

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

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A. Ministerial Circular POL. 1169/2018 Provides Clarifications on Tax Clearance in Cases Where Precautionary Measures are Imposed by the Tax Authorities

1. By way of Ministerial Circular POL. 1169/2018, the Independent Authority of Public Revenues clarified that the tax measures provided by Article 26 par. 7 of Law 1882/1990 and Article 12, par. 8. of Law 4174/2013 with regard to the non-issuance of tax clearance certificates in cases of Public Law liabilities, does not apply on condition that certain criteria are met.
2. In particular, the Circular states that the tax authorities cannot refuse the issuance of tax clearance certificates in tax cases for which the limitation period for audits has expired. Tax authorities are instructed to issue tax clearance certificates regardless of whether a taxpayer has applied for the repeal of the specific measure.
3. The lifting of the above measure does not affect the validity of other measures imposed by General Attorneys' Orders,

within the framework of money laundering legislation or in cases which fall within the limitation period.

B. Supreme Administrative Court (Decision 1000/2018) – Ruling on the Liability of Members of Boards of Directors for Public Law Liabilities

1. Article 55, par. 1, sub. B of the Code of Tax Procedures provides that, in cases of tax evasion, the Greek State may impose precautionary measures, such as freezing or seizure of bank accounts and seizure of real estate property, against natural persons who serve or served as Members of a Board of Directors (BoD) or representatives of a legal entity or person.
2. For Greek Sociétés Anonymes, these measures may be imposed on chairmen and vice chairmen of the BoD, managing, executive and concurrent directors, administrators, general directors, directors, as well as every person appointed directly by the law, private will, judicial decision or any other cause to the administration, management or representation of a company. In the absence of such persons, the measures may be imposed on the members of the BoDs of a company.
3. The Supreme Administrative Court (ΣΤΕ) ruled by way of Decision No. 1000/2018 that precautionary measures may apply only against natural persons who fall within the criteria in 2 above and who are or were also authorized to manage and represent a company. Precautionary measures cannot apply to natural persons who fall within the roles outlined in 2 above, but who are or were unauthorized to engage in the management of the company.
4. The tax authorities are obliged to provide sufficient evidence that the natural person(s) effectively managed and represented the company during the audited time period.

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