

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

In This Issue

- A. Law 4583/2018 Introduces a Further Suspension of Capital Gains Tax on Real Estate Property Disposals and Amends the Income Tax and Inheritance and Gift Tax Codes**
- B. Law 4587/2018 Introduces Amendments to Source of Funds and Financial Interests Declarations, Financial Leases, Quasi-Administrative Recourse Procedures and the Assessment of Minimum Values of Real Estate Properties**
- C. Circular POL. 1238/2018 Offers Clarification on the Tax Treatment of the Issuance of Above Par Value Shares in Terms of Capital Registration Tax to Comply with the Council of State's Decision No. 1774/2018**

A. Law 4583/2018 Introduces a Further Suspension of Capital Gains Tax on Real Estate Property Disposals and Amends the Income Tax and Inheritance and Gift Tax Codes

1. Law 4583/2018 (Government's Gazette A' 212/18.12.2018) amends income tax legislation relating to individuals as follows:
 - a. Capital gains tax arising from disposal of real estate property by individuals is further suspended until 31 December 2019.
 - b. Following the Decision of the Council of State No. 330/2018, spouses and members of civil partnerships have the right to file separate income tax returns by filing an irrevocable statement with the competent tax office by 28 February of each fiscal year.

- c. The option to file separately is binding on both spouses as regards each fiscal year and the deemed expenses for the calculation of the income tax should be covered by each spouse separately.
 - d. The income of dependent minors is added to the income of the parent with the highest total income, unless one parent has sole custody, in which case the income is added to this parent's income.
 2. In terms of inheritance and gift tax, Law 4583/2018 provides that:
 - a. In the case of gift tax, both contracting parties are jointly liable to submit the relevant gift tax return, as opposed to just the beneficiary of the gift as was previously the case.
 - b. The right of the tax authorities to audit inheritance and gift tax cases is limited to the period after 31 December 2003.
 - c. The Ministry of Finance will initiate a plan for the establishment of a digital platform system for the electronic submission of gift tax returns.

B. Law 4587/2018 Introduces Amendments to Source of Funds and Financial Interests Declarations, Financial Leases, Quasi-Administrative Recourse Procedures and the Assessment of Minimum Values of Real Estate Properties

1. Law 4587/2018 (Government's Gazette A' 218/24.12.2018) introduces amendments to various tax provisions. In particular:
 - a. The submission of Source of Funds and Financial Interest Declarations (*Pothen Esxes*) must be submitted between 18 February 2019 and 31 March 2019 for individuals under an obligation to submit initial *Pothen Esxes* declarations for the 2016, 2017 and 2018 fiscal years and annual declarations for 2016 (2015 fiscal year), 2017 (2016 fiscal year) and 2018 (2017 fiscal year).
 - b. Financial leases concluded before 1 January 2014 must be treated until their expiration in accordance with the provisions of the previous Income Tax Code (Law 2238/1994).

- c. In cases where a quasi-administrative recourse has been filed before the Directorate of Dispute Resolution (DDR) on tax issues of major importance, for which a pre-judicial legal question or petition is pending before the Council of State, the taxpayer may apply for suspension of the 120 days period within which the DDR must issue its decision. Upon receipt of the application, the time period is suspended until the DDR is notified of the Council of State's decision, after which the remaining time period for the issuance of the DDR's decision must be at least 30 days.
- d. Where a taxpayer submits new data or facts to the DDR during the last 30 days before the expiry of the 120 days period for the examination of a quasi-administrative recourse, the head of the DDR may grant an extension of up to 30 days.
- e. Under the provisions of the new law, Article 41 of Law 1249/1982 dealing with the determination of the minimum value of real estate (*Antikeimeniki Axia*) is amended. The new provisions state that the Minister of Finance is authorized to define the starting prices upon the recommendation of members of the Register of Certified Appraisers of the Ministry of Finance. The Minister of Finance may also take into account the opinion of the Municipal Council registered in the database of General Secretariat Information Systems of the Ministry of Finance. The Minister is also empowered

to determine the conversion factors and the zones which are or will be included in the 'Objective Evaluation System' for the minimum taxable value of real estate.

C. Circular POL. 1238/2018 on the Tax Treatment of the Issuance of Above Par Value Shares in Terms of Capital Registration Tax to Comply with the Council of State's Decision No. 1774/2018

1. In our October Monthly Briefing (Issue No. 52), reference was made to the Council of State's Decision No. 1774/2018 on Capital Registration Tax in the case of issuance of above par value shares. The Independent Authority of Public Revenues (AAΔE) issued Ministerial Decision POL. 1238/2018 in compliance with the Decision of the Council of State.
2. No Capital Registration Tax is due in cases where Societe Anonymes issue above par value shares, on the basis that the holder of such shares is not entitled to the same voting and profit rights vis-à-vis the holders of at par value shares or shareholders who participated in the capitalization of the share premium.
3. The Circular clarifies that the liability to pay Capital Registration Tax arises upon the capitalization of the share premium.
4. In view of the above, the Independent Authority of Public Revenues (AAΔE) stated that Ministerial Decision POL. 1044/03.04.2014 no longer applies.

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 and Law 4194/2013, 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](#)