

**12 February 2015**

# Breaking News Tax

Consistent with our commitment to provide [updated information](#) on current tax issues, we summarize below:

## **Clarifications on the capital gains and investment income - Circulars of the Ministry of Finance POL 1032/2015 and POL 1042/2015**

As part of our continuous effort to keep you updated on the latest tax developments, we summarize below the most significant clarifications on the capital gains and investment income.

### **POL 1032/2015 regarding capital gains from the disposal of securities**

The long expected circular providing guidance on the taxation of capital gains from the disposal of securities was issued on 26 January 2015. The circular clarified many “grey areas” relating to the taxation of the gains for both individuals and legal entities, resident and non-resident, arising from the disposal of securities (listed and non-listed) such as shares, partnership parts, corporate bonds, government bonds, treasury bills, warrants, derivatives etc., and also clarified the method for determining such capital gains.

The most important points clarified are the following:

- Interested individuals are also required to submit, to the relevant Department or Bureau mentioned above, no later than the last working day of the first ten days of September of the tax year following the tax year of departure one of the following documents:

### **Taxation of foreign individuals (resident in Double Tax Treaty (DTT) countries):**

- capital gains are exempted from taxation;
- no need to obtain a Greek tax registration number;
- no need to file any (nil) tax return;
- must provide tax resident certificate.

### **Taxation of foreign legal entities with no permanent establishment in Greece (whether resident in DTT countries or not):**

- capital gains are exempted from taxation;
- no need to file any (nil) tax return;
- although not specifically mentioned in the circular, it appears that there is no need to obtain a Greek tax number;
- although not specifically mentioned in the circular, it appears that there is no need to provide a tax residence certificate.

### **Disposal of units in UCITS established in EU/EEA countries**

The tax exemption of capital gains arising from the disposal of units in UCITS established in Greece applies also to the transfer of units in UCITS established in EU/EEA countries.

### **Disposal of corporate bonds issued in EU/EEA countries**

The tax exemption of capital gains arising from the disposal of Greek corporate bonds applies also to the disposal of EU/EEA corporate bonds.

## Sale of listed securities

Legal entities do not enjoy the tax exemption that applies to individuals for capital gains derived from the sale of listed securities based on the date of acquisition (i.e. for listed securities acquired before 1 January 2009) and for capital gains from the disposal of listed shares based on holding percentage (i.e. when the seller holds less than 0.5% of the underlying entity's stock).

## POL 1042/2015 regarding the tax treatment of dividends, interests and royalties as of 1 January 2014

Clarifications are provided in relation to the distribution of all types of dividends (i.e. from shares, other participation rights in profits, units, mathematical reserves, interim dividends, profits of domestic or foreign trusts, etc.) as well as the documentation required for tax exemption or taxation at a lower tax rate. In particular, the following clarifications are provided:

- Profits distributed to legal entities which maintain single entry accounting books are taxed according to the general provisions for the taxation of business income, whereas no tax is withheld.
- The distribution or capitalization of profits accumulated in previous years and reserves which were formed either up to 31 December 2013 from taxable profits or from 1 January 2014 onwards as well as reserves formed under the provisions of special laws, is treated as distribution of profits and taxed at the applicable current rate.
- Exemptions from withholding tax on dividends are provided for:
  - Reserves of Limited Liability Companies which were formed up to 31 December 2010 from profits of previous years as well as reserves of Partnerships which maintain double entry books, which reserves were formed from profits of previous years;
  - Intra-group payments when the conditions for a minimum holding percentage and a minimum holding period are met;
  - Dividends earned by unit holders of domestic or EU/EEA UCITS;
  - Profits distributed from the Greek branch of a foreign entity to its head office abroad.
- Greek resident individuals should include in their annual income tax return any foreign dividend and foreign interest income even when such income remains abroad. Such income will be taxed at the applicable rate (10% and 15% respectively).
- Interest paid on corporate bonds held by foreign legal entities with no permanent establishment in Greece is subject to withholding tax at the rate of 15%.
- Income from dividends, interest and royalties paid to foreign individuals and legal entities (with no permanent establishment in Greece) resident in DTT countries, is taxed at the rate determined in such DTT. Even when the DTT rate is zero, a withholding tax return accompanied by a residence certificate of the recipient/beneficiary of the income should be filed.
- Exemptions from withholding tax on interest are provided for:
  - interest from European Financial Stability Facility bonds (PSI bonds) issued during the implementation restructuring program for the Greek debt;
  - interest from Government Bonds and Treasury Bills paid to individuals regardless of their place of residence and to foreign legal entities with no permanent establishment in Greece;
  - interest paid on loans granted by credit institutions and interest from interbank deposits.
- The circular sets out the documentation that should be filed by foreign legal entities with no permanent establishment in Greece in order to be tax exempted for interest income derived from Government Bonds and Treasury Bills as well as from PSI bonds.
- The circular clarifies which royalties are subject to 20% withholding tax when paid to resident individuals or to non-resident individuals and legal entities with no permanent establishment in Greece, subject to the provisions of the applicable DTT.

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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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