

# Tax - Breaking News

August 2019



Consistent with our commitment to keep you updated on the most significant tax developments, we outline below the recent developments regarding the foreign tax credit on Special Solidarity Contribution

- Circular C.2147/2019 of the IAPR provides guidelines regarding **foreign tax credit on Special Solidarity Contribution on foreign source income** earned by Greek tax residents, which Greece has the right to tax under the existing Double Taxation Treaties (DTT's) listed in the Annex of the said Circular. This is in aid for the Independent Authority for Public Revenue (IAPR) to align with Decision no 2465/2018 of the Council of State (the Council).
- This Circular adopts in principal the Council's position that the Greek Special Solidarity Contribution is considered to be a tax similar to the Income Tax, to which foreign tax credit is also provided, specifying further the credit or refund procedure.
- Specifically, taxpayers can submit an amended tax return, without penalties and with the indication "FOR FOREIGN TAX CREDIT PURPOSES" under C.2147/2019 in order for their tax returns to be re-assessed. The amended tax return shall be submitted to the competent tax office in hardcopy by the last working day of tax year 2019, providing all necessary supporting documents set out by C.1026/2014.
- According to explicit reference in the newly issued Circular, tax credit on Special Solidarity Contribution can be provided **for tax years 2015 onwards**, under the condition of an existing foreign tax excess, not already set off with the initial assessment of the tax return.

- The circular also clarifies that the provided tax credit cannot exceed any outstanding amount of non-offset foreign income tax.
- In case the Special Solidarity Contribution has been paid undue, it can be refunded by filing amended tax returns in hardcopy, practically following a unified procedure, with no need for any further written requests.

## KPMG's comments

- Without a clear justification, the said Circular restricts the right of the foreign tax credit on Special Solidarity Contribution to tax year 2015 and onwards.
- This restriction may be based on a reference to tax year 2015 in the reasoning of the Court's Decision, most probably not because the ultimate results of the Decision are restricted to this specific tax year, but because 2015 is the year at stake in the initial appeal that triggered the "Pilot Trial" procedure.
- However, in contrast, and according to the reasoning of the Decision 2465/2018 of the Council of State, the claim of foreign tax credit on the Special Solidarity Contribution for previous tax years cannot be ruled out in principle and, therefore, such a request may appear to be a reasonable claim against the Tax Administration.

## Contact us

Georgia Stamatelou  
Partner, Head of Tax and Legal  
T: +30 210 60 62 227  
E: [gstamatelou@kpmg.gr](mailto:gstamatelou@kpmg.gr)

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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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