

TAX BRIEFING: Monthly Insight

Withholding Tax on Salaries and Pensions, Fixed Assets Depreciation

The Ministry of Finance issued Ministerial Circular POL. 1072/2015 pertaining to withholding tax on salaries and pensions. Guidance for calculation of fixed assets depreciation was provided by Ministerial Circular POL. 1073/2015.

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Income Scale	Tax Rate	Tax per scale	Total Income	Total Tax Due
€ 25,000	22%	€ 5,500	€ 25,000	€ 5,500
€ 17,000	32%	€ 5,440	€ 42,000	€ 10,940
Above 42,000	42%			

The tax due is reduced by the amount of €2,100 to the extent taxable income does not exceed €21,000 and the tax due is equal to or higher than €2,100. For taxable income exceeding €21,000 the reduction in the tax due is limited to €100 per €1,000 of taxable income (100/1000).

Non Greek tax residents are not eligible for the above reduction but tax payers resident in an EU or EEA country may benefit from the reduction under certain conditions. Any deduction is provided upon clearance of the annual income tax return.

Monthly net salary includes any type of remuneration in the relevant period, for example allowances paid on a regular basis and listed in the same payroll as the salary.

A. Withholding Tax on Salaries and Pensions

I. Withholding Tax Scale

The Greek Ministry of Finance issued Ministerial Circular POL. 1072/2015 pertaining to withholding tax on employment income (income from salaries and pensions). Employers are now obliged to withhold payroll tax on salary income as well as on the value of benefits in kind provided to employees, although the latter is suspended until the 31st December 2015. Withholding tax is calculated based on the following scale:

2. Social Security Contributions

Premiums for group insurance policies and contributions to other social security funds (epagelmatiko tameio) payable by employees are withheld through the payroll, along with the mandatory contributions to social security funds. In order to calculate the amount of withholding tax on monthly net salaries, businesses should deduct any withholding for the mandatory contributions to social security funds, group insurance policies and contributions to other social security funds (epagelmatiko tameio) from the gross salary.

3. Board of Directors' Fees

Any income received for services provided by members of the board of directors of legal persons or entities is treated as employment income, but contributions to social security funds paid by board members are deducted from income upon clearance of the annual income tax return.

Income deriving from profits distributions is considered a dividend and subject to withholding tax on dividends (currently at the rate of 10%) and not to payroll tax.

4. Calculation of Withholding Tax

As a general rule, businesses withhold tax on the basis of the total annual net income of each beneficiary. In this respect, monthly taxable income is grossed up to annual income. For new employees or pensioners, the amount of their annual net income is calculated on the basis of the first month of employment or pension multiplied by 12 (or 14 if Christmas and Easter bonuses and holiday allowance are payable). The same gross up rule applies for employees hired on fixed term contracts (for example for a 6 month period) as well as for employees paid on a daily basis.

5. Withholding Tax on Lump Sum Payments, Additional Remuneration and Payments in Kind

Withholding tax of 20% is imposed on any amount paid in the form of net overtime pay, subsidies (epihorigisi), allowances or any additional remuneration or lump sum payments over and above salaries. Withholding tax on payments in kind is calculated upon filing of the tax return, given that the value of such payments increases the amount of income from employment.

6. Withholding Tax on Salaries and Pensions Paid Retrospectively

Withholding tax of 20% is imposed on the total amount of employment or pension income paid retrospectively, unless the right to receive such payment refers to a year during which a tax exemption was provided or a special tax rate applied. In this case, either no tax is imposed or tax is withheld at the special tax rate applicable for the respective year.

7. Reduction of Withholding Tax

Withholding tax on salaries and pensions, including payments in kind, daily salaries and lump sum payments, is reduced by 1.5%.

8. Other Issues

- a. It is clarified that income from business activities, in particular from the supply of services by individuals, is taxable at the rate applicable to income from employment, if certain conditions are met. Withholding tax is payable on the basis of the provisions for withholding tax on services. In the case of provision of services by directors or members of the board of directors of legal persons or entities, or the provision of services by a lawyer employed on a permanent basis (pagia antimisthia), income received is treated as employment income and subject to withholding tax on salaries.
- b. Withholding tax is not payable on income which is not taken into account for the calculation of employment and pension income, or is exempted from tax. For example, amounts paid to employees in respect of accommodation and travel expenses within the scope of business activities or for the provision of their services.
- c. Withholding tax on the special solidarity contribution provided for by Article 29 of Law 3986/2011 is payable for the 2015 and 2016 tax years with a reduction of 30%.
- d. Withholding tax on salaries and pensions is payable by employers by the end of the second month from the date the employee was entitled to receive the relevant income, whether this payment is considered to constitute income from employment or from business activities.

B. Guidelines for Fixed Assets Depreciation by Way of Ministerial Circular POL. 1073/2015

The Ministry of Finance issued Ministerial Circular POL. 1073/2015 which provides guidelines regarding the calculation of depreciation on fixed assets. The depreciation rates provided by the new Income Tax Code (Law 4172/2013) encompass all fixed assets, irrespective of the acquisition date, i.e. even assets acquired before 1st January 2014.

The provisions of the Circular apply to any legal person, legal entity or individual in receipt of profits from business activities. It is further clarified that business assets are assets intended to be used permanently for business purposes and that any benefits from their use extend to more than one year.

The depreciation rates correspond to 9 general categories and if an asset does not fall within one of these categories, it will be depreciated at a rate of 10%. Depreciation is mandatory, calculated on an annual basis and transfer of depreciation

amounts from one fiscal year to another is not permitted. The straight-line method is used to depreciate unless otherwise provided by special legislation. The table below depicts the depreciation rates per item:

Fixed Asset	Depreciation Rate (% per tax year)
Buildings, plants, warehouses, permanent constructions etc.	4
Quarries and Mines (supporting mining activities are not permitted)	5
Public Transport including airplanes, vessels, railways	5
Machinery and Equipment (not including hardware and software)	10
People Transportation	16
Goods Transportation	12
Intangible Assets, Royalties, Capitalized Expenses	10
Hardware and Software	20
Other Fixed Assets	10

In particular:

- a. Intangibles and royalties are depreciated at a rate of 10%, unless the initial agreement provides that they do not have a 10 year economic lifetime, in which case the depreciation rate is calculated as follows: 1 / the years of lifetime of the relevant right. Depreciation of rights existing before the entry into force of Article 24 is calculated on the basis of their remaining lifetime.
- b. Expenses for the initial establishment and acquisition of real estate is depreciated in the 2014 Tax Year at a rate of 10% and included in the capitalized expenses, irrespectively of the time in which they were realized, i.e. before or after 1st January 2014.
- c. Capitalized expenses are any expenses realized for the establishment and initial organization of an economic unit, the acquisition of permanent operation means and the expansion and re-organization of an economic unit, which expenses should serve the economic unit for more than one year. The International Accounting Standards applicable from 1st January 2015 onwards do not include capitalized expenses and therefore such costs appearing in a business's accounting statements until 31st December 2014 may continue to appear in the accounting statements until they are fully depreciated. Capitalized expenses effected from 1st January 2015 onwards will be deducted in the year during which they were realized,

unless they are non-deductible expenses or included in one of the asset categories set by the International Accounting Standards.

- d. From 1st January 2015 onwards, expenses incurred in the acquisition of an asset, and necessary in order to render the asset functional, are included in the asset's acquisition cost. Loan interest can also be included in the asset's acquisition cost according to the provisions of the International Accounting Standards or the National Accounting Standards.
- e. From 1st January 2015 onwards:
 - development expenses, i.e. expenses made for the application of research findings or other knowledge to a plan or project for the application of new or substantially improved material, tools, products, procedures, systems or services before the initiation of their production or use, are recognized as assets for accounting purposes, under certain conditions.
 - any development expenses unrelated to the specific assets are depreciated at a rate of 10%.
- f. In the case of buildings built by a lessee on plots owned by a lessor, the latter depreciates the value of the building, irrespective of the time of construction. If the lessee engages in business activities from the building, he may deduct any construction expenses from his gross income.
- g. Improvements and additions to leased real estate increase the value of the asset and are depreciated by the owner of the asset (the lessor), while the lessee may deduct the respective expenses from his gross revenues. Any non-depreciated balance referring to expenses made by the lessee before 1st January 2014 (for improvements or additions as well as for construction of buildings on plots owned by the lessor), are deducted equally during the remaining term of the relevant agreement.
- h. Repair and maintenance expenses are deducted from gross revenues.
- i. Depreciation is not calculated for periods during which assets are not productively used for the needs of the main business activity or for any secondary business activity. Special provisions apply for assets that are used periodically for reasons relating to the production procedure and for assets used seasonally in businesses that operate for certain months each year.
- j. Assets with of value less than €1,500 may be fully depreciated in the acquisition year. Alternatively, they may be partially depreciated according to the general rules of depreciation.

- k.** New businesses are entitled to suspend tax depreciation during the first 3 tax years of their operation (the non-depreciation rule).
- l.** The non-depreciation rule also applies in cases of corporate restructurings which lead to the establishment of a new business, for example in the case of contribution of business divisions to a newly established company or mergers resulting in the establishment of a new company.
- m.** If at the time of the restructuring, the businesses being restructured are considered new in accordance with the above criteria, the acquiring company, the company benefiting from the restructuring or the company resulting from a corporate transformation, may apply the non-depreciation rule to the assets arising from the new business, depending on the way they had treated asset depreciation before the restructuring.
- n.** In the case of transfer of assets, the purchase price is

calculated on the basis of tax depreciation.

Financial Leasing

In the case of financial leasing, any depreciation of assets reduces the income of the lessee. Various clarifications are provided on the concept of financial leasing. The clarifications regarding the definition of financial leasing for tax purposes apply to any agreements signed from 1st January 2014 onwards and are not affected by the legal form of the relevant agreement. If the required criteria are not met, depreciation will be effected by the lessor:

- a.** either in accordance with the provisions of the special law on financial leasing (Law 1665/1986), if the lessor is considered a financial leasing company in accordance with its provisions; or
- b.** in accordance with the provisions of the Income Tax Code. Agreements signed before 1st January 2014 will be subject to the above rules from 1st January 2019 onwards.