

Social Security

Newsflash



We are pleased to provide current information on **SOCIAL SECURITY ISSUES** introduced by Law 4387/2016 on “Unified Social Security System – insurance and pension system reform – Income tax and gambling games regulations and other provisions” (Government Gazette A’ 85/12.5.2016)

The law introduces a number of new concepts and also tries to defer some contributions to the future. Furthermore, it expands the application of insurance cover to other areas of compensation. Because of the extent of the changes, there are quite a few areas of uncertainties which should be clarified through the issuance of Ministerial Decisions.

The most important reforms are summarized below.

Unification of the Main and Supplementary Social Security Funds and establishment of a Common Registry of the persons liable to social security and income tax. More specifically:

- A new fund is established named “Unified Social Security Fund” (E.F.K.A.), which, as of the commencement of its operation on 1 January 2017, will absorb the existing main social security funds (i.e. I.K.A. – E.T.A.M., E.T.A.P. – M.M.E., E.T.A.A., O.A.E.E. etc.). The social security funds N.A.T. and O.G.A. will continue as separate legal entities but their objectives will be exclusively for non-insurance activities.
- The existing “Unified Supplementary Insurance Fund” (E.T.E.A.) is renamed “Unified Supplementary Insurance and One-Off Benefits Fund” (E.T.E.A.P.), which absorbs the existing welfare sectors of the existing funds (for instance, E.T.A.A.’s welfare sector) and whose objective will be the payment of the monthly supplementary pension as well as one-off benefits.
- All the currently insured persons and current pensioners of the individual social security funds to be absorbed as well as those who will undertake work subject to insurance or will acquire a professional capacity subject to insurance, will now be obligatorily insured with the above fund.
- A joint ministerial decision, to be issued within 2016, will establish a Common Registry for all persons or entities that are liable to pay both social security contributions and taxes. The Register will provide for common policies for registration, filing, payment and the issue of certificates of payment.

Harmonized Social Security Contributions Rules

Employee and Employer Social Security Contributions

Employee remuneration of any type, excluding extraordinary benefits of a social nature (wedding, birth of children, death and severe disability benefits) and up to a stated ceiling (see below), is subject to social security contributions. Such regulation is not new, but was not uniformly applied by all enterprises. Repeating the provision in question presumably aims to the imposition of social security contributions on all benefits that can be translated to cash.

Social Security Computation

- As of the publication of the law, the maximum monthly remuneration (ceiling) which is subject to insurance contributions of any type is limited to ten times the basic employment salary of a non-married employee of over 25 years of age. Therefore the current ceiling is now increased to EUR 5 860.80 from EUR 5 543.55 per month.

However due to an uncertainty in the law the basis of calculation for the health element of social security contributions might not be limited to the above ceiling.

- It is important to note that the ceiling applies to the total of the employee remuneration irrespective of number of employers. However, in case of multiple employment the employers' contributions appear not to be subject to an overall ceiling i.e. they are paid on the full amount of remuneration of each employer provided they do not exceed the individual ceiling.

Categories of other working people treated as employees

In accordance with an explicit provision in the law, the following categories of people and earnings are treated, for the first time, as earned income from employment:

- managers, general managers, managing directors or cooperating board members, administrators of companies or cooperatives for the fees from such relationship provided that they have concluded employment agreements,
- members of the Board of Directors, for the fees received from the company in such capacity
- salaried lawyers, irrespective of the year they were insured,
- insured persons which, until the entry of the law in force, were insured with E.T.A.A. and are employed by virtue of an employment agreement (for instance, engineers, doctors), irrespective of the year they were insured,
- self-employed persons paid on the basis of invoices issued for their services to one or two clients. It is not clear from the law how this provision will be applied in practice.

Main Pension Contributions

All the above employees - professionals are subject to main pension contributions of 6.67% of their total remuneration as defined above, plus 13.33% paid by the employer.

It is however questionable when the above rates will become effective, as one provision defines as the date of effectiveness the date of publication of the law whereas another provision provides a transitional period until 1 January 2020. In particular, the law provides that any rates higher or lower than the main pension contributions rates which applied until the entry of the law in force are adjusted evenly on an annual basis as of 1 January 2017 onwards, so that they amount to 20% on 1 January 2020. This readjustment of the rates will be implemented by virtue of decisions of the Ministry of Employment, Insurance and Social Solidarity to be issued in due course.

Another issue to be clarified is whether (and in case of positive answer, as of when) other contributions currently paid to I.K.A. (for instance, unemployment sector contributions etc.) will also apply to the other categories of professionals who will now be treated as employees.

Supplementary Pension Contributions

- As of 1 June 2016 and until 31 May 2019, the supplementary pension monthly contributions amount to 3.5% for the employee and 3.5% for the employer calculated on amounts as above described.
- The above rates are reduced to 3.25% and 3.25% respectively as of 1 June 2019 and until 31 May 2022, and thereafter at the rates in existence at 31 December 2015 i.e. 3% each.
- The above supplementary pension rates can be reduced during the six year period from 1 June 2016 to 31 May 2022 by a decision of the Ministry of Employment, Insurance and Social Solidarity depending on the level of collectability achieved.

Health Care Contributions

Health contributions for employees and other categories insured with E.O.P.Y.Y. are set at 7.10% of the remuneration of any nature, with 4.55% being borne by the employer and 2.55% being borne by the employee.

The basis of calculation of these social security contributions should be further clarified, as it seems that they are imposed on the total employee remuneration of any kind (that is without the "ceiling" applying to the social security contributions of the other sectors).

It is however questionable when the above rates will become effective, as one provision defines 1 January 2017 as the date of effectiveness whereas another provision provides a transitional period until 1 January 2020. More particularly, the law provides that any rates higher or lower than the health sector contributions rates which applied until the entry of the law in force are adjusted evenly on an annual basis as of 1 January 2017 onwards, so that they amount to 7.10% on 1 January 2020. This readjustment of the rates will be implemented by virtue of decisions of the Ministry of Employment, Insurance and Social Solidarity to be issued in due course.

Payment through banks

As of 1 July 2016, the remuneration of private sector employees as well as the social security contributions and employment income tax withheld are paid through the banks.

Self-employed persons and freelancer's social security contributions

The method of calculating the contributions of self-employed persons and freelancers is radically reformed. The contributions will be computed based on the net taxable monthly income as determined in the previous tax year.

Main Pension Contributions

- As of 1 January 2017, the monthly main pension contributions of persons who until the entry of the law in force were insured with O.A.E.E. and E.T.A.A will be 20% of their monthly net taxable income as determined in the previous tax year.
- Nevertheless the minimum monthly taxable income basis cannot be less than that of the salary of an unmarried employee over 25 years of age (currently EUR 586.08).

Supplementary Pension Contributions

As of 1 June 2016 and until 31 May 2019, self-employed persons and freelancers supplementary pension monthly contributions will be 7% of their remuneration as determined for purposes of the main pension contributions. The above rate is reduced to 6.50% as of 1 June 2019 and until 31 May 2022, whereas following the expiry of the six year period the rate applying on 31 December 2015 will apply.

The above supplementary pension rates can be reduced during the six year period from 1 June 2016 to 31 May 2022 by decision of the Ministry of Employment, Insurance and Social Solidarity depending on the level of collectability achieved.

Health Care Contributions

As of 1 January 2017, health contributions for self-employed persons and freelancers will be 6.95% of their remuneration as above determined.

Other comments for this category of insured persons

The law also provides for:

- A five year transitional period for the persons to be insured or are already insured for less than 5 years with E.T.A.A. who will pay reduced contributions for the main pension and health sectors for the first 5 years of insurance. The reduction for the main however must be repaid following the 5th year from the year they were insured and in any case until the completion of 15 years of insurance in accordance with the provisions of the law.
- A transitional period of reduced contributions from 1 January 2017 to 31 December 2020 for freelancers with more than five years of insurance with E.T.A.A. and whose annual income ranges between EUR 7 033.01 and EUR 58 000. Reductions for the same period of a similar nature apply to the self-employed persons who were insured for less than five years with E.T.A.A. and with net taxable income during the previous tax year exceeding EUR 4 922.00. However, in no case can the amount of social security contribution be less than the amount

corresponding to the minimum monthly salary of an unmarried employee (currently EUR 586.08).

Deadline for the payment of the social security contributions

As of 1 January 2017 the social security contributions of self-employed persons, freelancers and employees who until the entry of the law in force were insured with O.A.E.E. will be paid in the same manner as for withholding taxes. A decision of the Minister of Employment, Insurance and Social Solidarity will be issued in this respect.

One-off benefit

As of 1 January 2017, the one-off benefit contributions payable by insured persons insured as of 1 January 1993 and after to funds to be absorbed by E.F.K.A. will be 4% of the employees' remuneration subject to insurance and of the net taxable income of the self-employed individuals. No employer's contributions are envisaged.

The contributions of persons insured before 1 January 1993 continue to be regulated by the provisions of the original funds absorbed by E.T.E.A.P., as long as they provide for such a benefit.

Statute of limitation of E.F.K.A.'s claims and refund of contributions and benefits

- As of the entry of the law in force, any claims of social security funds to be absorbed by E.F.K.A. arising from the non-payment of contributions are subject to a twenty year statute of limitation, which commences from the first day of the year following the year in which the non-insured work or services were provided.
- The above regulation does not apply to claims which have already expired at the time the law came into force.
- Any benefits paid by IKA – ETAM by mistake are refundable by the insured person and are subject to the provisions of the Public Revenues Collection Code (K.E.Δ.E.). In case the mistake was on the part of the insured person, such benefits are repayable with interest at 3%, the amount of which can be adjusted by a joint ministerial decision. IKA – ETAM is allowed to offset amounts receivable with benefits payable.
- Contributions collected by the social security funds by mistake (excluding contributions in favor or the illness sectors or in favor of third parties) are refunded to the beneficiaries without interest following their application. Refund of the contributions with interest is permitted in exceptional cases.

Parallel insurance

As of 1 January 2017:

- Persons insured as of 1 January 1993 and later are no longer allowed to select only one social security fund to be insured with as was the case under the previous framework.

- Insured persons, irrespective of the year of insurance, who must be obligatorily insured with two or more social security funds to be absorbed by E.F.K.A., will pay the contributions provided for each activity they have undertaken (with the obligation however to pay a minimum amount of contribution only for the first activity undertaken). However it is not clear whether the monthly income ceiling (EUR 5 860.80) applies separately to each activity or jointly to all income.

Pension Issues

- As of the entry of the law in force, the pension payable to persons eligible under the conditions applicable from time to time consists of:
 - The National Pension which is EUR 384 per month and is payable in full provided the insured person has completed 20 years of insurance and has legally resided in Greece for a period of at least 15 years between the age of 15 and the year of completion of the pension minimum age requirement. In case the above conditions are not met, the amount of National Pension is reduced in accordance with the provisions of the law.
 - The Reciprocal Pension, which is computed based on (a) the average of the insured person's monthly remuneration during the entire insurance period (b) the years of insurance and (c) the annual (salary) replacement value which is determined in the law (based on a table showing number of years insured and the applicable rate per year).
- Pensioners who after the entry of the law in force, undertake work or obtain a capacity or activity which must be insured with E.F.K.A., will have their pension reduced by 60% during the period of employment or acquisition of the related capacity or activity. During this period, they will also pay the social security contributions provided by the law.

On the other hand, pensioners who undertook work or acquired capacity or activity subject to insurance before the law came into effect, continue to be regulated by the previous framework which provided for the total suspension of the pension in case of pensioners below the age of 55 and reductions in the amount of the pension depending on the level of the pension.

Note

As stated above, several and important regulations must be clarified or further analysed through ministerial decisions, circulars etc. The time of issuance of such Decisions however cannot be predicted.

Contact us

Liana Kosmatou
Lawyer / Director
T: + 30 210 60 62 159
E: lkosmatou@cpalaw.gr

More information at

kpmg.com/socialmedia

kpmg.com/app

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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