

# Tax Updates

14 December 2022



Consistent with our commitment to provide [updated information](#) on current tax issues, we set down below the latest tax provisions introduced by virtue of recent laws and decisions

## Law 5000/2022

The provisions of the new Law 5000/2022 (FEK A' 226/09.12.2022) introduced some interesting tax provisions, the most important of which are the following:

### **Extension until 31/12/2024 of the possibility to be included in the VAT suspension regime for real estate**

The possibility for VAT-registered constructors of buildings for sale to opt for inclusion of all their unsold buildings to the VAT suspension regime is extended until 31/12/2024, so that the supply of said real estate is not subject to VAT, under the same terms and conditions as before (without however stipulating a deadline for the submission of the application for suspension). Suspensions already granted until 31/12/2022 are extended until 31/12/2024.

### **Extension until 30/6/2023 of the reduced and super-reduced VAT rates for certain goods and services**

- The reduced VAT rate (13%) on transport services for persons and their luggage, catering services, non-alcoholic beverages and aerated waters, zoo tickets, services provided by gyms and dance schools, and tourist packages is extended until 30/6/2023.
- The over-reduced VAT rate (6%) on certain personal hygiene and protection goods as well as on tickets for theatres, concerts and cinemas is extended until 30/6/2023.

### **Amendments to article 5A ITC**

- The application for the change of tax residence status for the purpose of qualifying under the alternative taxation of income arising abroad as per article 5A of the income Tax Code (ITC) must now be accompanied by proof of the transfer of the minimum amount of the investment (which is a pre-condition for coming under this alternative taxation regime) to an account opened at a financial institution established in Greece. Respective condition applies in case of individuals subject to the regime of article 5A ITC as of tax year 2022 onwards.

- The Tax Administration examines the application and issues a decision approving or rejecting it until the last working day of June (and not of September, as was previously the case) of the year in which the application is submitted.
- A new provision is added based on which, if it is evidenced after the expiry of the three-year period within which the investment should have been completed, that the individual has not completed the investment, then the application of the provisions of article 5A ITC is waived as of the first year the individual was subjected to the regime so that the individual will be taxed since then for his/her worldwide income according to the general provisions of the ITC. Respective provision applies for tax years 2021 onwards. In such case, the tax payable on foreign source income cannot be less than EUR 100 000. Furthermore, the tax payable on foreign source income may be reduced by the amount of the lump sum tax paid. However, such income tax reduction cannot exceed the tax payable on foreign source income.
- The possibility to change the investment once within the three-year period can be provided by virtue of a joint decision of the Ministers of Finance and Development & Investment.
- Especially for individuals, who have been subject to the regime of article 5A ITC during tax years 2020 and 2021, the pre-condition for performing an investment in Greece is considered to be fulfilled if it is evidenced that the intended investment was completed within the stipulated period of three (3) years from the submission of the application.
- Especially for tax year 2022, the application for qualifying under the alternative taxation regime of Article 5A ITC shall be submitted to the Tax Administration by the individual until 15/12/2022. The Tax Administration shall examine the application and issue a decision approving or rejecting it by the last working day of December 2022.

### **Extension until 31/12/2024 of income tax reduction for building upgrade expenses under article 39B ITC**

The 40% tax reduction provided for expenses incurred by individuals for energy, functional and aesthetic upgrading of their buildings is extended until 31/12/2024, distributed equally, as is currently the case, over a period of four (4) tax years and for a maximum total amount of expenses up to EUR 16 000.

### **Extension until 31/12/2024 of the capital gains tax suspension on the transfer of immovable property**

The suspension of applicability of article 41 ITC, which provides for imposition of capital gains tax at the rate of 15% on the transfer of immovable property by private individuals, is extended until 31/12/2024.

### **Amendments in relation to the maximum duration of the appointment of certified auditors/audit firms**

The maximum period of appointment of certified auditors/audit firms for the statutory audit of legal entities is extended to seven (7) years (instead of five (5), as was the case until now) and they cannot be re-appointed for the statutory audit of the audited legal entity before the lapse of three (3) years (instead of two (2) years, as was the case until now) after the abovementioned end of their duties.

### **Shipping Taxation Developments**

- An Addendum introducing amendments to the “New Agreement between the Greek State and the Maritime Community” (which was concluded on 27 February 2019) has been ratified with retroactive effect as of 1 January 2022. The most significant terms of the Addendum include the following:
  - the Voluntary Contribution rate applicable on dividend income received by shipping companies and imported into Greece, is determined to **5%** (instead of 10%, as previously in force);
  - the Voluntary Contribution and the above mentioned rate applies also to capital gains derived from the sale of shares of ship owning entities or holding companies of ship owning entities;
  - the Voluntary Contribution may also apply to non-signatory members of the maritime community (irrespective of whether they have signed the Addendum or the Agreement) assuming certain conditions are met;
  - the total annual minimum amount of the Voluntary Contribution to be paid by the members of the maritime community is set to EUR 60 million (instead of EUR 40 million as previously determined).
- A new article 26d is added in Law 27/1975 providing that, as of tax year 2023, time/voyage charterers that offer transportation services using equipped and staffed vessels of other companies, can be subject to the tonnage tax regime also for those vessels in

parallel with the other ships that they are exploiting and which are either owned or bareboat chartered by them, assuming certain specific conditions are met. Namely, at least 25% of their total fleet should bear the flag of an EU/EEA member state or their time/voyage chartered vessels that do not bear an EU/EEA flag should not exceed 75% of the their owned or bareboat chartered vessels.

### **Other recent tax developments**

- By virtue of joint decision 174950 EΞ 2022 of the Minister of Finance and the Minister of State (Government Gazette 6092/B/29.11.2022), public access to the Central Registry of Ultimate Beneficial Owners (i.e. the Greek UBO Registry) has been suspended as of 1 December 2022 (date when public access possibility was scheduled to commence) and until 31 January 2023. The above mentioned joint ministerial decision was issued following the recent ruling of the Court of Justice of the European Union (CJEU) in relation to court cases C-37/20 and C-601/20, according to which the general public's access to information on Beneficial Owners constitutes a serious interference with the fundamental rights of private life and of the protection of personal data.
- By virtue of decision A.1160/2022, the Independent Authority of Public Revenues (IAPR) has redefined the procedure for the refund of corporate income tax and the method for crediting the bank accounts of the beneficiaries of such refund. More particularly, it is provided that where the electronic filing of the corporate income tax return results in credit tax which has to be refunded, because the amount of withholding tax or advance tax was higher than the income tax due, the tax balance shall be refunded by the tax administration to the beneficiary legal entity without requiring the submission of a tax refund claim, in accordance with the procedure introduced by the above mentioned decision and within the constraints of the statute of limitation provisions. The terms of the above mentioned decision have entered into force as of 19 November 2022.
- By virtue of decision A.1165/2022 of IAPR, it is provided that as of 1 February 2023 taxpayers will be able to submit only digitally at [www.aade.gr](http://www.aade.gr) (using their TAXISnet passcodes) administrative appeals and relevant applications for the suspension of enforcement against actions, written or silent, of the tax administration. The decision introduces a transitional period starting from 29 November 2022 (and from 15 December 2022 especially for actions of Tax Offices of A-B and B Class) during which, administrative appeals and relevant applications for the suspension of enforcement can be submitted either digitally or manually.
- By virtue of new Law 4994/2022 (Government Bulletin A' 215/18.11.2022) the Greek government has introduced a Temporary Mechanism for the Return of a Portion of Retail Market Revenues according to which an obligation for a special contribution is imposed on Electricity Suppliers based on their excess

(windfall) revenues from their activities in the domestic retail market of electrical energy during the period between 1 August 2022 and 1 July 2023. The new law introduces a method for calculating the excess revenues per each month and stipulates that the contribution would be equal to the total excess revenue of the examination month for each supplier as long as it has a positive value, whereas if the monthly excess revenue is negative, the month's contribution for the supplier would be counted as zero and that negative amount would reduce the amount of the contribution of the following months for as long as the Temporary Mechanism is in force. Moreover, the new law provides that Electricity Suppliers can deduct the amount of the above mentioned contribution, as an expense, for the determination of their taxable base for corporate income taxation purposes.

- By virtue of Decisions No. 2258-2266/2066, the Council of State (seven-member session of its Second Chamber) judged that art. 68 par.1 of Law 4150/2013 is not in line with the primary EU legislation on what concerns exemption from any tax or duty during the transfer to only Greek credit institutions of property assets or liabilities of Greek branches of EU credit institutions, within the context of the recovery of the banking system in the member state in which the credit institution is established. In view of the fact that the above mentioned tax exemption includes the Real Estate Transfer Tax (RETT), it was decided that application of RETT exemption when Greek real estate owned by the Greek branch of a foreign credit institution is transferred only to Greek credit institutions, excluding application of said RETT exemption during the transfer of real estate to foreign credit institutions, constitutes a discriminatory tax treatment against Greek branches of EU credit institutions since it is based solely on the criterion of the registered seat of the credit institution which acquires the real estate.

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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.