

18 October 2015



Consistent with our commitment to provide [updated information](#) on tax issues, we summarize below the proposed changes introduced on Friday with the Law on “Measures for the Implementation of the Agreement for achieving Fiscal Goals and Structural Reforms”.

According to the provisions of this Law, the following amendments are introduced:

UREOT (Unified Real Estate Ownership Tax)/ENFIA

- The threshold below which the tax is not assessed is reduced from the current level of EUR 5 to EUR 1.
- The existing exemptions from ENFIA for hotel companies/entrepreneurs are now abolished, whereas properties owned by special purpose vehicles that are subsidiaries of the Hellenic Republic Asset Development Fund (TAIPED) are now exempt.

Income Tax

- The option to assign ownership of uncollected rent to the Greek State, thus being exempt from tax on such income is abolished. In the absence of the right to assign or deduct such uncollected rent as a bad debt, results in the unfair treatment of taxing non existing income. The above amendments are applicable for income earned from 1 January 2015 onwards.

Tax Procedure Code

- The statute of limitation of the State’s right to issue an administrative act or tax assessment which expire on 31 December 2015 is extended for 1 year from their expiration for which cases, tax audit mandates have been issued (during the publication of this Law) or will be issued up to 31 December 2015.
- Amendments on the imposition of penalties are introduced in relation to offenses relating to the tax record issuance as well as to fictitious transactions. In particular:
 - i. The ceiling of EUR 30 000 applying to penalties for the issuance of inaccurate tax records or for non-issuance of tax records is being abolished; and
 - ii. The transitional provisions based on which penalties are imposed in relation to offenses committed up to 31 December 2013 and are related with cases of fictitious tax records and other cases involving offences of the Code of Books and Records and the Code of Tax Reporting of Transactions are being amended. Such provisions apply to cases for which no final tax assessments have been issued or have not been finalized until the introduction of this law. These provisions aim to harmonize the penalties imposed based on the previous regime with the penalties stipulated under the provisions of the current Tax Procedure Code. Also, in certain instances the imposition of lower penalties is stipulated under the amended provisions.

- The penalties in relation to the late, inaccurate or non submission of the Summary Information Sheet are rationalized. The penalties are now determined based on the value of the transactions under documentation while the minimum and maximum penalties are reduced. Moreover, the late submission of an amended Summary Information Sheet is subject to a penalty only if the value of the transactions is amended and the total difference exceeds EUR 200 000. The penalty for the submission of an inaccurate Summary Information Sheet is calculated on the amounts relating to the inaccuracy and is imposed only if respective inaccuracy exceeds the 10% of the total value of the intercompany transactions under documentation.
- The penalties in relation to the late or non submission of the Transfer Pricing Documentation File to the Tax Authorities are rationalized and do not apply as a percentage on the company's turnover but are related to the days of delay of the submission amounting to EUR 5 000-EUR 20 000. The maximum penalty of EUR 20 000 is imposed in the case of non submission of the Transfer Pricing Documentation File or in the case of its submission to the Tax Authorities after the 90th day of the relevant request.
- The progressive penalties applying to inaccurate submission or failure to submit returns are now related to the amount of the difference as a percentage of the basis tax (become more proportionate to the identified difference and the tax initially paid).
- Special VAT penalties are introduced in cases where the non-issuance of tax records or issuance/receipt of non appropriate tax records or inaccurate filing of returns etc. results to the inaccurate payment of tax.
- The penalty imposed in cases of late filing and late payment of withholding taxes, is reduced from 100% to 50% of the tax due. Previously the penalty was equal to the tax due and not paid.
- The above provisions apply for any tax assessment or penalties, duties or contributions which are issued from the date that this Law becomes effective, and are related to tax liabilities, fiscal years ending after 31 December 2013 or cases from 1 January 2014 for which the provisions regarding inaccurate submission or failure to submit returns or avoidance of paying withholding taxes as stipulated by the Tax Procedure Code were applicable from that date, provided that such application entails more favorable regime for the taxpayer.

Settlement of overdue tax liabilities Law 4321/2015

Certain amendments to the current procedure for settling overdue tax liabilities are introduced and the requirement now is to pay the current and settled overdue liabilities within a shorter time period (i.e. 30 days). Also, the Administration can amend the already agreed payment schedule in cases where the taxpayer is deemed to have sufficient income or other assets.

Tax evasion crimes

The provisions of articles 17, 18, 19, 20 and 21 of Law 2523/2997 regarding the tax evasion crime, the corresponding penal sanctions and the initiation of criminal proceedings are being replaced by new provisions included in the Tax Procedure Code (Law 4174/2013). According to the above provisions, the following amendments are introduced:

- The tax evasion crime is being redefined in an effort to broaden its definition and include more cases of non-disclosure of income and non tax payment.
- At least two years imprisonment is being imposed for evading tax payments of amounts over EUR 100 000 per year or certain types of tax or over EUR 50 000 in case of VAT.
- For the avoidance of paying tax, duty or contribution imprisonment is being imposed if the amount involved exceeds the amount of EUR 100 000 per tax year (in case of VAT), or EUR 150 000 (in case of other tax, duty or contribution).
- Where the total amount of fictitious tax records issued/counterfeited/received etc. by the tax payer does not exceed the amount of EUR 75 000, three months imprisonment is being imposed. In case where the aforesaid amount exceeds EUR 75 000 imprisonment for at least on year, is being imposed, whereas imprisonment up to ten years is being imposed in case the aforesaid amount exceeds EUR 200 000.
- The conversion of the penal sanction to a monetary one instead of prison is feasible only for the first tax evasion crime.
- The definition of perpetrators and accomplices of tax evasion crimes is extended and also includes those individuals who participate in practice in the management or the representation of the legal entity.
- An individual is considered to be a perpetrator of a tax evasion crime if he has contributed by any act or omission in the execution of the crime.

- The General Secretary for Public Revenue or the competent tax or police officers should immediately file a criminal complaint in the case of tax evasion crimes. The criminal prosecution is initiated automatically. The filing of an administrative or a court appeal does not affect the criminal proceedings.
- The statute of limitation of tax evasion crimes starts from the issuance of a final court decision on the appeal, or, if no appeal has been filed, from the time the tax findings have become final due to the non-filing of an appeal.

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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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