.

Specifically, with document no Γ 1039110 ΕΞ 4.3.2014 the following states are regarded as such: Andorra, Antigua & Barbuda, the Bahamas, Bahrain, Barbados, Brunei, the Cook islands, Dominica, Grenada, Guatemala, Jersey, Lebanon, Liberia, Lichtenstein, Malaysia, Marshall Islands, Mauritius, Monaco, Nauru, Netherland Antilles, FYR of Macedonia, Niue, Panama, Philippines, St. Lucia, St. Kitts & Nevis, St. Vincent & the Grenadines, Samoa, Seychelles, Singapore, US Virgin Islands, Vanuatu, Uruguay and Hong-Kong. Additionally, Anguilla, Bermuda, British Virgin Islands, Gibraltar and the Isle of Man were considered as such up until 28.2.2014.

Furthermore under article 65§6b of the Income Tax Code jurisdictions where a legal entity is subject to profits or income or capital tax at a rate 50% less than the tax rate that said persons would be subject to were they a resident of Greece or had a permanent establishment in Greece are considered as having a preferential tax regime.

Specifically, with document no Δ12 1039188 ΕΞ 4/3/2014 the following states are considered as having a preferential tax regime: Albania, Andorra, the Bahamas, Bahrain, Belize, Bermuda, Bosnia – Hezegovina, Bulgaria, British Virgin Islands, Cayman Island, Cyprus, FYR of Macedonia, Gibraltar, Guernsey, Ireland, Isle of Man, Jersey, Lichtenstein, Macau, Marshall Islands, Monaco, Montenegro, Montserrat, Nauru, Oman, Paraguay, Qatar, San Marino, Saudi Arabia, Seychelles, Turks and Caicos, United Arab Emirates, Vanuatu.

Under article 23 of the Income Tax Code expenses payable to an individual or a legal entity resident in a non cooperative state or in a state with a preferential tax regime may not be recognized for deduction unless the taxpayer proves that these expenses are real, and part of their habitual transactions, and do not result in the shifting of profits, income or capital due to tax avoidance or evasion.

Additionally, the above criteria are utilized to determine whether a corporation is subject to the Controlled Foreign Corporation rules of article 66 of the Income Tax Code.

## The Ministry of Finance issued circular no. 1076/17.03.2014 providing further instructions to the application of the Controlled Foreign Corporation rules

Under article 66 of the Income Tax Code taxable income includes any undistributed income of Controlled Foreign Companies in low tax jurisdictions. The following criteria must be met: a) the taxpayer participates at 50% or more, directly or indirectly, in the capital, profits or voting rights of the foreign company, b) the foreign company is subject to tax at a non cooperative jurisdiction or at a jurisdiction with a preferential tax regime, c) 30% or more of its net income derives from passive income, i.e. interest, royalties, dividends, real property, or from insurance, banking and similar activities and d) the foreign company is not listed in an exchange market.

In the case where the foreign legal entity is a tax resident of an E.U. member state and an agreement for the exchange of information, similar to the exchange of information on request procedure of Directive 2011/16/EU, is in force, the aforementioned provisions do not apply unless the establishment or the economic activity of the legal entity is an artificial arrangement created for the purpose of tax evasion. In this respect it is critical to provide evidence that the foreign company pursues actual economic activity.

In order to determine the amount of taxable income the undistributable income of the foreign company is taken into consideration as shown in the yearly balance sheet. Furthermore the taxable amount is calculated according to the participation percentage of the taxpayer. Under article 9 of the Income Tax Code the taxpayer may claim a tax credit for any tax paid in the source country for this particular income. In order to avoid double taxation, if the foreign company distributes income to the shareholders that has already been taxed under the CFC provisions, no further tax is calculated.

*by Stelios Psaroulis (Athens)*

## OECD Delivers New Single Global Standard on Automatic Exchange of Information.

Responding to a mandate from G20 leaders to reinforce action against tax avoidance and evasion and inject greater trust and fairness into the international tax system, the OECD unveiled on the 13th of February a new single global standard for the automatic exchange of information between tax authorities worldwide.

Developed by the OECD together with G20 countries, the standard calls on jurisdictions to obtain information from their financial institutions and exchange that information automatically with other jurisdictions on an annual basis. It sets out the financial account information to be exchanged, the financial

institutions that need to report, the different types of accounts and taxpayers covered, as well as common due diligence procedures to be followed by financial institutions.

The new standard draws extensively on previous OECD work on the automatic exchange of information and consists of two components: a) The common standard on reporting and due diligence for financial account information according to which the jurisdiction implementing the standard must have rules in place that require financial institutions to report information and to follow due diligence procedures and b) a model competent authority agreement / arrangement which acts as the link between the common standard reporting and the legal basis for the exchange of information.

The OECD formally presented the standard for the endorsement of G20 finance ministers during the 22-23 February meeting in Sydney, Australia.

Source: http://www.oecd.org/newsroom/oecd-delivers-new-single-global-standard-on-automatic-exchange-of-information.htm and http://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-of-financial-account-information.htm

# Romania

*by Cristina Constantinescu (Bucharest)*

## Urgency Edict of the Romanian Government no. 8 from 26th February 2014 – for the Amendment and the Addendum of certain Normative Acts and other Fiscal – Budgetary Measures

The issued Urgency Edict brings numerous amendments to the Fiscal Code and the Fiscal Procedure Code including the following:

1. Delay interests are cut down from 0, 04% to 0, 03%.
2. The authentication of the fiscal declarations is no longer mandatory for the tax payers.
3. The garnishment of the bank account will only be made after a 30 days period from the moment of the notification of the garnishment. In practice, the situation is inverted as in most cases the accounts are being blocked before the notification of the garnishment.
4. The increase of evidence that can be used by the fiscal authorities in order to discover fiscal irregularities. Besides the procedures consisting in the solicitation of information, the solicitation of expert opinion, the use of written documents, on the scene examinations, current, operative and unannounced controls, the fiscal authorities will be able to use as evidence any element that proves the acknowledgement of a fiscal state, including data stored on servers, data stored online, as well as audio-video records.
5. The payment of the amounts provided by courts' decisions having as object the return of the pollution tax for cars and the pollution emissions originated by cars tax, the interests calculated until the

integral payment and the judicial expenses, as well as other amounts ordered by the courts that will become enforceable until the 31st of December 2015, will be accomplished during 5 calendar years, by paying each year 20% of their value.

6. If the amount for VAT reimbursement is under 45.000 lei, the company can receive the money without further audit, under condition that a fiscal inspection will be made afterwards.
   This reimbursement without previous fiscal audit procedure cannot be applied if the tax payer has fiscal infringements in his tax record nor if the fiscal authority possesses proof that the reimbursement is an undue one.
7. If the income gained by a non-resident is exempt from tax while the convention cannot be applied due to the lack of a residency certificate, the tax will be applied in accordance with the Fiscal Code.
   If after the retention and the tax's payment, the certificate of fiscal residency that attests the application of the Convention on the avoidance of the double taxation is submitted, the most favorable taxation method can be applied provided that the fiscal certificate states that the income beneficiary had a fiscal residency in the signatory State.
8. The coherent restating that the incomes resulted from the transfer of the shares towards affiliated companies situated in Romania as well as in signatory States of a Convention on the avoidance of double taxation are tax – free if the person in case owns more than 10% of the affiliated company's joint stock for a period of more than one year. The amendment consists in the express restating that the tax exemption will be applied only if there is a signed Convention on the avoidance of the double taxation between Romania and the States in question.
9. The fiscal authorities will tax the selling-off of gold jewelry with less than 14 carats at 1 Euro per gram and at 2 Euros per gram those with more than 14 carats. Platinum jewelry or platinum mixed with gold jewelry will also be taxed at 2 Euros per gram. At the same time, yachts', other ships' and cabin cruiser's engines will have an excise tax of 10 Euros per each horse-power.

# Ukraine

*by Alina Karas (Kiev)*

## The Cabinet of Ministers Approved the Mechanism of Investors' Support in Arenas Building Projects for EuroBasket Championship in Ukraine – 2015

Resolution of the Cabinet of Ministers of Ukraine No 37 dated 03 February 2014 determines the procedure for the compensation of the loan's interest by the state for the purpose of building sports arenas for the Eurobasket Championship in Ukraine 2015. The general requirement for receiving said state support is that 25% of the total building cost shall be financed by private means of the investor while the rest 75% shall be financed by loan with interest compensated by the state.

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