

**TAX BRIEFING:** Monthly Insight

# Law 4410/2016

*Law 4410/2016 introduced changes in tax and customs legislation including amendments to the National Customs Code, the Code of Tax Procedure and the Income Tax Code.*

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## A. New Regulations on the Trade in Tobacco Products

In accordance with the World Health Organization Protocol to the Framework Convention on Tobacco Control (Protocol to Eliminate Illicit Trade in Tobacco Products), Law 4410/03.08.2016 amends the National Customs Code as follows:

- I. A licensing system is introduced with regard to:
  - a. the shipment to, or the receipt by, another Member State of tobacco, as well as the import or export of tobacco;
  - b. the import of processed tobacco; and
  - c. the manufacturing, shipment, receipt, import or export of equipment used for the production of tobacco products.These provisions will enter into force when the electronic platform for the license is implemented on ICISnet. Renewal of licenses that have already been granted for the establishment of tobacco companies will be re-assessed within one year of 3 August 2016.
2. Licensed tobacco companies and producers of tobacco products, as well as importers from third countries and recipients from other Member States, are under an obligation to fulfil the following requirements among others:
  - a. observe due diligence procedures with regard to their clients and suppliers;
  - b. keep records of all relevant transactions; and
  - c. electronically submit a table of all transactions with clients and suppliers on a monthly basis to the competent authority (*Syntonistiko Epicheirisiako Kentro*) and provide information relating to unusual or suspicious transactions, from the date when the electronic application for the registration of supplier-client transactions is implemented.
3. Cross-border sales of tobacco products to consumers through the internet, telecommunications or any other evolving technology-based mode of sale are not allowed.
4. Articles 15 and 16 of EU Directive 2014/40 concerning the manufacture, presentation and sale of tobacco and related products are transposed into National legislation. The relevant

provisions shall apply to cigarettes and hand-rolling tobacco products from 20 May 2019 and to other tobacco products from 20 May 2024.

5. From 3 August 2016 onwards, an excise duty of €156.7 per net kilogram of tobacco blend is imposed on electrically heated tobacco products.

## B. Reduction of Thresholds for a VAT Deferral Scheme on Imports

According to the amendment of Article 29 of the National Customs Code, businesses which are subject to VAT but not established in Greece and that import goods which are exempt from excise duty, are allowed to account for VAT by way of the periodic VAT return, rather than pay this at the time of import, if the following conditions, among others, are met:

1. the statistical value of imports is at least €250,000,000 on an annual basis (or €100,000,000 for the first 5 years of application of the scheme); and
2. at least 90% of the value of the imported goods on an annual basis is delivered to other EU Member States or third countries (applicable from 7 March 2013).

If either of the above conditions is not met, VAT on the imported goods that have not been exported or delivered to another EU Member State is payable, a penalty of €10,000 is imposed on the importer and the licence issued by the Secretary of Public Revenue is revoked.

## C. Amendments to the Code of Tax Procedure

Law 4410/03.08.2016 amends the Code of Tax Procedure as follows:

### I. Changes in the Information Provided to the Tax Authorities

The deadline within which the taxpayer is obliged to inform tax authorities of any changes in the information that has been provided upon initial registration is extended to 30 days (from 10 days). There is no deadline for changes to an individual's personal information that is not relevant to his/her business activity.

### 2. Transfer Pricing Documentation/Advance Pricing Agreements

The deadline for the preparation of the transfer pricing (TP) documentation file (master file and Greek file) and the submission of the Summary Information Table is extended up to the deadline for submission of the annual income tax return. This new deadline also applies to TP documentation files referring to tax years commencing from 1 January 2015 onwards.

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A decision to be issued by the General Secretary of Public Revenue may provide the method for the calculation of the turnover and the respective accounting standards, a simplified documentation procedure for small and very small entities, as well as exemptions from the TP documentation requirements for very small entities.

The deadline for the issuance of a decision by the General Secretary of Public Revenue on advance pricing agreements (APAs) is extended to 18 months from the time of submission of the relevant application for an APA. By virtue of a decision issued by the General Secretary, this deadline may be extended up to 36 months from the time of submission of the above application.

### 3. Infringements and Fines Regarding Electronic Tax Mechanisms

From 1 January 2016 onwards, the following fines are imposed in the case of infringements regarding Electronic Tax Mechanisms (ETMs):

- a. €500 per tax audit for infringements relating to:
  - i. the issuance of receipts for retail sales without using an ETM or using an unapproved ETM; and
  - ii. the issuance of invoices and receipts by the Integrated Input-Output Control System without using an approved model of tax mechanism;
- b. depending on whether the person that committed the infringement is:
  - i. the holder-user of the ETM;
  - ii. the reselling business or the technical support business; or
  - iii. the business that had received an approval for the relevant software and hardware by the competent bodies, a fine amounting to €5,000, €10,000 and €20,000 respectively is imposed for each infringement relating to the violation or falsification of, or intervention to, the operation of tax mechanisms.

### 4. Extension of the Deadline for Submission of Administrative Appeals by Non-Greek Tax Residents

Non-Greek tax residents may file an administrative appeal against any administrative act or tacit refusal of the administrative authorities within 60 days from the service of the relevant administrative act or from the time of omission.

### 5. VAT Fines in the Case of Non-Issuance or Issuance of Inaccurate Invoices or Receipts

As of 25 July 2016, the fines for non-issuance, issuance or acceptance of inaccurate invoices or receipts regarding transactions bearing VAT, may not be lower than €250 cumulatively per tax audit in the case of taxpayers keeping single entry accounting records, or €500 cumulatively per tax audit in

the case of taxpayers keeping double entry accounting records. If during a subsequent tax audit it is verified that the same infringement is repeated within a period of 5 years from the issuance of the initial administrative act, a fine equal to 100% of the tax that would have been imposed for the non-issued invoices or receipts, or of the tax difference respectively, will be imposed. This fine may not be lower than €500 cumulatively per tax audit in the case of taxpayers keeping single entry accounting records or €1,000 cumulatively per tax audit in the case of taxpayers keeping double entry accounting records. For any consecutive infringement verified during a subsequent tax audit within the same 5 year period, a fine equal to 200% of the tax due for the non-issued invoices or receipts will be imposed each time. This fine may not be lower than €1,000 cumulatively per tax audit in the case of taxpayers keeping single entry accounting records and €2,000 cumulatively per tax audit in the case of taxpayers keeping double entry accounting records.

#### 6. Annual Tax Certificate

For the tax years starting from 1 January 2016 onwards the annual tax certificate issued by statutory auditors and audit firms for sociétés anonymes, limited liability companies and Greek branches of foreign companies is optional. However, companies and businesses for which an annual tax certificate is issued are required to assign this issuance to a different statutory auditor or audit firm every 5 years.

#### D. Extension of the Deadline for the Application of the Favourable Tax Provisions of Law 4337/2015

Taxpayers that wish to be subject to the favourable tax provisions of Law 4337/2015 may submit an application to the tax authorities by 30 October 2016.

#### E. Road Tax on Vehicles Registered for the First Time in the EU/ EEA

According to the amendment of Article 20 of Law 2948/2001 and Article 35 of Law 3986/2011, circulation duties are imposed taking into account the vehicle's first registration in any EU/ EEA country.

#### F. Changes to the Registration Duty on Passenger Cars and Trucks

Law 4410/03.08.2016, amending Articles 121 and 123 of the National Customs Code, introduced the following changes to the registration duty rates for passenger cars and trucks:

#### 1. Passenger Cars (Tariff Heading 87.03)

Tricycle or quadricycle vehicles which fall within the ambit of Directive 2002/24 EC and comply by design with the specifications of Directive 2002/51 EC or any subsequent Directive, are subject to the following rates of registration duty on the basis of their cylinder capacity:

Cylinder Capacity	Registration Duty Rate
under 50cc	0%
from 50cc to 500cc	4%
from 501cc to 900cc	7%
exceeding 900cc	11%

#### 2. Trucks (Tariff Heading 87.04)

Open or closed vehicles, tricycles or quadricycles which fall within the ambit of Directive 92/61 and comply with the specifications of this Directive or any subsequent Directive, are subject to the following rates on the basis of their cylinder capacity:

Cylinder Capacity	Registration Duty Rate
under 50cc	0%
from 50cc to 500cc	3%
from 501cc to 900cc	6%
exceeding 900cc	10%

#### 3. Increase of the Registration Duty Rates of Passenger Cars

Paragraph 4 of Article 121 of the National Customs Code provides that registration duty rates for passenger cars under tariff heading 87.03 are increased by 50% for vehicles which comply with the specifications of the previous European emissions standard (Euro). This rule does not apply to tricycle or quadricycle vehicles which fall within the ambit of Directive 2002/24 EC and comply by design with the specifications of Directive 2002/51 EC or any subsequent Directive. Exemptions from the increase in registration duty are provided on condition that by 31 December 2016, certain criteria are met.

#### G. Changes to the Unified Real Estate Tax (U.R.E.T.)

For the 2016 tax year only, the value of rights to plots of land which are not included within the urban plan will not be taken into account for the calculation of the supplementary tax for individuals.

The U.R.E.T. may be paid in 5 monthly instalments, with the first instalment payable by the 30 September 2016 and the last

instalment by the 31 January 2017.

From 1 January 2016 onwards, fines are calculated from the day following the deadline for the submission of the U.R.E.T. return, if the taxpayer fails to submit this or submits the return late. Interest is calculated from the day following the date of the first online issuance of the administrative tax assessment act by the General Secretary of Public Revenue for the respective year.

## **H. Tax Exemption for Technical Offices (Construction Enterprises)**

According to Article 9 of Law 4171/1961, foreign technical offices established in Greece with business activities outside Greece are exempted from any tax, duty, contribution or withholding on income from such activities on condition that:

1. at least 4/5 of their personnel and at least 3/5 per category of personnel is comprised of Greek citizens;
2. they have deposited a bank guarantee of US\$50,000; and
3. the minimum amount of foreign exchange imported annually for office expenses and personnel of up to 4 persons is at least US\$50,000 (plus US\$12,000 for every additional employee).

Following a recommendation by the OECD Forum on Harmful Tax Practices, such offices could be exempted from income tax without the obligation to submit a declaration to the competent Greek tax authority stating that they do not have any business activities in Greece and mentioning the countries where they are active. This limitation is abolished from the time it entered into force on 9 July 2015 according to Articles 20 and 23 of Law 4332/2015.

## **I. Withholding Tax at the Assignment of Public Technical Works**

According to a new provision added to Article 64 of the Income

Tax Code, in the case of assignment in whole or in part of a public technical work by the initial contractor to a joint venture or a construction company in which the initial contractor also participates, a tax of 3% is only withheld by the employer upon payment of the initial contractor's consideration. This withholding tax is set off against the corporate income tax of the joint venture or construction company, on the basis of a certification provided by the initial contractor. The same rule applies if part of the works are executed by:

1. a joint venture or company in which only members of the initial contractor's joint venture or company participate; or
2. a company or joint venture that is a member of the initial contractor's joint venture.

The above provision applies retroactively on any income acquired from 1 January 2014 onwards.

## **J. Deadline for Payment of Income Tax by Individuals**

Payment of income tax by individuals who submit returns by 31 December of each tax year must be made no later than the last working day of the first month of the following tax year. For tax returns that are submitted on time and for which an administrative tax assessment act is issued after 31 December, payment must be made by the last working day of the next month following the issuance of the relevant tax assessment act.

## **K. Transfer of Shares in Real Estate Investment Companies (R.E.I.C.s)**

Article 31 of Law 2778/1999 is amended to clarify that, as of 1 June 2016, capital gains arising from the transfer of shares in R.E.I.C.s are exempted from income tax, on condition that the said shares are not listed on the Athens Stock Exchange.