

GMS Flash Alert



2019-141 | September 11, 2019

Greece - Guidelines Issued for Foreign Tax Credits for Special Solidarity Contributions

Circular C.2147/2019¹ issued by the Greek government provides guidelines regarding a foreign tax credit tied to the application of the special solidarity contribution to foreign source income earned by Greek tax residents, which Greece has the right to tax under the existing Double Taxation Treaties (DTT's).²

WHY THIS MATTERS

These developments acknowledge the current scope and nature of the special solidarity contribution and afford Greek tax residents who have been subject to the contributions, starting from 2015, the possibility of claiming a foreign tax credit, under certain circumstances.

Amended tax returns would need to be filed and those parties concerned should discuss their situations with their qualified tax professionals.

Background

The special solidarity contribution was initially introduced as a temporary levy in 2011 due to the Greek economic crisis and was considered separate from the income tax. Later, the special solidarity contribution was incorporated into the Income Tax Code as a permanent measure and so no longer had this temporary/extraordinary character.

In accordance with the issued Circular E. 2009/2019, the special solidarity contribution has been recognized as an income tax which falls under the relevant provision of the applicable DTT.

Previously a foreign tax credit could be claimed only in terms of the proportion of the applicable Greek income tax in Greece on such income.

But this situation has been further clarified with the issuance of C. 2147/ 2019 (“the Circular”). The foreign tax credit can also be applied to the amount of special solidarity contributions assessed in Greece on such income in addition to the income tax.

Refunds and Foreign Tax Credits: Practical Details

The Circular specifies the foreign tax credit or refund procedures.

Taxpayers can submit an amended tax return, without penalties and with the indication “FOR FOREIGN TAX CREDIT PURPOSES under C.2147/2019” in order for their already-submitted tax returns to be re-assessed. Taxpayers must submit the amended tax return, providing all necessary supporting documents as set out by C.1026/2014, to the competent tax office in hard-copy by the last working day of tax year 2019, whereupon no penalty will apply.

The tax credit on the special solidarity contribution is available **for tax years 2015 onwards**, as long as there is existing foreign tax “excess” not already set off with the initial assessment of the tax return.

The Circular also clarifies that the tax credit cannot exceed any outstanding amount of non-offset foreign income tax.

In cases where the special solidarity contribution has been paid even though it was not due, it can be refunded by filing an amended tax return in hard-copy, following the above process with no need for any further written requests.

KPMG NOTE

Why the Circular restricts the right to a foreign tax credit on the special solidarity contribution paid to tax years 2015 on is not clear.

However, looking at the reasoning of Decision 2465/2018 of the Council of State, claiming a foreign tax credit on the special solidarity contribution for previous tax years cannot be ruled out in principle. Discussions should take place between concerned taxpayers and their qualified tax professionals to discuss their situation and next steps.

FOOTNOTES:

1 Ε 2147/2019 – ΘΕΜΑ: Πίστωση, σύμφωνα με το άρθρο 23B παρ.1 της Πρότυπης Σύμβασης του ΟΟΣΑ, της ειδικής εισφοράς αλληλεγγύης στα εισοδήματα αλλοδαπής που αποκτούν φορολογικοί κάτοικοι Ελλάδος και για τα οποία η Ελλάδα έχει δικαίωμα φορολόγησης βάσει ισχυουσών ΣΑΔΦ-συμμόρφωση με ΣτΕ 2465/2018 . C. 2147/2019 can be found (in Greek) on the website of Taxheaven.gr at: <https://www.taxheaven.gr/laws/circular/view/id/31345> . Please note that this is a 3rd party (non-governmental, non-KPMG) website. Provision of this URL does not represent an endorsement of this website by KPMG.

2 The DTTs are listed in the Annex of the said Circular issued by the Independent Authority for Public Revenue (IAPR); moreover, the list of DTTs can be found by means of the following link of the IAPR (in Greek): https://www.aade.gr/sites/default/files/2017-03/b_pinakas_symvasewn.pdf .

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