

Tax Newsletter

Changes introduced under third bail-out program for Greece (Law 4336/2015)

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Law 4336/2015, gazetted on 14 August 2015, introduces significant changes in Greek tax legislation, in line with the terms of the third bail-out program agreed between Greece and its creditors. Changes pertain to the areas of (i) corporate income tax, (ii) VAT, (iii) real estate property tax (ENFIA), (iv) tax leniency & tax settlement programs, and (v) shipping taxation.

The present tax newsletter highlights key changes in areas (i)-(iv) and is supplementary to our 14 August 2015 Tax Newsletter, which focused exclusively on changes in shipping taxation. More specifically:

Advance payment of corporate income tax

The advance payment of corporate income tax for partnerships, non-profit entities and other entities of a similar legal nature will be assessed at an increased rate of 100% (as applicable for corporations). The new rate applies for profits arising in fiscal years starting from 1 January 2016, whereas reduced rates of 55% and 75% apply for fiscal years 2014 and 2015, respectively.

The above new rates apply also to individuals earning business income.

Corporate income tax payment schedule for fiscal year 2014

Corporate income tax for fiscal periods that started on 1 January 2014 and ended on 31 December 2014 shall be payable in 5, instead of 6, equal monthly instalments, starting from August 2015. The new rule applies to corporate income tax returns filed from 14 August 2015.

Payments to preferential and non-cooperative tax jurisdictions; repeal of 26% tax prepayment

The provision of article 21 of Law 4321/2015, which imposed an obligation to prepay

26% tax on payments to foreign entities, as a condition for the tax deductibility of the relevant expense, is retroactively abolished *i.e.* as of its introduction back in March 2015.

By way of reminder, the provision in question, which aimed to tackle potential tax avoidance in the context of triangular transactions and other transactions with preferential tax regimes and non-cooperative jurisdictions, caused significant turbulence in the Greek market due to the heavy compliance cost that it triggered.

Following abolition of article 21 of Law 4321/2015, the previously applicable regime of restrictions on the tax deductibility of payments made to non-cooperative jurisdictions and preferential tax regimes is reinstated. In specific, such expenses are tax deductible, as long as the taxpayer proves that the relevant transaction is actual and ordinary and does not aim to tax avoidance or tax evasion.

VAT on educational services; limitation of scope of exemption

Whereas until now educational services provided by private entities (including the supply of goods and services closely related thereto) were exempt from VAT, under the condition that the supplying entities were properly licensed, with effect from 20 July 2015, educational services in question are exempt from VAT, to the extent that the following additional conditions are cumulatively met:

- They are supplied by private entities that do not systematically aim to make a profit, while any surpluses arising from their activity must not be distributed, but must be assigned to the continuance or improvement of the services supplied
- Such entities must be managed and administered on an essentially voluntary basis by persons who have no direct or indirect interest, either themselves or through intermediaries, in the results of the activities concerned
- These entities must charge fees lower than those charged for similar services by commercial enterprises subject to VAT
- The exemption must not be likely to cause distortion of competition.

The above conditions do not apply in relation to pre-school education.

The VAT Directive allows EU Member States to exempt from VAT a number of activities performed by private entities, apart from educational services, under one or more of the above-mentioned conditions. It remains to be seen, how the Greek Ministry of Finance (MoF) will further adjust the above generic conditions, as regards educational services in particular, taking into account the features of the Greek market.

Timing of adjustment of VAT deductions

In the past, any necessary adjustments on the deduction of input VAT were made through the annual VAT return, that was filed for the relevant fiscal year (e.g. in relation to pro-rata or the adjustment period of capital goods).

Following the repeal of the obligation to file annual VAT returns for fiscal years ending from 1 January 2014, any required adjustments will from now on be made through any of the periodical VAT returns filed within the first 4 months, following the respective fiscal year end.

Real estate property tax (ENFIA); payment schedule and scope of exemptions

Changes in the field of real estate property tax (ENFIA) are summarised as follows:

- The assessment of ENFIA by the tax administration for year 2015 has been scheduled to take place within October 2015
- The deadline for the full collection of ENFIA for year 2015 has been extended to 29 February 2016, payable in 5 equal monthly instalments, starting from 30 October 2015
- Real estate properties owned by the Greek National Tourism Organization are no longer exempt from ENFIA. This is under the condition that properties in question are exploited for commercial purposes
- Hotel units, operating as privately-owned enterprises, are now subject to the supplementary tax (imposed on owners of properties of a value exceeding Euro 300,000 in total); the previously applicable exemption has been abolished
- The 20% discount on taxes for residences/business properties held by private individuals that reside in Greece which were not connected to the electricity grid during the previous year, that was applicable only for year 2014, will remain in force also for year 2015.

The Government has announced the intention to proceed with the rationalisation of properties' statutory values (i.e. the reference value for purposes of calculating, among others, real estate taxes) without though reducing the ENFIA collection target amount (Euro 2.6 billion). If the intention materialises, it may result to further amendments in applicable rates and scales for the assessment of ENFIA for year 2016.

Changes in the terms of tax leniency programs

The new Law introduces changes in the terms of tax leniency programs that have been introduced by Law 4305/2014 and Law 4321/2015. Changes in question affect future payments to be made under either of the said tax leniency programs. In specific:

- The annual interest rate that applies on outstanding tax debts payable to the Greek State under payments agreed in the context of the above tax leniency programs is increased to 5.05%. Previously applicable interest rates were 3% under Law 4321/2015 and 4.56% under Law 4305/2014. To be noted that an exemption may still apply, under certain conditions, for tax debts of a value below Euro 5,000. The new interest rates will become applicable 2 months following publication of the new Law (*i.e.* from 14 October 2015)
- The tax authorities reserve the right to revisit payment schedules already agreed with taxpayers, in order to reduce the number of monthly instalments for the settlement of outstanding tax debts, taking into consideration the financial condition of each taxpayer
- The circumstances, under which the tax authorities have the right to revoke benefits granted to taxpayers under tax leniency programs, become broader (particularly in relation to potential delays in monthly payments).

Regular tax debt settlement regime

The new Law introduces certain changes in the regular tax debt settlement regime, provided under the Greek Code of Tax Procedure (article 43 of Law 4174/2013). The regime in question may apply for any type of outstanding tax debt and allows gradual repayment in monthly instalments.

According to the new Law, application of the regime in question for tax debts exceeding Euro 150,000 is facilitated, by releasing taxpayers, for the next 2 years, from the obligation to provide guarantees or other in rem securities to the State. Furthermore, tax debts that are repaid under the terms of the payment schedule provided in the Law in question will be subject to interest calculated at a 5.05% rate on an annual basis, instead of the default interest rate of 8.76% that is generally applicable to outstanding tax debts, according to Law 4174/2013.

Similar changes are also introduced in relation to the tax debt settlement regime provided by Law 4152/2013.

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