

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

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I. Changes to the Taxation of Shipping Companies

Law 4646/12-12-2019 (the New Tax Law) introduces significant changes to the current tax framework. For the first time a new tax regime for High Net Worth Individuals (HNWIs) is introduced, the tax liability of Board of Directors (BoD) members is rationalized and the taxation of employees changed, which indicates a trend to iron out previous harmful tax measures.

A. Changes to the Business Tax Framework

1. Changes to the Corporate Income Tax rate (CIT), advance payment and withholding tax on dividends are introduced. In particular:
 - a. The nominal CIT rate is reduced from 28% to 24%. The reduced CIT applies for tax years 2019 onwards.
 - b. The advance payment for CIT due upon submission of the CIT return is reduced from 100% to 95% for the tax year 2018.
 - c. The withholding tax on dividends is reduced from 10% to 5% for the tax year commencing from 1 January 2020.

2. The New Tax Law amends tax exemption on capital gains from the disposal of shares. In particular:
 - a. Greek legal persons are exempt from tax on capital gains deriving from the disposal of shares in legal entities that reside in EU member states if:
 - i. the Greek legal person that sells shares, holds at least 10% of the investment;
 - ii. the holding period is at least 24 months.
 - b. The new provision applies for income generated as of 1 July 2020.
 - c. The capital gain is not subject to income tax upon capitalization or distribution.
 - d. Expenses related to the shareholding are not deductible for tax purposes.
 - e. Losses from shares transfer are tax deductible provided that:
 - i. valuation has been effected until 31 December 2019;
 - ii. the losses have been posted in the company's accounting books and were reflected in the statutory financial statements audited by the statutory auditors;
 - iii. they will become final until 31 December 2022.
 - f. In the case that the losses are lower or higher than the valuation, then the lower amount between the two comparable will be recognized for tax purposes.
3. The withholding tax exemption on interest and royalties also applies for payments effected between Greek related legal persons.
4. Corporate Social Responsibility (CRS) expenses are deductible for tax purposes provided that the legal person or entity has accounting profits in the tax year that the expenses incurred. This condition does not apply to CSR expenses requested by the Greek State.
5. The New Tax Law introduces additional deduction of 130% on expenses related to employees. In particular:
 - a. Reimbursement of monthly or annual tickets for public transportation.
 - b. Leasing of company passenger vehicles with zero or up to 50 gr CO₂/km emissions and with retail price before taxes up to €40,000.00.
 - c. Purchase, installation and operation of publicly accessible

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- charging points for vehicles with zero or up to 50 gr CO₂/km emissions.
6. The "Lessee" definition in the financial leasing is aligned with the IFRS for tax depreciation purposes or the Greek GAAP depending on the accounting standards adopted by each legal entity (IFRS or Greek GAAP of Law 4308/2014).
 7. Increased depreciation applies to passenger vehicles, trucks and public transportation means with zero or up to 50 gr CO₂/km emissions.
 8. The write-off of account receivables is tax deductible without further requirements, on condition that:
 - a. the amount due (including VAT) exceeds the threshold of €300.00; and
 - b. the receivables under the €300.00 threshold, do not exceed in total 5% of the total claims annually.
 9. The write-off of accounts receivables in the context of mutual agreement or court settlement, are tax deductible regardless of the fact that no provision was posted in the accounting books of the creditor.
 10. Capitalization of tax-free reserves:
 - a. The capitalization of tax free reserves is subject to income tax at the rate of 5% (reduced from the current rate of 20%).
 - b. The capitalized reserve should be distributed otherwise it will be subject to income tax at the ordinary corporate income tax rate.
 - c. The requirement for an equal share capital increase in cash is repealed.
 - d. The new provision applies without time limit.
 11. Changes to the time limitation for State tax audits and particularly:
 - a. The 5 years limitation for the conduct of tax audit is extended by 1 year:
 - i. in the case that the taxpayer files initial or amending tax return within the last year of the time limitation (i.e. within the 5th year);
 - ii. in the case that the tax authorities become aware of new information during the last year of the time limitation (i.e. within the 5th year);
 - iii. within the time period for the submission of a Mutual Agreement Procedure request (MAP) and until the issuance of the decision on the MAP;
 - iv. after the issuance of the decision on the MAP.
 - b. The 20 years' time limitation is reduced to 10 years for tax evasion cases during tax years 2012-2017. As of 1 January 2018 the 20 years' time period is repealed.
 - c. If the tax return is not submitted or new information is brought to the attention of the tax authorities after 5 years have lapsed, the time limitation period is extended to 10 years. The new provision applies as of 1 January 2018.

- d. Administrators of digital platforms (e.g. Airbnb) that are active in the sharing economy, have to disclose specific information within specific time period in order to avoid any penalties.
- e. Businesses have to electronically submit to the Independent Authority of Public Revenues (AAΔΕ) fiscal data of records issued and books maintained as well as cash register's data.

B. Income Tax on Write-Off of Business Liability

The benefit of a business from the write-off of business debt in the context of a mutual agreement or court settlement is subject to income tax at the normal corporate income tax rate. However, such write-off is exempted from gift tax.

C. Changes to the Tax Liability of BoD Members

1. The New Tax Law introduces for the first time the subjective liability of the Board of Directors (BoD) members complying with court rulings issued over the last two years.
2. BoD members have the right to prove that no fault is attributable to them concerning the failure of the company to pay its tax due.
3. The liability of BoD members is limited to the time period of their term of office.
4. BoD members must exercise de facto management activities in order to be considered jointly and severally liable with the company for taxes due.
5. Contrary to the previous tax provision, liquidators are liable only for liabilities arising during the time of liquidation.
6. The new provision covers all pending cases provided that the BoD members:
 - a. submit an application to the tax authorities requesting to be discharged from any liability; and
 - b. submit the application within three months from the publication of the New Tax Law.

D. Withholding Tax Exemption on Interest of Corporate Bonds and Covered Bonds

1. Interest credited or paid to individuals, foreign tax residents or legal entities that are not Greek tax residents and do not maintain permanent establishment in Greece, are exempted from withholding tax provided that:
 - a. it derives from corporate bonds traded on an EU trading venue or a non-EU regulated market;
 - b. the authority that regulates such markets is accredited by the International Organisation of Securities Commission (IOSCO);
 - c. the bonds are issued by credit cooperatives operating as credit institutions; and
 - d. payments effected as of 1 January 2020 onwards.

2. In the case that the above conditions do not apply and withholding tax is due, then the tax is withheld by the paying agent and not the issuer of the corporate bonds.
3. Covered bonds issued in accordance with Article 91 of Law 3601/2007 or Article 152 of Law 4261/2014 benefit from the same treatment with the State bonds. In the case that withholding tax should apply then such tax should be withheld by the paying agent and not the issuer of the covered bonds.

E. Preferential Tax Regimes

As of 1 January 2019 jurisdictions with corporate income tax rate lower than 60% of the Greek nominal rate are considered preferential tax regimes.

F. Taxation of Employees

1. The income tax band of employees is amended and the annual income tax due is reduced.
2. A new tax band for taxable income up to €10,000.00 is introduced at the rate of 9% (previously 22%). The maximum income tax rate is reduced from 45% to 44%.
3. The tax reduction for employees depending on their family status, is reduced.
4. The following categories are not considered taxable income:
 - a. Reimbursement of monthly or annual tickets for public transportation.
 - b. Vehicles of zero or low emissions up to 50 gr CO₂/km emissions and with retail price before taxes up to €40,000.00.
5. Payments under group pension schemes in the context of voluntary redundancy are not considered as early retirement and the applicable tax rates are not increased by 50%.
6. Tax reductions apply for vehicles granted to employees, shareholders, executives and partners, as benefit in kind. Especially for tool cars, the tax exemption applies to vehicles of retail price lower than €17,000.00 before taxes.
7. Changes are introduced to the taxation of stock options. In particular, any capital gain deriving from the sale of shares will be subject to income tax at the reduced rate of 15% on condition that the employees will hold the shares acquired after exercising the stock option right for a minimum time period of 2 years. A capital gain is defined:
 - a. In the case of non-listed companies, the sale price of the shares minus their acquisition price.
 - b. In the case of listed companies, the closing price of the shares in the stock market minus the price upon granting the option.
8. Under certain conditions, a reduced tax rate of 5% will apply for non-listed startups qualifying as very small or small legal entities.

G. Introduction of New Tax Regime for HNWI

The New Tax Law introduces a new tax regime for High Net Worth Individuals (HNWIs) that transfer their tax residence and invest in Greece. In particular:

1. HNWIs have to reside abroad for 7 out of the last 8 years.
2. HNWIs' investment should be higher than €500,000.00 and may pertain to real estate property, securities and shareholdings.
3. HNWIs that meet the conditions above enjoy the following tax benefits:
 - a. Non-Greek sourced income is tax exempted and is not reported.
 - b. An annual flat tax liability equal to €100,000.00 is introduced for the non-Greek sourced income. This benefit is extended to close relatives of HNWIs with the payment of an additional annual tax of €20,000.00 per person.
 - c. Any assets outside Greece are not subject to gift or inheritance tax.
 - d. No justification is required for the funds remitted to Greece.
4. The special tax regime applies for 15 years.
5. HNWIs have to submit an application until the 31 March of the respective tax year.
6. Greek tax authorities have to notify the foreign authorities for the submission of the application and may approve such application within two months.
7. HNWIs have to pay the annual tax within 30 days from the approval.

H. Tax Incentives for Investment on Real Estate

1. The sale of new buildings by constructors are VAT exempted from 1 January 2006 until 31 December 2022. The tax exemption applies only if the constructor files the respective application.
2. The constructor will not have the right to deduct the VAT. Any deducted VAT should be refunded to the Greek State.
3. Any VAT that is not recovered should be expensed.
4. Individuals that upgrade the energy status of buildings will benefit from a tax deduction of 40% of the expenses incurred for such upgrade. The expenses will be deducted from their income and the maximum deductible amount is €16,000.00. The deduction will be equally split over a period of 4 years. The tax benefit applies to expenses incurred during the tax years 2020-2022.
5. The taxation of capital gains from disposal of real estate property is further postponed until 31 December 2022.
6. The current procedure for the assessment of the minimum values of real estate property is changed. New quality factors are introduced for the value assessment and new committees will be appointed.

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7. The flat tax of Real Estate Investment Companies (REICs), UCITS, Real Estate Investment Funds and Portfolio Investment Companies is reduced. In particular the minimum tax threshold of 0.375% per semester is repealed. The flat tax is the product of the intervention rate defined by ECB increased by a fixed rate and the investment value.
8. Extended amendments are made to the Special Real Estate Tax (SRET) legislation. The SRET exemption provided in the case of disclosure up to the level of a regulated entity is extended including the following types:
 - a. Alternative Investment Funds (AIF) managed by Alternative Investment Fund Managers (AIFM) in the context of Law 4209/2013 and Directive 2011/61.
 - b. Real Estate Mutual Funds (closed or open-ended) and their respective management companies.
 - c. Mutual Funds investing in participations that are regulated by Law 2992/2002 (ΑΚΕΣ).
 - d. Mutual Funds investing in real estate under Law 2778/1999 and the respective management companies (ΑΕΔΑΚ).
 - e. Mutual Fund Management Companies.
 - f. UCITS regulated by Directive 2009/65/EC and Law 4099/2012 and the respective management companies.
 - g. Investment Funds of Directive 2015/760 (ELTIFS) and the respective management companies.
 - h. Venture Capital Funds (EUVECA) of Directive 345/2013/EU and the respective management companies.
 - i. Social Entrepreneurship Funds (EUSEF) of Regulation 346/2013.
 - j. Management and Consulting companies providing services concerning funds and mutual funds.
 - k. The exemption provided to institutional investors operating in a regulated market is repealed.
 - l. The above exemption does not apply to funds established in non-cooperative jurisdictions or jurisdictions that have not been reviewed by the Global Forum for Transparency and Exchange of Information.
- m. Companies held by not-for-profit legal entities are also SRET exempt on condition that:
 - i. the real estate and its proceeds is used for nonprofit activities;
 - ii. the real estate is vacant and it does not generate any income.
- n. The exemption provided to shipping companies is extended to additional facilities (see section I).

I. Changes to the Taxation of Shipping Companies

1. The Law extends the SRET exemption to parking lots, gyms and dining halls used by the personnel of:
 - a. Shipping companies that operate under Law 89/1967; and
 - b. Ship-owning companies.
2. The exemption also applies to facilities granted for free by shipping companies to other shipping companies for their activities.
3. The special regime of tonnage tax is extended to bare-boat charterers or vessel lessees under a foreign flag, on condition that the vessels are managed by Greek or foreign ship management companies of Law 27/1975. The tonnage tax exhausts any tax liability of the bareboat charterer or the vessel lessee company as well as that of any holding company interposed in the group related to the exploitation of the vessel.
4. The tonnage tax is paid by the ship management company in the name and on behalf of the companies under par. I3.
5. The tax exemption for the distribution of dividends, transfer of shipping companies' shares and dividends deriving from vessels is extended to the ultimate shareholders of the bareboat charterers and vessel lessee companies.
6. The tonnage tax regime does not include vessel leasing companies.

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