

## TAX BRIEFING: Monthly Insight

# Recent Developments in Tax Legislation

### In This Issue

#### A. Sales Tax on Transfer of Listed Shares – Amendments to the Procedure for Payment and Calculation of Tax

#### B. Income Tax and VAT Refunds of Amounts up to €10,000

#### C. Amendment of Article 17 of Law 4174/2013 for the Safeguarding of Tax Information and Confidentiality

#### D. EU Directive 2016/2258 is Transposed into National Law

#### E. Council of State Decision No. 1774/2018 on Capital Registration Tax in Cases of Issuance of Shares Above Par Value

#### F. Law 4571/2018 Amends Legislation on Source of Funds and Financial Interests Declarations (ΠΟΘΕΝ ΕΣΧΕΣ)

#### G. Ministerial Decision on Anti-Money Laundering Legislation

#### A. Sales Tax on Transfer of Listed Shares - Amendments to the Procedure for Payment and Calculation of Tax

1. Law 4569/2018 (Government's Gazette A' 179/11.10.2018) (the **New Law**) renames the tax imposed on transactions involving shares listed on the stock exchange or traded on a multilateral trading facility operating in Greece to 'Sales Tax'.
2. This tax also applies to shares listed on foreign stock exchanges or other recognized stock exchange institutions, on condition that the seller is a natural person residing in Greece or a foreign company with a permanent establishment in Greece.
3. The tax is due irrespective of whether the transaction is effected on the stock exchange or over-the-counter.
4. The Sales Tax is 0.2% and calculated on the transaction value of the shares. Where no such value is recorded, the tax is calculated on the closing value of the shares on the day of the transaction. For transactions which take place outside

Greece, the Sales Tax is calculated on the transfer value indicated on the transaction receipts and is payable by the holder thereof. The tax is payable within 15 days from the last day of the month in which the transaction took place.

5. In cases of transactions executed in Greece and settled by the Central Depository, Sales Tax is calculated and withheld by the Central Depository on a daily basis and is payable by the latter within 15 days of the last day of the month in which the transactions were settled.
6. For transactions settled outside the Central Depository, the calculation and charge of the tax is effected by the party participating in the Central Depository or other intermediary used for the execution of the transaction. The tax due is paid by the party participating in the Central Depository which then passes it on to the competent tax authority by way of submission of a special tax return for all transactions held and settled within the previous month. The tax is payable within 15 days of the last day of the month in which the transaction took place.
7. Under specific provisions, transactions may be exempted from the Sales Tax.

#### B. Income Tax and VAT Refunds of Amounts up to €10,000

1. Under the new provisions of Law 4569/2018, income tax and VAT in respect of which refund claims up to €10,000 are pending before the tax authorities, and for which no preliminary assessment has been issued, may be refunded up to that amount.
2. The amount is calculated and refunded in accordance with the type of tax payable (e.g. income tax, VAT, etc.) and per beneficiary, without a further tax audit.
3. The cases underlying the refund claims may however still be audited within the time limitation provided by tax legislation.

#### C. Amendment of Article 17 of Law 4174/2013 for the Safeguarding of Tax Information and Confidentiality

1. The New Law amends Article 17 of Law 4174/2013 (Code of Tax Procedures) and stipulates that tax information (such as tax registration numbers, registered seats, addresses, full names, etc.) may be disclosed to:

# BERNITSAS briefing

- a. interbank companies that manage financial data files for the account of credit and financial institutions in order to update their records;
  - b. public law legal entities, public enterprises belonging to regional and municipal authorities (OTA), public organizations and legal entities governed by private law in which the State is a shareholder, or which are subsidized on a regular basis by State resources, or whose administration is directly or indirectly designated by the State in its capacity as shareholder or by way of an administrative act.
2. The disclosure of tax information to the above legal entities is effected after the submission of a fully substantiated request and subject to the approval of the Tax Administration.

## D. EU Directive 2016/2258 is Transposed into National Law

1. The New Law transposes EU Directive 2016/2258 into national law with regard to the access of tax authorities to information that would assist in combating money laundering.
2. In the context of ensuring the operation of Mutual Assistance Proceedings (MAP), the tax authorities may access mechanisms, procedures, documents, information and any other details necessary to prevent money laundering.
3. The said provisions shall be effective from 1st January 2018.

## E. Council of State Decision No. 1774/2018 on Capital Registration Tax in Cases of Issuance of Shares Above Par Value

1. The Council of State ruled on the imposition of capital registration tax in the case of share capital increases by way of issuance of above par value shares.
2. Reiterating its previous decision (see ΣτΕ 3015/2009), the Council of State held that the difference between the disposal value (above par) and the nominal value is not subject to capital registration tax, since at the time of payment the shareholder only has the rights that correspond to the nominal value of the shares and not to the above par value. Capital registration tax is due upon the capitalization of the share premium, when additional shares are granted to shareholders increasing their rights to the legal entity.

## F. Law 4571/2018 Amends Legislation on Source of Funds and Financial Interests Declarations (ΠΡΟΘΕΝ ΕΣΧΕΣ)

*In our last Briefing, we analysed the draft bill before parliament amending the Legislation on Source of Funds and Financial*

*Interests Declarations. This has now been passed and the provisions set out below have come into force.*

1. Law 4571/2018 (Government's Gazette A 186/30.10.2018) enacted by the Greek Parliament amends the current procedure and timeline with regard to submission of Source of Funds Declarations and Financial Interest Declarations (together, **Declarations**).
2. The following time limitations are provided for:
  - a. legal entities or organizations falling within the scope of Law 3213/2003 must submit a list of the individuals obliged to submit Declarations by 22 November 2018 (as clarified by a new decision of the respective authority, this time limit has been extended up to 17 December 2018);
  - b. individuals must report information about their worldwide assets, as well as those of their spouse or life partner and any underage children on the date of submission of the relevant Declaration:
    - i. if liable to file a Declaration for the first time (**Initial Declaration**), within 90 days of the date that the individual acquired the status for the submission of the Declaration and with information up to date as at the time of the submission of the Declaration; or
    - ii. if submitting annually or for the last time (**Annual or Final Declaration**), within three months of the submission of their annual income tax return, with information up to date as at 31 December of the previous year;
  - c. exceptionally for 2018, the Initial Declaration for individuals who obtained the status for submitting Declarations within the 2016, 2017 and 2018 Fiscal Years up to the publication of this bill in the Government's Gazette (i.e. 30 October 2018), must be submitted from 4 February 2019 to 4 March 2019;
  - d. Annual Declarations for the 2016, 2017 and 2018 Fiscal Years must be submitted from 4 February 2019 to 4 March 2019 as well;
  - e. individuals who have already submitted Declarations electronically for these Fiscal Years may confirm their content for each year instead of submitting new Declarations, to the extent that all the assets held by these individuals at the respective time of submission (for the 2016, 2017 and 2018 Fiscal Years) have been properly reported.
3. Heavy fines and in some cases imprisonment are provided for delayed or inaccurate submission or non-submission of Declarations. Late Declarations submitted:
  - a. within 30 days of the expiration of the relevant time limit, may result in a fine of €200;
  - b. between 30–60 days after the expiration of the relevant time limit, may result in a fine of €800;

- c. after 60 days from the expiration of the relevant time limit, may result in imprisonment and/or a fine of up to €100,000.
- 4. Inaccurate submissions may result in imprisonment and/or a fine of up to €100,000.
- 5. Where assets with a value of more than €30,000 are not declared, a fine of up to €500,000 and a minimum imprisonment of two years are applicable. The same sanctions are also provided for spouses, separated spouses and life partners that have not reported their own or their children's assets after the lapse of 90 days from the service of a mandate by the competent authority for audits.
- 6. Where assets with a value of more than €300,000 are not declared, a fine of between €20,000 and €1,000,000 and imprisonment up to 10 years are applicable.
- 7. In the case that the law is breached as a result of negligence of the liable individual, only financial penalties are imposed.
- 8. Fines and imprisonment are also provided for third parties contributing to the breach of the law, as well as for the contact persons that are obliged to submit the list with the individuals that fall within the scope of Law 3213/2003.

## G. Ministerial Decision on Anti-Money Laundering Legislation

1. By way of Law 4557/2018 (the Anti-Money Laundering Law - **AMLL**), Greece transposed EU Directive 2015/849 (4th AML) into local legislation.
2. The AMLL provides that corporations and other legal entities are obliged to disclose specific information with regard to their Ultimate Beneficial Owner (UBO). This information will be recorded in the Central UBO Register.
3. Within the framework of the AMLL, the Independent Authority of Public Revenues (*AAΔΕ*) issued Ministerial Decision POL. 1201/2018 (Government's Gazette B 4869/29-10-2018). This Decision provides that corporations and other legal entities that do not disclose details of their UBO to the Central UBO Register will not be issued a tax clearance certificate. This administrative measure will be lifted upon registration of all the necessary information regarding the UBO with the Central UBO Register.
4. The Decision will be brought into effect by the 31 January 2019 when the Central UBO Register is expected to be fully operational.

## Contacts



**Panayotis Bernitsas**  
Managing Partner  
E [pbernitsas@bernitsaslaw.com](mailto:pbernitsas@bernitsaslaw.com)



**Fotodotis Malamas**  
Senior Associate  
E [fmalamas@bernitsaslaw.com](mailto:fmalamas@bernitsaslaw.com)

This Briefing is intended to provide general information and is not meant to constitute a comprehensive analysis of the matters set out herein or to be relied upon as legal advice. It is not meant to create a lawyer-client relationship. Legal and other professional advice should be sought before applying any of the information in this Briefing to a specific situation.

Bernitsas Law Firm is a partnership of attorneys regulated by Presidential Decree 81/2005, as currently in force, with its registered address at 5 Lykavittou Street, Athens 106 72, Greece.

If you no longer wish to receive Briefings from us, please click here to [Unsubscribe](#)