

TAX BRIEFING: Monthly Insight

## Recent Developments in Tax Legislation

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**A. Circular 795/Γ/01-9-2021 Provides Clarification on the Procedure and Conditions for the Resolution of Disputes Related to the Obligation of Specific Categories of Individuals to File Source of Funds and Financial Interests Declarations**

1. Law 3213/2003 lists the categories of individuals that are subject to the obligation to file Source of Funds and Financial Interests Declarations (**Declarations**) and the time periods for filing of the Declarations.
2. Within this framework, the Head of the Authority for the Prevention of Money Laundering and the Financing of Terrorism and Control of Declarations of Assets (Hellenic FIU) issued Circular 795/Γ/01-9-2021 (Circular 795) on the competent body for the resolution of disputes related to the obligation of specific categories of individuals to file Declarations with the Hellenic FIU.

3. Pursuant to Circular 795, only the respective employers or heads of institutions are competent to decide on the obligation of employees, executives and Board of Directors members to file Declarations with the Hellenic FIU.
4. The Hellenic FIU is not competent to address such issues and it may only decide on queries related to the capacity or office of an individual subject to the filing of Declarations provisions.
5. Queries related to the obligation of individuals to file a Declaration are not addressed by the Hellenic FIU and will be rejected.

**B. Decision A.1212/2021 Provides Guidelines on the Competent Authority and Registration Process for the Implementation of EU Directives 2017/2455, 2019/1995 and 2018/1910 on VAT Distance Sales and Provision of Services as Transposed into Greek Legislation by Way of Law 4818/2021**

1. By way of Decision A.1221/2021 (**Decision**), the Independent Authority of Public Revenues (**IAPR**) provides guidelines on the competent authority and VAT registration process for distance sales and provision of services.
2. The Foreign Residents Tax Office (Department Γ2 - Special VAT Regimes for e-commerce) is designated as the competent authority for the registration of legal persons, entities or individuals under the VAT special regimes.
3. The Decision details the process for registration, deregistration and changes to records held by the competent authority.
4. Further information on the new special VAT regimes are included in our *July 2021 Monthly Tax Briefing*.

**C. Circular E.2171/2021 Provides Guidelines on the Time of Taxation of Capital Gains from the Transfer of Securities in Cases Where the Agreed Consideration Depends on a Condition Precedent**

1. By way of Circular E.2171/2021 the Independent Authority for Public Revenues clarifies when capital gains from the sale of securities should be taxed in cases where a condition precedent has been agreed by the parties involved.

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2. If the final consideration depends on the occurrence of a future and uncertain event, any additional consideration is taxable at the time that the agreed condition has been fulfilled, as this is when the right of the seller to collect the income arises.
3. In principle, the acquisition and sale price are determined on the basis of the accounting value of the net equity at the date of the transaction.
4. If the net equity is negative, the acquisition price is set to zero.
5. If the capitalization of the above-par value reserve results in a free of charge provision of shares to the shareholders, their nominal value is considered their acquisition price. In future transactions of these shares, the average acquisition price is calculated taking into consideration the nominal value of the shares granted to the shareholders due to the capitalization of the above-par value reserve.
6. In the event of:
  - a. capitalization of the assets' revaluation reserve; or
  - b. the capitalization of non-taxable profits resulting in a free of charge provision of shares to the shareholders, the acquisition price is set at zero.
7. In business combinations (mergers, divisions, spin-offs) where shares are transferred in exchange for the transaction, the market value of the shares at the time of completion is considered as the acquisition price. By way of exception, for business combinations falling under the scope of Article 54 of the Greek Income Tax Code (ITC) the acquisition price is considered the book value of the shares before the transaction day.
8. Should the sale of securities under Article 42 par. 1 of the ITC be effected in the context of an auction, the auction price is considered as the acquisition price.
9. Share capital reductions caused by the exit of shareholder(s) from the legal entity is not considered a transfer of shares for tax purposes.

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