

TAX BRIEFING: Monthly Insight

## Recent Developments in Tax Legislation

Greece ratifies the Memorandum of Understanding, the Intergovernmental Agreement for FATCA Tax Compliance and the Competent Authority Arrangement with the United States of America. The Ministry of Finance amends the list of preferential tax regime countries for 2016 and 2017.

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#### A. Ratification of Agreements with the United States

1. In November 2017 and by way of Law 4493/2017, published in Government Gazette A 164/31-10-2017, Greece ratified the following agreements with the United States:
  - a. Memorandum of Understanding (MoU);
  - b. Intergovernmental Agreement for FATCA Compliance; and
  - c. Competent Authority Arrangement (CAA).
2. The MoU provides guidelines with regard to securities registered with the Bank of Greece or the Central Security Depository which are held in financial institutions that are not Nonparticipating Financial Institutions.
3. Law 4493/2017 sets the Determination Date for Greece as 30 November 2014, with Article 3 providing that Reporting Financial Institutions are obliged to submit the information required for the Reportable Accounts electronically to the Competent Authority by 31 May of each year.
4. The information for the Reportable Accounts must be exchanged on the later of:

- a. nine months after the end of the calendar year to which the information relates, and
  - b. the last day of the first September following the date on which the obligation of the country to exchange information takes effect.
5. Guidelines for the implementation of Law 4493/2017 are expected to be issued by the Ministry of Finance.

#### B. Updates to List of Preferential Tax Regime Countries for the 2016 and 2017 Tax Years

1. The Ministry of Finance issued an updated list of the countries considered to have a preferential tax regime for 2016 and 2017 by way of Ministerial Decision POL. 1173/20-11-2017.
2. The tax consequences of performing transactions with residents in these countries are as follows:
  - a. Payments executed to a tax resident in a preferential tax regime country or a non-cooperative country are non-deductible, unless the Greek taxpayer can provide evidence that the respective expenses correspond to real and ordinary transactions which do not result in the shifting of profits, income or capital aimed at tax avoidance or evasion.
  - b. However, payments made to a tax resident of an EU or EEA Country may be deducted if there is a legal basis for the exchange of information between Greece and this country.

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- c. For the purposes of the Controlled Foreign Companies (CFC) Rules, the non-distributed income of a CFC, subject inter alia to tax in a country with a preferential tax regime, may be considered as taxable income of the Greek tax resident who controls it.
- d. The CFC Rules do not apply to EU tax resident CFCs and EAA

tax resident CFCs (EAA countries with which an agreement for the exchange of information is in force), provided the establishment or the economic activity pursued is not artificial and aimed at the avoidance of the tax due.

- 3. The following countries are included in the list of the preferential tax regime countries:

1	St Eustatius	15	Ireland	29	Bonaire
2	San Marino	16	Qatar	30	Nauru
3	Albania	17	Kosovo	31	Cayman Islands
4	Andorra	18	Cyprus	32	Marshall Islands
5	Anguilla	19	Liechtenstein	33	Turks and Caicos
6	Vanuatu	20	Macau	34	Isle of Man
7	Bermuda	21	Republic of Maldives	35	Uzbekistan
8	Bosnia-Herzegovina	22	Montenegro	36	Oman
9	Bulgaria	23	Republic of Moldova	37	Paraguay
10	British Virgin Islands	24	Monaco	38	FYROM
11	Gibraltar	25	Montserrat	39	Saudi Arabia
12	Guernsey	26	The Bahamas	40	Seychelles
13	United Arab Emirates	27	Bahrain	41	Sri Lanka
14	Hashemite Kingdom of Jordan	28	Belize	42	Jersey

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