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## Greece

by Konstantinos Karetzos, (Athens)

### Amendments/introduction of new tax provisions

The recently published (on 21.12.2016) law 4446/2016 includes amendments to current tax provisions and also includes new ones. The most significant of these provisions are the following:

#### 1. Voluntary Disclosure of Income of previous years

- A new Voluntary Disclosure Program is introduced for the Undeclared Income of previous years providing for special conditions and importantly reduced fines. The said legislation is entered into force on 21.12.2016 and applies to the following taxpayers (both individuals and legal persons):
  - a) who have not submitted any tax returns or have submitted incomplete or inaccurate tax returns for all taxes, duties or contributions and for whom no tax audit has been issued, and
  - b) for whom an audit mandate has been already issued or will be issued up to 31.05.2017.
- The above described persons are subject, under certain conditions and deadlines each one of them, to additional tax which is further re-adjusted from 5% up to 25% depending on the year in which the deadline for the submission of the initial tax return expired.
- The application of the Voluntary Disclosure Program ensures that no other administrative and/or criminal penalties would be imposed to the taxpayer regarding the tax infringements restored by the implementation of the Programme, whilst any safeguard measures that have been imposed are relieved.
- The tax due shall be paid in a lump sum within 30 days from the submission of the tax return. It is mentioned that the tax would not be refunded, whereas the tax payer may benefit from the available debt settlement programs.

#### 2. Safeguard and monitoring of transactions

- It is determined that the entrepreneurs are obliged to electronically transmit to the General Secretary of Public Revenues the information/data of the issued accounting records/invoices, irrespectively of the way of their issuance.
- Tax records issued for the supply of goods or services to individuals which total amount exceeds €500,00 should be exclusively paid via the use of electronic means of payment.

### 3. Use of electronic means of payment

From tax year 2017, a progressive tax scale is introduced with regards to the minimum expenses realized by the acquisition of goods and supply of services which must be paid through the use of electronic means of payments in order for the taxpayer to benefit from the reduction of the income tax. In case the minimum percentage of expenses is not covered, a tax at a rate of 22% is imposed on the remaining amount (e.g. on the balance between the required and declared amount).

Specifically:

Income in €	Minimum expenses of acquisition
1-10,000	10%
10,0001-30,000	15%
30,0001 and above	20% and up to €30,000

### 4. Airbnb taxation

- Income generated by individuals by application of this special regime, is considered as income generated from real estate property and is subject to taxation ranging from 15% to 45% depending on the amount of the income.
- The lease is VAT exempted.
- The aforementioned individuals lessors and sublessors must be registered with the "Registry of Short-Term Leasing of Real Estate" which will be kept in the General Secretary of Public Revenues.
- An administrative penalty of €5,000 will be imposed which will be doubled and quadrupled in case of repetition of any infringement regarding the provisions provided by law.
- The said provisions are applicable from 01.02.2017.

### The tax treatment of a foreign legal person

On 26.10.2016 the General Secretary of Public Revenues issued the No ΔΕΑΦ Β 1155600 ΕΞ 2016 interpretative circular concerning the obligation of a foreign legal person without permanent establishment in Greece, which participates in a local legal person, to submit an income tax return.

Specifically, when a foreign legal person with neither a tax residence in Greece or a permanent establishment in our country participates in a domestic legal person and therefore acquires income from the distribution of dividends, is not required to submit income tax return for such income, due to the introduction of special tax arrangements for the said income, i.e. the withholding taxation with exhaustion of the tax liability for the foreign beneficiary. Moreover, the declaration of the legal person (domestic) that makes the withholding taxation covers the obligation to submit an income tax declaration. The latter also applies even when it is not derived income from the distribution of dividends, so in this case there is no obligation to submit a zero income tax return only on the ground of the participation.

## Procedures for the change of the name/address – deregistration of a foreign entity

The Greek Ministry of Finance has issued the No 1153/01.11.2016 interpretative circular that concerns the procedures that must be followed for a change of the name, address or de-registration of a foreign entity which had been registered for VAT in Greece.

According to the provisions of Ministerial Decision POL.1113/2016 any entity based in the European Union may register for VAT in Greece following a new procedure, without having to appoint a tax representative. In the above decision there was no provision in cases where the foreign entity changes its name or registered address. There was also no provision for de-registration from the Greek register. Since 2013 many foreign companies have followed the new method of registration however, when they have tried to de-register, they found themselves trapped and “obliged” to submit NIL VAT returns. The latest Ministry of Finance decision amends and complements the Ministerial decision POL.1113/2013, providing the exact steps which must be followed to solve the above issues, and makes the whole process of VAT registration complete and easier.

The decision takes effect from November 2016 and entities should prepare and submit the relevant applications as described in the Appendix of the said decision.

## Tax treatment of the received insurance payment following the expiration of a group insurance policy

On 03.11.2016 the General Secretary of Public Revenues issued the No “ΔΕΑΦ 1160724 ΕΞ 2016” document concerning the tax treatment of the received insurance payment following the expiration of a group insurance policy.

Three tax rates are provided by the said document for the taxation of the amount of money received by the insured persons upon the surrender of the group pension insurance contracts.

In particular, the surrender value paid to the policyholder at the expiry of the policy is taxed:

- a) at 15% for periodic payments;
- b) at 10% for a one-off payment up to €40.000;
- c) at 20% for one-off payment exceeding €40.000.

These payments are increased by 50% each one, in the event of early surrender of the policy (i.e. prior to expiry). However, it is not considered as an early surrender each payment to an employee who receives a retirement pension or has exceeded the age of 60 years. The same applies to any payment made without employees’ own volition (i.e. dismissal of an employee or bankruptcy of a company).

Also, it is not considered as an early surrender:

- a) the amount of money that is payable to an employee who retires prematurely (i.e. by illness, disability, incapacity), and
- b) the surrender that is made due to the complaint of the insurance policy, because the employer is not in a financial position to pay the insurance premiums.

Finally, in the event of the group pension insurance contracts, whose duration fulfils the minimum conditions to receive a retirement pension (group pension insurance contracts lasting over 15 years), although the beneficiaries do not actually retire from the insurance fund itself at the expiration time of the group pension insurance contract, the payment of the insurance value is not considered as an early surrender, so the reservations are not subject to surcharge at the rate of 50%.

## Automatic Exchange of Financial Account Information

On 13 October 2016 the Law 4428/2016 "ratification of the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information" was published in the Government Gazette. The most significant elements of this law are the following:

This legislation is the ratification of the Multilateral Competent Authority Agreement on the automatic exchange of Financial Account information of the OECD and follows the incorporation into the Greek law of the Council Directive 2014/107/EU regarding the mandatory exchange of information on tax matters between Member States (L. 4378/2016),

Moreover, the Common Reporting Standard ("CRS") of the OECD with respect to the reporting and due diligence rules of the Financial Accounts information is introduced into the domestic legislation. It shall be noted that the Directive 2014/107/EU also refers to the CRS of the OECD. Thus, uniform rules will apply for the exchange of Financial Account information both between the EU Member States as well as of the OECD Member countries.

Totally, 101 jurisdictions have been committed to implement the CRS. Specifically, 53 (incl. Greece) will implement the first automatic exchange of information within year 2017 (for 2016 income), whilst 31 countries within year 2018 (for 2017 income).

The said law is effective as of 1.1.2016. For calendar year 2016, the automatic exchange of information shall be effected up to 30.9.2017.

A Ministerial Decision will be issued determining the list of the jurisdictions with which Greece intends to automatically exchange information following the Agreement. Similarly, the dates of entry into force of the Agreement on bilateral basis, will be determined by Ministerial Decisions.

## Romania

*by Corina Badiceanu, (Bucharest)*

### Law no. 209/2016 on the amendment and completion of the Urgency Enactment no. 193/2002 regarding the introduction of modern payment systems

On 14 November 2016, the Law no. 209/2016 on the amendment and completion of the Urgency Enactment no. 193/2002 regarding the introduction of modern payment systems was published in the Official Gazette no. 913/14.11.2016. One of the most important provisions of the



Law no. 209/2016, which will enter into force on 1 January 2017, is the one referring to the obligation of all economic operators which provide public utility services and of the public institutions that collect taxes, fines, interests, penalties and other payments to the acceptance of the payments made also by means of debit and credit cards. The legal persons that are retailers having an annual turnover larger than the equivalent in LEI of EUR 10,000 must also comply with the aforementioned obligation. Moreover, according to the provisions of the Law no. 209/2016, all the above mentioned legal persons can offer services of cash advance at payment terminals in a maximum amount of LEI 200 (approx. EUR 45). The commission that can be charged to the cardholder by the merchants for the offered cash advance is of maximum 1% of the offered cash advance.

## EU

by Konstantinos Karetzos, (Athens)

### The European Commission proposes a Corporate Tax Package

On 25 October 2016 the European Commission adopted a comprehensive tax package that consists of four new draft EU Directives on:

- a) a Common Corporate Tax Base (CCTB Directive);
- b) a Common Consolidated Corporate Tax Base (CCCTB Directive);
- c) hybrid mismatches with third countries, and
- d) double taxation dispute resolution mechanisms in the EU (Dispute Resolution Directive).

#### CCTB Directive – CCCTB Directive

These Directives propose a mandatory common corporate tax base for EU companies (including PEs in the EU Member States) belonging to a consolidated group for financial accounting purposes with a total consolidated group revenue exceeding €750 million. Companies that fall outside the scope of the Directive may voluntarily opt in under certain conditions.

#### Directive on hybrid mismatches with third countries

This Directive incorporates minimum standard provisions with respect to hybrid mismatches with third countries. The proposed provisions are consistent with the relevant provisions regarding hybrid mismatches in the more prescriptive CCTB Directive.

#### Dispute Resolution Directive

This Directive introduces a mandatory dispute resolution procedure for double taxation disputes concerning income from business in the EU, including arbitration with stricter guidelines.

All four Directives require the unanimous backing of all EU Member States in the Ecofin to be adopted.

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