



Consistent with our commitment to provide [updated information](#) on current tax issues, we set down below some interesting tax amendments introduced by virtue of the recently published Law 4864/2021.

The scope of the provisions of the recently published law 4864/2021 is mainly to reform and improve the existing regulatory framework on strategic investments.

At the same time, however, the provisions of the new law have introduced some amendments to other pieces of existing legislation (e.g. Law 89/1967, Income Tax Code, Code of Tax Procedures, etc.) aiming to the modernization of the applicable legal framework on certain issues, in parallel with the resolution of malfunctions and the removal of any ambiguities that have been observed in the current provisions.

Some interesting amendments introduced by the new legislation are listed below:

## **Amendments to Law 89/1967**

According to the new provisions, a foreign enterprise should be able to establish in Greece more than one independent establishments that can be subject to the special tax regime of Law 89/1967.

Moreover, the new provisions introduce the possibility of receiving a temporary operation license (issued within a much shorter period than that required for issuance of the final license) so that the enterprise that wishes to operate under the tax regime of Law 89/1967 will be able to commence its activities sooner, without, however, being able to benefit from application of the provisions on profit margin before the final license is issued.

It is also provided that among the documentation required to be submitted to the competent authorities for issuance of the relevant operation license of Law 89/1967, it will also be required to submit a certificate issued by a lawyer or a certified public accountant certifying that the submitted documents are accurate and appropriately issued competently among the supporting documents.

Finally, on what concerns the subsidies granted to establishments of foreign companies or domestic companies that do not fall under the special tax regime of Law 89/1967 but provide the same services set by such law as a new activity, it is stipulated that the

condition of the minimum number of new job positions (set at 150 under the previous provisions) will hereinafter be determined based on the type of services provided, in a similar way as for companies that fall under the special tax regime of Law 89/1967 (namely 30 or 50 or 100 new job positions depending on the type of service).

## **Amendments to the Code of Tax Procedures (amendment of articles 54E and 54ZT of Law 4174/2013)**

The new amendment aims to provide a limit to the amount of fine imposed in cases of non-maintenance of accounting records (books), or failure to update them timely as specified by the relevant provisions, or failure to present them to the tax authorities where the tax authorities have requested them; such limit is calculated at three times the minimum fine imposed depending the case.

Moreover, it is provided that the above limits do not apply in case of non-maintenance or non-presentation of the Tax Electronic Mechanism («ΦΗΜ») to the tax authorities following their request, when the person liable for the infringement is the holder-user of the tax electronic mechanism, due to the gravity of the infringement. It is also clarified that the fine in case of the above infringements related to tax electronic mechanisms, is imposed in the context of limited scope tax audits carried out at the taxpayer's premises, and shall not be imposed in case the loss of said tax electronic mechanisms has been declared before the issuance of the tax audit mandate.

Finally, a new provision is introduced which harmonizes the procedure for the imposition and notification of the above fines with the procedure followed for other fines, as set in the Code of Tax Procedures.

The above amendments related to penalties have come into force as from 2 December 2021 and are also applicable to cases where no final tax assessment notes have been issued until 29 November 2021.

## Amendments to the Income Tax Code (amendment of article 71A of Law 4172/2013)

By amending the relevant article, which provides for income tax exemption of profits derived from the exploitation of patents, the new law requires as a condition for such tax exemption, that said profits should be connected with the relevant R&D expenses incurred by the company for the development of the patent. It is noted that said tax exemption is granted for up to three (3) consecutive years, starting from the year in which these profits were realized for the first time. The amount eligible for exemption should be recorded in a special reserve account and will be subject to taxation according to the general tax provisions for the part each time distributed or capitalized. Moreover, the new law introduces a specific formula for calculating the amount eligible for exemption based on the nexus ratio, which is determined by the OECD 2015 Report for BEPS Action 5 as the ratio of eligible R&D expenses to total R&D expenses, applicable to the amount of profits derived from the exploitation of patents. Furthermore, when calculating the amount of the exemption, it is possible for the numerator of the ratio (that refers to the eligible R&D expenses) to be increased by thirty percent (30%) provided that it does not exceed the amount of total R&D expenses. Such increase, always according to the aforementioned OECD Report for BEPS Action 5, aims to include also non-eligible R&D expenses in the numerator of the ratio (e.g. patent acquisition costs and costs for the provision of services by related parties), so that enterprises that

have a large proportion of non-eligible expenses are not discouraged from making use of the incentive. Finally, the definitions of "internationally recognized patents", "eligible R&D expenses", "total R&D expenses" and "profits from the exploitation of patents" are introduced in line with the aforementioned OECD Report for Action BEPS 5.

[Contact us](#)

**Christos Krestas**

Partner

Tax

T: + 30 210 60 62 394

E: [ckrestas@kpmg.gr](mailto:ckrestas@kpmg.gr)

[More information at](#)

[kpmg.com/socialmedia](https://kpmg.com/socialmedia)



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.