

TAX BRIEFING: Monthly Insight

Recent Developments in the Tax Legislation

Greece signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Sharing (MLI) and the EU Council adopted Directive (ATAD II) amending the Anti-Tax Avoidance Directive (EU Directive 2016/1164 - ATAD) as regards hybrid mismatches with third countries and EU Directive 2015/2376 on Mandatory Automatic Exchange of Information was transposed into local legislation. The Voluntary Disclosure Program has been extended, the role of the Financial Crimes Prosecutor aligned with that of the Independent Public Revenue Authority and changes made to the Deferred Tax of Credit Institutions, the Unified Real Estate Tax and the Income Tax, Tax Procedures and Inheritance Tax Codes.

In This Issue

- **Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Sharing (MLI) Signed**
- **Anti-Tax Avoidance Directive (ATAD) II Transposed**
- **Commission on Deferred Tax Benefit for Credit Institutions**
- **Income Tax Reduction for Individuals and Legal Entities**
- **New Legal Framework for Short-Term Leases**
- **Unified Real Estate Tax (ENΦΙΑ) (URET)**
- **Alignment of Role of Financial Crimes Prosecutor**
- **Changes to Inheritance Tax for Primary Residences**
- **Mandatory Automatic Exchange of Information (EU Directive 2015/2376)**
- **Extension of Voluntary Disclosure Program**
- **Retroactive Effect of Ministerial Circulars**
- **Withholding Tax Exemption for EU and EEA Legal Entities**

A. Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Sharing (MLI) Signed

On 7 June 2017 approximately 70 countries including Greece signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("Multilateral Instrument" or "MLI"). Signatories include developed, developing and under-developed countries from all continents. The MLI offers solutions for governments to close the gaps in existing international tax rules by transposing results from the OECD/G20 BEPS Project (mainly Actions 2, 6, 7 and 14) into bilateral tax treaties worldwide and modifies the application of thousands of these treaties. It also implements agreed minimum standards to counter treaty abuse and to improve dispute resolution mechanisms while providing flexibility to accommodate specific tax treaty policies. The MLI includes measures against hybrid mismatch arrangements and treaty abuse, strengthens the definition of permanent establishment and includes measures to make Mutual Agreement Procedures (MAP) more effective.

B. Anti-Tax Avoidance Directive (ATAD II) Transposed

On 29 May 2017 the EU Council adopted a Directive amending Directive 2016/1164, which seeks to implement Action 2 with regard to hybrid mismatch arrangements between EU Member

BERNITSAS briefing

States and third countries. Most of the provisions of the Directive will have to be implemented by 1 January 2020 except for the reverse hybrids rules that will apply until 1 January 2020. ATAD II complements ATAD in addressing issues such as hybrid permanent establishments, financial instruments mismatches, hybrid transfers and dual residence mismatches.

C. Commission on Deferred Tax Benefit for Credit Institutions

In accordance with the new tax Law 4472/2017, credit institutions will be required to pay commission to the Greek State for the deferred tax benefit arising from the difference in the corporate income tax rate (increased rate from 26% to 29%). This commission is introduced for deferred tax claims guaranteed by the Greek State.

D. Income Tax Reduction for Individuals and Legal Entities

Law 4472/2017 introduced an income tax reduction for the fiscal years commencing from 1 January 2020:

1. a reduction in payroll tax (provided that payroll income does not exceed €20,000) as follows:
 - to €1,250 (from €1,900) for a taxpayer without dependents;
 - to €1,300 (from €1,950) for a taxpayer with one child;
 - to €1,350 (from €2,000) for a taxpayer with 2 children; and
 - to €1,450 (from €2,100) for a taxpayer with more than 3 children.

These provisions apply to income acquired from 1 January 2020 onwards, unless the Organizations and EU authorities involved in the medium-term program agree to apply them for income acquired from 1 January 2019.

2. The existing income tax rate of 22% which is currently applicable to payroll income up to €20,000 will be decreased to 20%. This measure is implemented from 1 January 2020.
3. The special solidarity contribution shall no longer apply to income below €30,000 as from 1 January 2020 (currently applicable to income above €12,000).
4. The rate of special solidarity contributions:
 - a. is decreased to 2% from 6.5% for income between €30,000.01 and €40,000;
 - b. is decreased to 5% from 7.5% for income between €40,000.01 and €65,000;
 - c. remains the same for income above €65,000, i.e. 9% for income between €65,000 and €220,000 and 10% for income above €220,000.
5. With the exception of Credit Institutions, the corporate income tax rate applicable to legal entities and persons keeping double entry books is reduced from 29% to 26%. This provision will apply as of 1 January 2019.

The measures 1- 5 above will apply only if their implementation

does not result in a deviation from the budget targets of the medium-term program.

6. As of 1 January 2017, the tax deduction of 10% on income granted for medical expenses will no longer apply.
7. As of 1 January 2018, the 1.5% tax deduction on withholding of tax on payroll is also abolished.

E. New Legal Framework for Short-Term Leases

Law 4472/2017 introduced a new legal framework for short-term leases providing clarifications on the nature of business income vs income from real estate property.

F. Unified Real Estate Property Tax (ENΦΙΑ) (URET)

Law 4472/2017 provides that a 30% (capped at €70) reduction on URET is granted on condition that the liability to URET does not exceed €700. This reduction will apply as of 1 January 2020 and only if Greece does not deviate from the budget targets within the framework of the medium-term program.

Law 4474/2017 provides that such land outside the town planning zone which is owned by individuals is exempted from supplementary URET for the years 2017 and 2018. A similar exemption was in place until the end of 2016.

G. Alignment of Role of Financial Crimes Prosecutor

New rules aiming to align the role of the Financial Crimes Prosecutor with that of the Independent Public Revenue Authority are introduced. The amendment endeavors to address coordination problems that impact the efficiency of the tax and customs authorities.

H. Changes to Inheritance Tax for Primary Residences

Law 4474/2017 extended the inheritance and parental tax exemption on primary residences provided for Greek and EU nationals to include EEA nationals. The exemption applies irrespective of the tax residence of the heir.

I. Mandatory Automatic Exchange of Information

1. Law 4474/2017 transposed EU Directive 2015/2376 on Automatic Exchange of Information (amending EU Directive 2011/16) into national law.
2. For the purposes of legal certainty, Directive 2011/16/EU was amended by including an appropriate definition of an advance cross-border ruling and advance pricing arrangement. The scope of these definitions should be sufficiently broad to cover a wide range of situations, including but not limited to the following types of advance cross-border rulings and advance pricing arrangements:
 - unilateral advance pricing arrangements and/or decisions;
 - bilateral or multilateral advance pricing arrangements and decisions;
 - arrangements or decisions determining existence or

- absence of a permanent establishment;
 - arrangements or decisions determining existence or absence of facts with a potential impact on the tax base of a permanent establishment;
 - arrangements or decisions determining tax status of a hybrid entity in one Member State which relates to a resident of another jurisdiction; and
 - arrangements or decisions relating to the basis for assessment for depreciation of an asset in one Member State that is acquired from a group company in another jurisdiction.
3. Within this framework, taxpayers are entitled to rely on advance cross-border rulings or advance pricing arrangements, for example during taxation processes or tax audits on condition that the facts on which the advance cross-border rulings or advance pricing arrangements are based have been accurately presented and that taxpayers abide by the terms of the advance cross-border rulings or advance pricing arrangements.
 4. According to the Directive, Member States will exchange information irrespective of whether the taxpayer abides by the terms of the advance cross-border ruling or advance pricing arrangement.
 5. The amended provisions are included in Law 4170/2013, the main legal framework for exchange of information. The new rules apply for arrangements, decisions and advance pricing arrangements provided for or amended after 1 January 2017.
 6. In special cases the above arrangements provided after 1 January 2012 or 1 January 2014 may be exchanged.
 7. In principle, the exchange of information will take place after the end of the calendar half-year and not before the elapse of three months after the half-year period.

J. Extension of Voluntary Disclosure Program

1. Law 4446/2016 introduced a Voluntary Disclosure Program

(VDP) which expired on 31 May 2017. Law 4474/2017 extends the VDP to 30 September 2017, although the interest rates are increased for filings after 31 May 2017. The relevant rates are:

Year of Income Liability	Interest Rate
up to 2001 and 2002	15%
2003-2005 inclusive	14%
2006-2009 inclusive	13%
2010-2010 inclusive	12%
2014-2015	0.73% per month

2. The above rates do not apply to taxpayers that have been notified of an audit mandate, in which case the applicable interest rate is 18% or 36% depending on the status of the tax audit.

K. Retroactive Effect of Ministerial Circulars

Law 4474/2017 provides that interpretative circulars are binding upon the tax administration until they are officially revoked or the law they interpret is changed. Moreover, any change in the interpretation provided by the tax administration will have no retroactive effect insofar as it deteriorates the taxpayer's position. If taxpayers have acted in accordance with the interpretative circulars, no penalty will be imposed for late filing or filing of inaccurate tax returns.

L. Withholding Tax Exemption for EU and EEA Resident Legal Entities

Following Ministerial Circular POL. 1007/2017, Law 4474/2017 amended Article 62 of the Income Tax Code providing for a withholding tax exemption on fees earned by the permanent establishment in Greece of legal entities which are tax resident in the EU or the EEA for consulting, technical and other similar services.

Contacts



Panayotis Bernitsas
 Managing Partner
 E pbernitsas@bernitsaslaw.com



Fotodotis Malamas
 Senior Associate
 E fmalamas@bernitsaslaw.com

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.

Bernitsas Law Firm is a partnership of attorneys regulated by Presidential Decree 81/2005, as currently in force, with its registered address at 5 Lykavittou Street, Athens 106 72, Greece.

If you no longer wish to receive Briefings from us, please click here to [Unsubscribe](#)