

# Tax - Breaking News

November 2018



## An alert concerning urgent provisions relating to the Assets Declaration Return (Pothen Esches) and Financial Interests Declaration

Consistent with our commitment to keep you updated on the latest tax and regulatory developments, we summarize below the most significant clarifications regarding the Assets Declaration Return (ADR) and the Financial Interests Declaration (FID) in line with the recent amendments of Law 4571/2018 (Gazette A' 186/30.10.2018).

### ADR & FID Submission Deadlines

- The **initial ADR and FID are submitted** by obliged individuals **within 90 days from their appointment** to a relevant position, while the **annual ADR and FID are submitted within 3 months following the expiry of the annual income tax returns submission deadline**.
- **Exceptionally**, for individuals whose obligation arises during 2016, 2017 and until 30 October 2018, the initial as well as the annual ADR and FID for years 2016 (tax year 2015), 2017 (tax year 2016) and 2018 (tax year 2017), are submitted **between 4 January 2019 to 4 March 2019**.
- Persons included in the **new categories of obliged individuals**, must submit their **initial return for 2018** within 90 days from the publication of the new law, i.e. **by 28 January 2019**.

### ADR Content

- The **initial ADR** includes assets existing **at the time of the obliged individual's appointment** declaring them **at acquisition value** as well as **the manner of acquisition**.
- Obliged individuals must also report in their initial or annual ADR assets held by **their spouse, the de facto separated spouse, or** the person with whom they have **entered into a civil union** and each of **their minor children, even if they became adults** within the year of interest.

- According to the new law, the total amount of **cash (held outside financial institutions, funds and trusts etc.)** which should be declared in the ADR, has increased from EUR 15 000 to values **exceeding EUR 30 000** (this refers to the cumulative amounts for the obliged individual, their spouse and minor children, as well as the person with whom they have entered into a civil union).
- Furthermore, according to the new law, **the value of each movable asset** to be declared has increased from EUR 30 000 to values **exceeding EUR 40 000, including VAT**.
- Obliged individuals who submitted their ADR and FID electronically during 2016, 2017 and 2018 are able to **verify such returns, as long as there is no need to modify their content based on the updated provisions** of the new law.
- Initial returns which were **submitted by 30 October 2018** by obliged individuals who were appointed during 2016, 2017 and 2018, and whose returns include **assets existing at the time of the ADR's submission, do not need to be amended just to include assets existing at the time of their appointment**.
- The return is **submitted by the obliged individual** and must be **approved by the spouse**, or the person with whom they have entered into a civil union, with regards to such person's own information, whilst both of them must verify the assets of their minor children. **Separated spouses have the same obligation to approve** their personal as well as their minor children's content of respective return.
- **In case of refusal or inability** of the spouse, the de facto separated spouse or of the person with whom the obliged individual has entered into a civil union, to fulfill the aforementioned obligations, the return is **submitted, without approval, only by the obliged**

**individual, who must state the reason of refusal or inability, as well as the Tax Identification Number (TIN) of the other person.** In such a case, the spouse, the de facto separated spouse, or the person with whom the obliged individual has entered into a civil union, shall be invited by the competent audit authority **within a period of 90 days**, in order to declare their own assets and those of their minor children.

### Administrative fines & Criminal Sanctions

- **ADR omissions or inaccuracies** may be voluntarily corrected by the obliged individual **within one (1) month** from the expiry of the ADR submission deadline.
- **Late ADR submission is allowed within thirty (30) days** following the expiry of the relevant deadlines, upon the **payment of an electronic administrative fee** of EUR 200 (for individuals obliged to submit their return to the Audit Committee) or EUR 100 (for other obliged individuals). In such cases, the obliged individual has **no criminal liability**.
- **Once thirty (30) days lapse**, a late ADR can be submitted upon the **payment of an electronic administrative fee** of EUR 800 (for individuals obliged to submit their return to the Audit Committee) or EUR 300 (for other obliged individuals). If the late ADR is submitted **after the thirty (30) days but within sixty (60) days**, the respective obliged individual has **no criminal liability**.
- **Once sixty (60) days lapse**, the obliged individual who submits a late return or **fails to submit** or submits an **inaccurate or incomplete ADR**, is punished by a term of **imprisonment and a fine** up to EUR 100 000.
- **A return is also considered inaccurate** when declared assets or their increase is not justified by the legally acquired income of an obliged individual. If the obliged individual commits an offense **in order to conceal an asset with a value exceeding EUR 30 000**, they are punished by a term of **imprisonment** of at least two (2) years **and a fine** ranging between EUR 10 000 to EUR 500 000. If the total value of the concealed property exceeds EUR 300 000, the obliged individual is punished by a term of imprisonment up to ten (10) years and a fine between EUR 20 000 to EUR 1 000 000.
- **The ADR is not considered to be inaccurate or incomplete** in case of non-substantial inaccuracies or omissions, or if, upon the Audit Committee's request, the legality of the source of the asset which was inaccurately declared is duly justified.
- **The ADR audit shall take place within five (5) years** following the end of the submission year. In case of serious evidence or new evidence or an attempt to commit a serious crime, the audit may be exceptionally carried out before the expiry of the criminal offense statute of limitation.

### Obligations of entities engaging obliged individuals

- **The list of ADR & FID obliged individuals** should be **uploaded on the "Pothen" electronic platform** by

the certified users of the entities' engaging obliged individuals.

- For this reason, the entity is required to **appoint at least one employee and one substitute** as the contact persons and the persons responsible to electronically upload the list of ADR & FID obliged individuals onto the "Pothen" platform. Such persons shall be **registered as "certified users"** as soon as possible and in any case before **30 November 2018**.
- The **list includes the obliged individuals who** acquired, possess or lost their appointment as obliged individuals **during the previous year**, in accordance with the provisions in force. In case there are no obliged individuals, a **nil list must also be submitted by the certified users**.
- The **lists of ADR & FID obliged individuals** as well as the **nil lists**, must be electronically submitted by **17 December 2018**. For the following years, the lists shall be submitted by the end of February of each year.
- The **certified user who omits to electronically upload the list of obliged individuals**, is punished by a term of **imprisonment** of at least six (6) months.
- According to recent instructions sent electronically to certified users, **entities** which are obliged to upload the lists are also **required to timely inform the respective individuals**, with a signed notification, that they are obliged individuals, that they must comply with certain resubmission obligations along with the relevant deadlines as well as of the new penalties and sanctions.

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This Newsletter aims to provide the reader with general information on the above-mentioned matters. No action should be taken without first obtaining professional advice specifically relating to the factual circumstances of each case.

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