

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

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A. Decision E.2009/2021 Provides Guidelines on Foreign Tax Residence Certification for the Implementation of the Greece-Spain Convention for the Avoidance of Double Taxation

1. By virtue of Decision E.2009/2021 the Independent Authority of Public Revenues (AAΔΕ) clarifies the procedure for completing the application for the implementation of the Double Tax Treaty (DTT) between Greece and Spain.
2. Instead of completing field VII of the application (Tax Residence Certificate), applicants must submit the Tax Residence Certificate separately, provided that it has been validly issued electronically.

B. Circular E.2004/2021 Clarifies the New Interest Limitation Rule

1. Article 49 of Law 4607/2019 introduces a new rule on the

deductibility of exceeding borrowing costs, ie interest expense - interest revenues.

2. Circular E.2004/2021 (the Circular) clarifies the implementation of the new rule by way of examples.
3. Exceeding borrowing costs, ie interest expense - interest income, and the 30% of EBITDA restriction shall be implemented at the level of standalone legal persons and entities, irrespective of their participation in a corporate group.
4. In order to calculate the exceeding borrowing costs and 30% of EBITDA, intra-group transactions are taken into account.
5. The exceeding borrowing costs that cannot be deducted within the relevant tax year, are carried forward without any time limitation. The amount carried forward is deductible in the first tax year in which the exceeding borrowing costs of the legal person or entity are:
 - a. lower than the amount set on EBITDA; and
 - b. deducted up to the amount of 30% of EBITDA.Any residual amount is carried forward until its full depreciation.
6. In the case of business conversions or mergers and divisions, any outstanding non-deductible borrowing costs of the merging/divided companies is transferred for deduction to the surviving legal entity.
7. If the exceeding borrowing costs correspond to more than €3m, the amount deducted is €3m or 30% of the EBITDA, whichever is the highest, whereas if the exceeding borrowing cost is up to €3m, this is fully deducted.
8. Leasing and factoring companies are no longer excluded from the above limitations.
9. Legal persons and entities that have already submitted their annual income tax return, may submit an amended tax return through TAXISnet, in which case fines pursuant to Article 54 of Law 4174/2013 are not imposed until 26 February 2021.

C. Decision A.1002/2021 Amends the Procedure and Supporting Documentation for Issuance of Tax Registration Numbers, Changes in Data and Settings and Cessation of Business Activities

1. Decision A.1002/2021 amends POL. 1006/2013 with regard

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to applications for the issuance of Tax Registration Numbers and Changes in Personal Information. It provides for the various tax forms (M1, M2, M7, M8) which must be filed by:

- a. the taxpayer or their legal representative before the competent Tax Office (DOY); or
- b. e-mail.

D. Circular E.2011/2021 Provides Guidelines on VAT Imposed on Transactions with the UK After Brexit and the Termination of the Transitional Period on 31 December 2020

1. Following the termination of the transitional period, from 01 January 2021 delivery and transportation of goods between the EU and the UK shall be governed by the VAT rules on imports and exports.
2. In particular:
 - a. if the delivery or transportation started before the transitional period but ended after it, the transaction is considered an EU transaction and not an import or export;
 - b. if the transaction took place before the termination of the transitional period, the rights and obligations of the parties still apply and no VAT is due if the goods are being reimported by the same person that exported them.
3. Following the termination of the transitional period, the trading of goods between Northern Ireland and Member States is treated as intra-EU trade, whereas transactions between Northern Ireland and the UK are treated as imports/exports.
4. With regard to the provision of services, both Northern Ireland and the rest of the UK are considered as third countries (non-EU countries).
5. The VAT Directive applies for 5 years following the termination of the transitional period as concerns the rights and the obligations of tax subjects for services provided between the UK and EU before the end of the transitional period.
6. Businesses registered in the UK are under an obligation to appoint a tax representative to conduct taxable activities in Greece after 31 December 2020.
7. A VAT return must be completed for expenses incurred from 1 January 2020 until 31 December 2020 by submitting an electronic application from and to the UK by the 31 March, and not 30 September as provided for in Directive 2002/9/EC. This does not apply to Northern Ireland.
8. For a period of 4 years following the transitional period, Northern Ireland will be subject to EU VAT rules in the case of goods, but not of services, in relation to which it is

considered to be outside the EU together with the rest of the UK.

E. Circular E.2015/2021 Clarifies the New Tax Regime for Non-Greek Tax Residents that Relocate to Greece as Employees or Freelancers

1. By virtue of Article 40 of Law 4758/2020 a new Article 5C (5F) has been incorporated into Law 4172/2013 (the Income Tax Code – ITC). Initially, the Greek Government introduced tax incentives for High-Net Worth Individuals, and subsequently for pensioners. In a further effort to attract employees and freelancers wishing to relocate to Greece, the Government, by way of Article 5C, provides tax incentives significantly reducing taxation for the individuals as well as their employers.
2. Individuals wishing to transfer their tax residence to Greece may benefit from reduced income tax on condition that the following criteria are met cumulatively:
 - a. they have not been Greek tax residents for the last 5 out of 6 years;
 - b. they are tax residents in an EU/EEA jurisdiction or a jurisdiction with which Greece has signed an administrative cooperation agreement;
 - c. they will be employed by a Greek legal entity or the Greek permanent establishment of a non-Greek legal entity (unless they are self-employed); and
 - d. they make a declaration that they will reside in Greece for at least two years.
3. The new tax regime applies to employees, executives (with an employment relationship), freelancers or entrepreneurs who will carry out individual business activities in Greece. It should be noted that only newly employed individuals are eligible to benefit from the new tax regime.
4. Eligible individuals may benefit from the new tax regime for a period of up to 7 years from 1 January 2021 and will receive a 50% tax break on their Greek sourced income, applicable to income tax, solidarity contributions, deemed income from housing (only for main residences) and private cars.
5. In order to register, applicants must include the jurisdiction of their tax residence in the application and the Greek tax authorities will report the transfer of their tax residence to this jurisdiction.
6. The time limit for filing the application is the 31 July of the respective tax year and Tax authorities must approve or reject the application within 60 days.
7. A ministerial decision providing guidelines for the application of the new tax regime is currently pending.

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