

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Law: Laws 4389/2016 and 4396/2016, Ministerial Circular POL. 1070/2016

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Law 4389/2016, as amended by Law 4393/2016 and Ministerial Circular POL. 1074/2016, introduces urgent provisions for the implementation of the agreement on budgetary goals and structural reforms, Law 4396/2016 prohibits participation in foreign companies by specified individuals and Ministerial Circular POL. 1070/2016 provides instructions for completing income tax returns to legal persons and entities in respect of the 2015 tax year.

A. Changes in Taxation of Portfolio Investment Companies, Real Estate Investment Companies, Real Estate Mutual Funds and Undertakings for Collective Investment in Transferable Securities

Law 4389/2016 (Government Gazette Issue A/27.05.2016) and Ministerial Circular POL. 1074/2016 provide for minimum thresholds in the amount of tax paid by Portfolio Investment Companies, Real Estate Investment Companies (REICs), Real Estate Mutual Funds and Undertakings for Collective Investment in Transferable Securities (UCITs) applicable from 1st June 2016 onwards as follows:

1. Portfolio Investment Companies (Article 39 of Law 3371/2005): the tax due per semester cannot be less than 0.375% of the six month average value of investments plus any cash equivalents at current prices.
2. REICs (Article 31 of Law 2778/1999): the tax due per semester cannot be less than 0.375% of the average value of investments

plus any cash equivalents at current prices, as these are depicted in the investment tables published every six months. REICs are not exempt from withholding tax on domestic dividends, i.e. dividends distributed by Greek entities.

3. Real Estate Mutual Funds (Article 20 of Law 2778/1999): the tax due per semester cannot be less than 0.375% of the six month average value of the net assets of the mutual fund.
4. UCITs (Article 103 of Law 4099/2012): the tax due per semester may not be less than the following percentage of the six month average value of net assets:
 - a. 0.025% for money market UCITs;
 - b. 0.175% for bond UCITs;
 - c. 0.25% for mixed UCITs;
 - d. 0.375% for equity UCITs and other type of UCITs.
5. The above provisions are applicable from 1st June 2016 onwards.

B. Changes in Unified Real Estate Tax

According to the explanatory report on Law 4389/2016, following the readjustment of the tax value (objective value) of real estate property, the provisions for the calculation of the Supplementary Unified Real Estate Tax (URET) are amended in order not to lose out on budget revenues. The Supplementary URET for individuals is imposed on the total value of their property rights as follows:

Bracket (€)	Rate
0.01 - 200,000	0.0%
200,000.01 - 250,000	0.10%
250,000.01 - 300,000	0.15%
300,000.01 - 400,000	0.30%
400,000.01 - 500,000	0.50%
500,000.01 - 600,000	0.60%
600,000.01 - 700,000	0.80%
700,000.01 - 800,000	0.90%
800,000.01 - 900,000	1.00%
900,000.01 - 1,000,000	1.05%
1,000,000.01 - 2,000,000	1.10%
Exceeding	1.15%

The Supplementary URET for legal persons and entities is imposed on the value of their property rights at a rate of 5.5%. If the property is self-used by the legal person or entity for a business activity, the rate is reduced to 1%. For certain non-profit legal persons and entities, the Supplementary URET rate is 3.5%.

for properties which are not self-used. The main URET imposed for real property rights over plots of land is readjusted as follows:

Value Per Square Meter (€/sqm)	Tax Rate (€/sqm)
0.01 - 2.00	0.0037
2.01 - 4.00	0.0075
4.01 - 6.00	0.0125
6.01 - 10.00	0.0185
10.01 - 14.00	0.0285
14.01 - 20.00	0.0375
20.01 - 50.00	0.0750
50.01 - 75.00	0.1490
75.01 - 100.00	0.1850
100.01 - 150.00	0.2470
150.01 - 200.00	0.3700
200.01 - 300.00	0.5550
300.01 - 400.00	0.7400
400.01 - 500.00	0.9900
500.01 - 600.00	1.2500
600.01 - 700.00	1.6000
700.01 - 800.00	1.8500
800.01 - 900.00	2.0950
900.01 - 1,000.00	2.3500
1,000.01 - 1,500.00	3.1000
1,500.01 - 2,000.00	3.7000
2,000.01 - 3,000.00	4.9500
3,000.01 - 4,000.00	7.4000
4,000.01 - 5,000.00	9.2500
Exceeding 5,000.00	11.2500

The provisions regarding the calculation of the URET are applicable from 1st January 2016 onwards.

C. Increase in VAT Rate

From 1st January 2016 onwards, the standard VAT rate is increased to 24%. The reduced VAT rate applicable to the delivery of goods and the provision of services on certain Greek islands will be gradually abolished:

- i. Law 4389/2016 repeats that from 1st November 2015 onwards, the reduced VAT does not apply to Santorini, Mykonos, Naxos, Paros, Rhodes and Skiathos and adds that from 1st June 2016

onwards, it will not apply to Syros, Thasos, Andros, Tinos, Karpathos, Milos, Skyros, Alonnisos, Kea, Antiparos and Sifnos.

2. The reduced VAT rate is maintained for the rest of the islands set out in Paragraph 4, Article 21 of the VAT Code until 31st December 2016.

D. Introduction of Tax on Accommodation, Cable TV and Fixed Line Telephony

In accordance with Article 53 of Law 4389/2016:

1. From 1st January 2018, the use of a room, suite, apartment or house will be subject to accommodation tax ranging from €0.25 to €4 per day.
2. From 1st June 2016 onwards, the provision of cable TV services will be subject to a duty at the rate of 10% on the total value of the monthly bill, including the fixed fee received for the business before VAT.
3. From 1st January 2017 onwards, the provision of fixed line telephony services, with access to voice services and/or internet access, will be subject to a duty at the rate of 5% on the total value of the monthly bill, including the fixed fee received for the business before VAT.

E. Increase of the Participation of the Greek State in the Revenues from Gaming

In accordance with Article 56 of Law 4389/2016, from 1st January 2016 onwards, the participation of the Greek State in the revenues from gaming is 35% on the gross profit earned from the activity of the license holder.

F. Amendment of the Customs Code

Law 4389/2016 introduced the following changes to the Customs Code:

I. Excise Duties on:

a. Electronic Cigarettes and Coffee

From 1st January 2017 onwards, excise duties will be imposed on:

- i. electronic cigarette liquids, refill containers and disposable small bottles attached to electronic cigarette devices at a rate of €0.10 per milligram; and
- ii. coffee and coffee products at a rate between €2 and €4 per kilogram of net weight.

If these products enter into a tax warehouse regime, VAT payment is suspended.

b. Tobacco Products

From 1st January 2017 onwards:

- i. the proportional excise duty on cigarettes and assimilated products is increased to 26% on the retail price of each tax unit (1,000 pieces); and
- ii. the excise duty on fine cut tobacco is increased to €170 per kilogram of net weight.

c. Beer

From 1st June 2016 onwards, the excise duty on beer is increased to €5 per degree PLATO by volume and hectoliter. The increase also applies to small breweries (producing up to 200,000 hectoliters of beer annually) which will pay 50% of the above rate (i.e. €2.5) per degree PLATO by volume and hectoliter.

d. Fuels

From 1st January 2017 onwards, the excise duty on fuels is increased to €700 per 1,000 liters of gasoline, €410 per 1,000 liters of diesel and kerosene, €430 per 1,000 kilograms of LPG and €410 per 1,000 liters of biodiesel.

e. Natural Gas

From 1st June 2016 onwards, natural gas used exclusively for the production of electricity is exempt from excise duty (tariff headings 2711 11 00 and 2711 21 00). The exemption from the excise duty on natural gas used by the industries as raw material in production is abolished from the date it was initially introduced. From 1st January 2017 onwards, excise duty on natural gas not used as motor or heating fuel is imposed according to a progressive scale based on annual consumption.

2. Registration Duty for Vehicles

Registration duty for vehicles, payable from 1st June 2016 onwards is imposed, with the highest sale price before VAT stipulated by the manufacturer, importer or official representative mentioned in their price lists submitted to the Customs Authorities being the retail price before tax used for the calculation of the taxable value for the imposition of the registration duty. The price includes the value of additional equipment and special versions of the vehicle, as well as any costs that form the sale price. Retail prices before taxes (by brand, model, variant and version of the vehicles) are published in printed and electronic press, as well as online.

a. Passenger Cars

Registration duty rates for passenger cars falling within tariff heading 87.03 are as follows:

Taxable Value	Rates of Registration Duty	
i. up to €14,000	4%	
ii. exceeding €14,000 and up to €17,000	8%	
iii. exceeding €17,000 and up to €20,000	16%	
iv. exceeding €20,000 and up to €25,000	24%	
v. exceeding €25,000	32%	
vi. 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	Rates of Registration Duty
	under 50cc	0%
	from 50cc to 500cc	5%
	from 501cc to 900cc	9%
	exceeding 900cc	15%

The taxable value is calculated on the basis of the pre-tax retail price according to the type, variant and version of the vehicle, as this is mentioned in the price lists that are submitted to the Customs authorities, including the value of any optional extra equipment.

Second hand passenger cars continue to have a reduced taxable value based on their age and category. The taxable value is further reduced by 0.10 for every 500km travelled over the annual average of 15,000km. The reduction on the basis of the kilometers travelled may not exceed 10% of the value determined after the above reduction. The total reduction, including the reduction on the basis of kilometers travelled, may not exceed 95%.

On the basis of the amount of carbon dioxide emissions, the above rates mentioned under i. - v. are increased or reduced as follows:

Carbon dioxide (CO ₂) Emissions (combined cycle)	Reduction/Increase in Rate of Registration Duty
up to 100gr/klm	5% reduction
over 120 and up to 140 gr/klm	10% increase
over 140 and up to 160 gr/klm	20% increase
over 160 and up to 180 gr/klm	30% increase
over 180 and up to 200 gr/klm	40% increase
over 200 and up to 250 gr/klm	60% increase
over 250 gr/klm	100% increase

On the basis of design specifications, the above rates mentioned under i. - v. are increased as follows:

Design Specifications	Reduction/Increase in Rate of Registration Duty
Vehicles which by design comply with the specifications of the previous European emissions standard (Euro)	50% increase
Vehicles which by design do not comply with the specifications of the present and previous European emissions standard (Euro) and do not have conventional technology	200% increase
Vehicles which by design do not comply with the specifications of the European emissions standard (Euro), have conventional technology and for which CO ₂ emissions cannot be proven	500% increase plus 100% increase in registration duty rate in the case of CO ₂ emissions that exceed 250 gr/klm

Hybrid cars are exempt from 50% and pure electric cars from 100% of registration duties.

b. Trucks

Registration duty on trucks and their chassis (falling under tariff heading 87.04) and vehicles that by design have a separate cabin with two rows of seats for the driver and passengers and a separate open platform for loading of goods (falling under tariff heading 87.03), which by design comply with the specifications of the present and the previous European emissions standard (Euro), is imposed as follows:

Gross Weight & Type of Vehicle	Rate of Registration Duty	
i. trucks exceeding 3.5 tons	5%	
ii. open trucks up 3.5 tons	8%	
iii. closed trucks up to 3.5 tons	10%	
iv. chassis of above trucks	5%	
v. vehicles up to 3.5 tons with separate cabin, 2 rows of seats and separate open platform for loading of goods	8%	
vi. Open or closed vehicles, tricycles or quadricycles which fall within the ambit of Directive 92/2001 of the Council and by design comply with the specifications of this	Cylinder Capacity	Rate of Registration Duty
	under 50cc	0%

Directive or any subsequent Directive, are subject to the following rates on the basis of their cylinder capacity as follows:	from 50cc to 500cc	4%
	from 501cc to 900cc	8%
	exceeding 900cc	14%

The rates mentioned under i. - v. above are increased by 30% if the vehicles do not comply by design with the specifications of the present and the previous European emissions standard (Euro).

Electric trucks and vehicles under v. above are exempt from registration duties.

The taxable value for the imposition of the registration duty rates on vehicles mentioned above under ii., iii. and their chassis, and under v., is formed on the basis of the pre-tax retail price. For second hand cars the retail price is reduced and determined by the Customs Value Service.

The taxable value for the imposition of the registration duty rates on vehicles under i. above and their chassis, is formed by adding:

- x. the value that was actually paid or is payable for new vehicles, or the value determined by the Customs Value Service for second hand vehicles;
- y. the import duties actually paid; and
- z. any associated costs (commission, brokerage, insurance costs, transfer costs etc.).

3. Special Luxury Tax

From 1st June 2016 onwards, the special luxury tax provided for under Law 3833/2010 is not imposed on passenger cars (falling within tariff heading 87.03) and jeep type cars (falling within tariff heading 87.04).

G. Debt Write-Offs

In accordance with Article 62 of Law 4389/2016, any benefit acquired by a legal person or entity, or an individual engaging in business activities, arising from the write-off in whole or in part of debts towards:

- 1. a credit or financial institution; or
- 2. a company for the management/transfer of claims from non-performing loans (entities regulated by Law 4354/2015), in the context of an extrajudicial reconciliation or for the enforcement of a Court decision, is not considered a donation and is exempt from income tax. The same rule applies for any relevant benefit acquired by individuals in the context of an extrajudicial reconciliation.

H. Loan Portfolio Management & Acquisition Companies

Articles 70 and 71 of Law 4389/2016 introduced new provisions for the management and transfer of claims from loans and credits. Law 4354/2015 was amended accordingly to include provisions regarding the licensing and supervision of Loan Portfolio Management Companies and Loan Portfolio Acquisition Companies. New loans and credits granted by Loan Portfolio Management Companies, as well as loans and credits transferred to these companies, are subject to the contribution of Law 128/1975.

Capital gains from the transfer of claims to Loan Portfolio Acquisition Companies are subject to tax according to the general provisions of the Income Tax Code. The same provisions apply in the case of capital gains earned by these companies when further transferring the claims.

No withholding tax is imposed on interest arising from:

- 1. claims acquired by Loan Portfolio Acquisition Companies by virtue of Law 4354/2015; and
- 2. the granting of loans or credits by Loan Portfolio Management Companies according to Law 4354/2015.

I. Increase of the Taxable Value of Vehicles Granted to Employees, Partners or Shareholders

In accordance with Article 44 of Law 4389/2016, for income earned from the 2016 tax year onwards, the taxable value of vehicles granted to employees, partners or shareholders by individuals or legal persons or entities, is increased to 80% on the cost of the vehicle that is recorded as an expense in the employer's accounting books.

J. Prohibition of Participation in Foreign Companies for Certain Individuals

Article 4 of Law 4396/2016, amending Article 8 of Law 3213/2003, provides the following:

- 1. The Prime Minister, leaders of political parties that are represented in the National or European Parliament or receive State financing, Ministers, Deputy Ministers, Vice-Ministers, Members of the National or European Parliament and persons managing the financing of political parties, General and Special Secretaries of the Parliament and the General Government, Regional Governors and Mayors, are prohibited from participating either in person or through intermediaries in the management or capital of companies that have their real or registered seat abroad.

2. The persons under I. above, as well as:
- a. Coordinators of Decentralized Administrations (Syntonistis Apokentromenis Dioikisis), Judges, Presidents, Directors, Sub-Directors and General Managers of credit institutions that are controlled by the State;
 - b. Vice-Mayors, Presidents and Members (ordinary and deputy) of Municipalities' Committees, Presidents and Members of Municipal Councils, Presidents, Managing Directors and Members of the Board of Directors and General Managers of Municipal public law legal persons, public businesses of the above Local Government Units (O.T.A.) and Municipalities' Associations, as well as Heads of the Municipalities' General Directorships and Directorships; and
 - c. Presidents, Vice-Presidents, Directors, Sub-Directors, Executive Members, Managing or Executive Directors and General Managers of public law legal persons, public organizations' public businesses, as well as private law legal persons that belong or are regularly financed by the State

in respect of at least 50% of their annual budget or whose management is directly or indirectly appointed by the State, are prohibited from participating either in person or through intermediaries in the management or capital of companies that have their real or registered seat in a country that does not cooperate with Greece on a tax level or has a preferential tax regime in the sense of Article 65 of the Income Tax Code. The persons under I. above are obliged to transfer the property assets referred in the law within sixty days of 8th June 2016. Violation of the above provisions is punished with imprisonment of at least two years and payment of a fine ranging from €10,000 to €500,000.

K. Instructions for Completing the Income Tax Return of Legal Persons and Entities for the 2015 Tax Year

Ministerial Circular POL. 1070/2016 issued on 6th June 2016 provides instructions for completing the income tax return for legal persons and entities for the 2015 tax year.