

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

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A. Law 4603/2019 (Government's Gazette A' 48/14.03.2019) Introduces Reductions to Withholding Tax on Dividends

1. Law 4603/2019 (the **New Law**) amends Articles 40 and 64 of Law 4172/2013 (Income Tax Code) regarding withholding tax on dividends.
2. Effective from 1 January 2019, the New Law provides for 10% withholding tax on dividends distribution (previously at 15%).

B. The Council of the European Union Updates the EU List of Non-Cooperative Jurisdictions for Tax Purposes

1. On 12 March 2019, the Council of the European Union adopted a revised list of Non-Cooperative Jurisdictions for tax purposes by adding a further ten jurisdictions to the five already listed of countries which have not implemented the commitments they made with the EU by the agreed deadline.
2. Following this revision, the countries below are now included in Annex I of the EU list of Non-Cooperative Jurisdictions.

Countries	Cooperation Status
American Samoa	Has not applied any automatic exchange of financial information and has not signed and ratified the OECD Convention.
Aruba	Has not amended or abolished one harmful preferential tax regime.
Barbados	Has replaced a harmful preferential tax regime with a measure of similar effect but has not committed to amending or abolishing it before the end of 2019.
Belize	Has not amended or abolished one harmful preferential tax regime but has committed to amend its newly identified preferential tax regime by the end of 2019.
Bermuda	Has committed to address concerns relating to economic substance by the end of 2019.
Dominica	Has not applied any automatic exchange of financial information and has not signed and ratified the OECD Convention.
Fiji	Has not amended or abolished its harmful preferential tax regime but has committed to comply by the end of 2019.
Guam	Has not applied any automatic exchange of financial information and has not signed and ratified the OECD Convention.
Marshall Islands	Has replaced a harmful preferential tax regime by a measure of similar effect but has not committed to amend it by the end of 2019.
Oman	Has not applied any automatic exchange of financial information and has not signed and ratified the OECD Convention.
Samoa	Has not amended or abolished its harmful preferential tax regime and has not complied before the end of 2018.
Trinidad and Tobago	Has not applied any automatic exchange of financial information and has not signed and ratified the OECD Convention.
United Arab Emirates	Has not committed to addressing concerns relating to economic substance.
US Virgin Islands	Has not applied any automatic exchange of financial information and has not signed and ratified the OECD Convention.
Vanuatu	Has not committed to addressing concerns relating to economic substance.

C. Circular E. 2045/2019 Provides Clarifications on the Application of the Provisions of the Code of Tax Procedure (4174/2013) to Stamp Duty

1. On 19 March 2019, the Independent Authority of Public Revenues (ΑΑΔΕ) issued Circular E. 2045/2019 on the application of the provisions of the Code of Tax Procedure (Law 4174/2013 - **the Code**) to stamp duty.
2. Reiterating its previous circulars (Circular 1317/1997 and Circular No. ΔΕΛ Γ 1189816 ΕΞ 2017), the Independent Authority of Public Revenues held that stamp duty is not classified as a withholding or indirect tax. In this respect, the non-payment of stamp duty is not considered tax evasion on the basis of Article 66 of the Code, and therefore no criminal proceedings should be initiated.

D. The Council of State Issues Decision No. 355/2019 Pertaining to the VAT Tax Basis Reduction in the Event of a Full or Partial Non-Recovery of Consideration

1. In pilot court proceedings, the Council of State held by way of Decision No. 355/2019 that the tax authorities wrongfully rejected a company's request to settle its VAT Tax Basis in the case of a total or partial non-recovery of consideration by a counterparty which is subject to rehabilitation procedures under the Greek Bankruptcy Code.
2. The Council of State held that both the competent Tax Office

and the Directorate of Dispute Resolution (ΔΕΔ) wrongfully rejected the reservation and the quasi-judicial administrative recourse filed by the applicant company, and considered the approach of the tax authorities to be contrary to the provisions of the VAT Directive (2006/112/EC).

3. It also held that Article 19, par. 5a of the Greek VAT Code (Law 2859/2000 - the VAT Code) should be interpreted:
 - a. in compliance with Article 90, par. 1 and 2 of the VAT Directive, giving the right to Member States to derogate from the basic rules pertaining to the taxable amount; the derogation is limited only to cases of total or partial non-payment and the neutrality of VAT should not be jeopardized in any way by such derogation; and
 - b. in line with the principles of equality and proportionality.
4. In this respect, the Council of State ruled that the VAT liable entity has the right to a corresponding reduction in its VAT tax basis, if it duly invokes this right and submits to the competent tax authority documents evidencing that its counterparty has been subject to the rehabilitation procedure of the Greek Bankruptcy Code and has concluded a restructuring agreement with its creditors which has been subsequently ratified by the competent bankruptcy court.
5. These documents are legally binding on the tax authorities and constitute a definitive and certain inability of recovery of the amount due. However, the tax authorities may pursue VAT recovery in the event of a subsequent (full or partial) payment of the consideration by the insolvent party.

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