

# Tax Updates

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Consistent with our commitment to provide [updated information](#) on current tax issues, we set out below some interesting tax provisions introduced by virtue of the recently published Law 4972/2022

The provisions of the recently issued **Law 4972/2022** (FEK A' 181/23.09.2022) introduced various interesting tax regulations, the most important of which are the following:

### ***Correction of profits of affiliated enterprises for domestic intra-group transactions following a tax audit***

- By adding a relevant provision to Article 50 of the Greek Income Tax Code (ITC), it is now provided that if, following a tax audit, the profits of a domestic legal entity have been assessed to include profits, which are subject to tax in Greece at the level of another domestic related legal entity, then this second related legal entity may request a corresponding adjustment to its taxable profits by submitting an amending tax return.
- The amending tax return is submitted within three (3) months from the date the relevant tax assessment note was notified to the first related legal entity.
- This provision applies to cases where the tax assessment note was issued after its entry into force as well as before, as long as these cases are pending before the administrative or Supreme Court or there is an ongoing litigation procedure.
- The refund or offsetting of taxes of the second related legal entity may take place only after the payment of the tax resulting from the correction of the taxable profits of the first related party regarding the intercompany transactions between them.
- If the tax assessment note is challenged and an administrative or judicial decision is issued, the Tax Administration will adjust accordingly the profits of the second related legal entity.
- The new provision aims to resolve the issue of double taxation of taxable profits in Greece at the level of two domestic affiliated legal entities following a tax audit.

### ***Clarification of the scope of stamp duty on interest-bearing loans***

- By relevant amendment of Article 63 of the VAT Code, it is now provided that, retroactively as of 01/01/2021,
  - the provisions concerning imposition of stamp duty shall apply unaffected on interest-bearing loans and other financing arrangements and on any interest arising therein;
  - stamp duty exemptions provided for in other provisions shall continue to apply; and
  - stamp duty amounts arising from loans and other financing arrangements (and the resulting interest) concluded until the entry into force (publication) of this law shall be paid until 31/12/2022.
- It is noted that the new provision overturns the expectations for future treatment of interest-bearing loans as per the recent decisions of the Council of State No. 2123/2020 and 2363/2020 and the decision of the Dispute Resolution Department No. 4684/2021, since it is explicitly provided that as from 01/01/2021 all interest-bearing loans will be subject to stamp duty (taking into consideration of course the relevant exemptions introduced by the stamp duty legislation), whereas the possibility for reclaiming any stamp duty paid in fiscal years before 01/01/2021 should be examined on a case by case basis.

### ***Penalties for non-transmission of retail receipts issued by Electronic Tax Mechanisms (FHM)***

- By adding a new Article 54H to the Code of Tax Procedures, penalties are introduced as of 31/10/2022 in case of non-transmission of retail receipts data that must be transmitted to the myDATA digital platform through the Electronic Tax Mechanisms Information System of AADE.
- Furthermore, the measure of suspension of business operation is also introduced in case it is established that more than ten (10) retail receipts issued through the Electronic Tax Mechanism are not transmitted to the Information System of AADE, or, regardless of the number of non-transmitted retail receipts, if the non-transmitted value of goods or services exceeds EUR 500.

### **Clarification of the methods for cash gifts and parental donations of cash through financial institutions for the application of the tax-free amount of EUR 800 000**

- By virtue of the provisions of the new law, it is clarified that for the application of the tax-free amount of EUR 800 000 to cash gifts and parental donations of cash made between 01/10/2021 and 09/09/2022, the withdrawal of funds from the bank account (or joint bank account) of the donor and the deposit of the same amount within three (3) working days to the bank account of the donee (or to a joint account of the donee with the donor or with a third person) is considered as a "transfer of funds through financial institutions".

### **Abolition of Special Solidarity Contribution**

- By amendment of Article 72 par. 74 ITC, special solidarity contribution is abolished for all income earned as of 01/01/2023 onwards, whilst for tax year 2022 all types of income are exempt from special solidarity contribution except for income from public sector employment and pensions.

### **Exemption from entrepreneurship duty**

- For the tax year 2022 and onwards (with effect as of 01/09/2022), there is an exemption from the obligation to pay the entrepreneurship duty applicable for individuals engaged in business activity (freelancers) as well as for legal entities that increase by at least 3/12, as compared to the previous tax year, the total time of employment of their full-time employees in one (1) year, under certain conditions.

### **Amendment of provisions for the issuance of electronic invoices**

- The scope of Articles 148 to 154 of L. 4601/2019 is now extended to include the adoption of rules for the issuance of electronic invoices for any expenditure.
- Moreover, the existing restrictions regarding the value of public contracts for the issuance of electronic invoices are abolished (whereas until now the obligation to issue an electronic invoice existed only above certain thresholds).

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