

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

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Law 4972/2022 Introduces Amendments to Tax Legislation

A. Stamp Duty on Loans

1. By way of Article 172 of Law 4972/2022 (the Law) the Ministry of Finance amended the VAT Code overruling the recent Decisions (Nos 2323/2020 and 2163/2020) of the Supreme Administrative Court, which held that interest bearing loans are subject to VAT and not to Stamp Duty (at the rate of 3.6% or 2.4%).
2. Under the amended VAT Code, the VAT provisions on interest bearing loans and other credit facilities do not exclude the application of Stamp Duty legislation but are subject to stamp duty in Greece (currently at the rate of 3.6% or 2.4%).
3. The new provision also applies to:
 - a. real estate rentals;
 - b. receipts for the payment of premiums for all kinds of insurance and reimbursement of premiums;
 - c. receipts for the payment of compensation to any type of insurance provided to insurance companies;
 - d. loans granted by insurance companies on life insurance policies; and

e. acquisitions (RACHATS) of life insurance policies by insurance companies.

4. The new provision applies retroactively from 1 January 2021 and taxpayers must pay the respective Stamp Duty to the Greek State by 31 December 2022, free of any interest or fine.
5. This unanticipated amendment is expected to generate increased cost, cash flow and tax implications for legal entities and permanent establishments of non-Greek legal entities operating in Greece, as apart from loans, cashpooling schemes are also treated as credit facilities in Greece.

B. Solidarity Contribution Abolished as of 1 January 2023

1. By way of Article 177 of the Law, as of 1 January 2023 the solidarity contribution imposed in addition to ordinary income tax is abolished.
2. For the 2022 fiscal year, only employment income in the public sector and pensions are subject to the solidarity contribution.

C. Tax Exemption on Parental Gifts

1. Article 175 of the Law clarifies that in the case of parental gifts or donations in cash, the withdrawal of the respective amount from a bank account of the donor and the deposit in a bank account of the beneficiary is required for the tax exemption of €800,000 to apply.
2. The new provision applies retroactively to donations and parental gifts effected from 1 October 2021 until 9 September 2022.

D. Fines for Non-Transmission of Retail Receipts

1. A New Article 54H is inserted in the Code of Tax Procedure (CTP) introducing fines for non-transmission of the summary of retail receipts to the *myDATA* tax platform.
2. The fines imposed are the following:
 - a. for transactions subject to VAT, a fine equal to 50% of the VAT due is imposed. The fine cannot be lower than €250 or €500 per audit, depending on the type of books kept

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- by the liable person or entity (revenues/expenses or double entry books);
- b. for transactions that are not subject to VAT, a fine equal to €500 or €1,000 per audit is imposed, again depending on the type of the accounting books kept by the liable person or entity (revenues/expenses or double entry books); and
 - c. the above fines are doubled in case of recidivism.
3. Non-transmission of the summary of retail receipts is also added to the cases justifying the suspension of operation of a legal person or entity for 48 hours. The suspension increases to 96 hours in cases of recidivism within the same or the following year and for the non-transmission of at least three receipts. The suspension of operation of the legal person or entity is further increased to 10 days in the event that the same infringement is identified within two years.
4. The above applies to infringements effected from 31 October 2022 onwards.

E. Adjustment of Profits in the Case of Transfer Pricing Violations

1. The Law introduces the corresponding adjustment mechanism in the case of a tax audit.
2. In the event that the profits of a Greek legal entity are increased by the tax authorities as a result of a transfer pricing violation, the related legal entity has the right to adjust its profits accordingly.
3. This corresponding adjustment is effected by way of submission of an amending tax return within three months from the service of the tax audit report and only following the payment of the tax by the legal entity whose profits are increased by the tax authorities.
4. The above rule applies retrospectively to cases pending either at administrative or at court level.
5. If the tax assessment is challenged by the taxpayer and the legal action is upheld by the competent administrative authority or the courts, the tax authorities must proceed to the corresponding adjustments accordingly.

Contacts



Panayotis Bernitsas
Managing Partner
E pbernitsas@bernitsaslaw.com



Fotodotis Malamas
Counsel
E fmalamas@bernitsaslaw.com

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