

TAX BRIEFING: Monthly Insight

Legislative Changes Including Preferential Tax Regime and Non-Cooperative Countries, Debts to the State and Revised Objective Real Estate Values

The Ministry of Finance amended the two lists of tax preferential regime and non-cooperative countries for 2015. By way of a Legislative Act, the Ministry also extended the date on which Law 4337/2015 dealing with tax evasion comes into force. Clarifications were provided on the payment of duties on lottery games, road tax and the ability of the tax authorities to perform unrestricted tax audits after the issuance of tax clearance certificates. Furthermore, pursuant to a ruling of The Council of State, the Ministry of Finance revised the objective values of real estate situated within the urban plan. Finally a Ministerial Circular detailed the procedure for freezing and attachment of bank accounts for overdue debts to the State.

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A. Updates to List of Non-Cooperative and Preferential Tax Regime Countries

The Ministry of Finance issued an updated list of the countries considered as having preferential tax regimes and countries considered to be non-cooperative for 2015. The tax consequences of performing transactions with residents in these countries are as follows:

- I. Payments executed to a tax resident in a preferential tax regime country or a non-cooperative country are non-deductible, unless the Greek taxpayer can provide evidence that the respective

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expenses correspond to actual transactions effected in the ordinary course of business which do not result in the shifting of profits, income or capital with the aim of tax avoidance or evasion. However, payments made to a tax resident of an EU or EEA country may be deducted if there is a legal basis for exchange of information between Greece and this country.

2. For the purposes of the Controlled Foreign Companies (CFC) Rules, the non-distributed income of a CFC, subject

inter alia to tax in a non-cooperative country or in a country with a preferential tax regime, may be considered as taxable income of the Greek tax resident controlling the CFC.

The Controlled Foreign Companies Rules do not apply to EU tax resident CFCs and EEA tax resident CFCs (EEA countries with which an agreement for the exchange of information is in force), provided the establishment or the economic activity pursued is not artificial with the aim of avoiding payment of the tax due.

The following countries are included in the list of the preferential tax regime countries for 2015:

St Eustatius	Bulgaria	Cyprus	The Bahamas	Isle of Man
San Marino	British Virgin Islands	Liechtenstein	Bahrain	Oman
Albania	Gibraltar	Macau	Belize	Paraguay
Andorra	Guernsey	Republic of Maldives	Bonair	FYROM
Anguilla	United Arab Emirates	Montenegro	Nauru	Saudi Arabia
Vanuatu	Hashemite Kingdom of Jordan	Republic of Moldova	Cayman Islands	Seychelles
Bermuda	Ireland	Monaco	Marshall Islands	Jersey
Bosnia Herzegovina	Qatar	Montserrat	Turks and Caicos	

The following countries are considered as non-cooperative for 2015 :

St.Lucia	Lebanon	Bahrain	Panama
St.Vincent and the Grenadines	Liberia	Brunei	US Virgin Islands
St.Kitts and Nevis	Liechtenstein	Nauru	FYROM
Andorra	Malaysia	The Cook Islands	Samoa
Antigua and Barbuda	Mauritius	Marshall Islands	Seychelles
Vanuatu	Monaco	Niue	Singapore
Guatemala	Barbados	Dominica	Philippines
Grenada	The Bahamas	Uruguay	Hong-Kong

B. Legislative Act of 24 December, 2015 - extension of the date Law 4337/2015 dealing with tax evasion comes into force

1. The measures provided in Article 3 par. 2a-b and 4a, of Law 4337/2015 will come into force on the later date of 1 February 2016 and until then, measures available under the existing legislation may be taken in cases of:
 - a. non-payment or inaccurate payment, offset, deduction or retention of VAT and withholding and attributed tax, duty or contribution, as well as non-submission or submission of inaccurate tax returns with a view to avoiding the above

taxes, duties or contributions;

- b. receipt of a refund for the above taxes as well as for income tax as a result of misrepresentations to the tax authorities; and
 - c. issuance of false tax documents, falsification of tax documents or issuance and receipt of fictitious tax documents.
2. Following a tax audit, the fines for VAT imposed for:
 - a. non issuance of tax documents or issuance or receipt of inaccurate tax documents;
 - b. failure to file a tax statement upon commencement of a business activity; and

- c. issuance of tax documents subject to VAT by persons not subject to VAT, reduce the fine imposed for submission of inaccurate returns or non-submission of VAT returns.

C. Special Duty on Lottery Games

As of 1 January 2016, a special duty on games operated by the Greek Organisation of Football Prognostics (OPAP) is imposed, equal to €0.05 per column on each gaming sheet. This is payable by players and passed on to the State by OPAP. Ministerial Circular POL. 1275/28.12.2015 clarifies that the provisions of the Codified Tax Procedure Law (Law 4174/2013) apply with regard to the assessment and payment of the special duty, the calculation and payment of any interest and fines due for payment arrears. Moreover, Ministerial Circular POL. 1001/2016 provides for the procedure and returns that must be filed in respect of each payment.

D. Changes in Road Tax

Ministerial Circular POL. 1275/28.12.2015 provides the guidelines for the payment of road taxes calculated in accordance with the relative amended provisions, which introduced an increase in road tax for private vehicles registered after 2006 and a decrease for older private vehicles.

As it is clarified, hybrid private vehicles with a cylinder capacity of up to 1,549 c.c. and which have been registered by 31 October 2010 are tax exempt. Special provisions apply for hybrid private vehicles which have been registered after 31 October 2010, hybrid motorbikes, tricycles and vehicles sold by the Greek State. The new provisions for road tax apply to private vehicles imported by foreign personnel of trade companies established in Greece under the regime of Law 89/1967.

The provisions of the Codified Tax Procedure Law (Law 4174/2013) do not apply for the assessment and collection of road tax.

E. Issuance of Statutory Tax Certificate

By way of Ministerial Circular POL.1006/2016, the Ministry of Finance adopted and ruled for the implementation of Opinion no

256/2015 issued by the Legal Council of State (ΝΣΚ 256/2015), regarding the right of the tax authorities to audit enterprises which have already received a tax clearance certificate (*forologiko pistopiitiko*) from their auditors, following the entry into force of the Codified Tax Procedure Law (Law 4174/2013). In particular:

1. a tax audit may be performed on enterprises that have been subject to a statutory audit (audit by Certified Auditors) and have obtained a tax clearance certificate without emphasis or reservation; and
2. the Greek Administration cannot restrict the time period within which the tax authorities may perform a tax audit by issuing tax assessments before the lapse of the limitation period provided for in Article 36 of the Code of Tax Procedure, even if a statutory tax clearance certificate has been issued without emphasis or reservation.

F. Revisions to Objective Real Estate Values

Pursuant to a ruling of The Council of State (Judgments 4003/2014 and 4446/2015), the Ministry of Finance revised the objective real estate values (the minimum transfer value) with the aim of aligning these with prevailing market values, which have been drastically reduced over the last 5 years. The new values provided by Ministerial Decision POL. 1009/20.1.2016 apply retrospectively from 21 May 2015.

G. Procedure for Freezing and Attaching Bank Accounts in Cases of Overdue Debt to the State

The procedure for freezing and attaching bank accounts in cases of overdue debt to the State is detailed by Ministerial Circular Δ.ΕΙΣΓΠΡ.Β 1156479 ΕΞ 2015/2.12.2015. In particular, the Directorate of Electronic Governance of the General Secretariat of Public Revenue (Δ.ΗΛΕ.Δ) provides information concerning debtors of amounts over €70,000 to credit institutions by way of a notice which is submitted electronically. Credit institutions are obliged to provide Δ.ΗΛΕ.Δ with the documentation concerning the account in which the frozen or attached funds are held within 2 days and by 10am of receipt of the notice. Δ.ΗΛΕ.Δ is also the authority responsible for the collection and submission of data.

This Briefing is intended to provide general information and is not meant to constitute a comprehensive analysis of the matters set out herein or to be relied upon as legal advice. It is not meant to create a lawyer-client relationship. Legal and other professional advice should be sought before applying any of the information in this Briefing to a specific situation.

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