

TAX BRIEFING: Monthly Insight

Tax Developments in Greece:

Ministerial Circulars issued provide guidelines on corporate restructurings, tax residence certificates filed by UK tax residents for income derived in Greece and the implementation of an EU Court Judgement relating to the pharmaceutical industry. The Independent Authority for Public Revenue (AAΔΕ) issued a Decision on the implementation of the Mutual Agreement Procedure and the Greek Council of State on the legality of extension of the limitation period.

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A. M&As: New Regime under the Income Tax Code

By way of Ministerial Circular POL. 1057/2017, the Ministry of Finance provided guidelines for corporate restructurings under the new Income Tax Code. This regime encompasses domestic and EU cross border corporate restructurings. The new rules refer to mergers, divisions, share exchanges, transfers of assets and transfers of the registered seat of an SE or SCE. It also clarifies that previous tax incentive legislation (L.D. 1297/1972 and Law 2166/1993) continues to apply in parallel with the new regime. The provisions of Law 2578/1998 which transposed the

Merger Directive in Greece remain in force and apply in parallel with the new regime.

B. UK Tax Residents: New Tax Residence Certificate Document for Greek Sourced Income

The Ministry of Finance instructed the tax authorities that UK tax residents falling within the framework of the Double Tax Treaty between Greece and the UK are only required to file a digital copy of the tax residence certificate produced by the UK tax authorities, with the original tax residence certificate being kept in the files of the UK tax authorities.

C. Instructions for the Implementation of the Mutual Agreement Procedure (MAP)

By way of Ministerial Decision POL. 1049/2017, the Ministry of Finance issued guidelines for implementation of the MAP provided for by Double Tax Treaties. The MAP is used for resolving difficulties arising from the application of the Double Tax Treaties. These guidelines address procedural issues arising from the implementation of the Double Tax Treaty, such as the competent authority and time limitation to file complaints.

D. Food Supplements Classified as Medicinal Products: Reclassification Under the Combined Nomenclature of the Common Customs Tariff

The EU Court ruled in Judgment C-700/15 on the interpretation of Heading 3004 of the Combined Nomenclature of the

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Common Customs Tariff set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff. Goods falling within the definition of a 'medicinal product' as defined in Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community Code relating to medicinal products for human use, are not required to be automatically classified under Heading 3004.

The Combined Nomenclature of the Common Customs Tariff set out in Annex I to Council Regulation No 2658/87 must be interpreted as meaning that goods which have beneficial effects on health and in which the essential component is an active

ingredient found in food supplements classified under Tariff Heading 2106 of the CN, fall under Heading 2106, regardless of whether they are marketed and sold by their manufacturer as medicinal products.

E. Greek Council of State Ruling on Extension of Limitation Period

The Greek Council of State ruled in judgement no. 675/2017 that the continuous extension of the limitation period for unaudited tax years contradicts the Greek Constitution.

However, the case has been referred to the Plenary Session for final judgement on this long pending issue.

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