

GMS Flash Alert

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Greece - New Guidelines on Tax Residency

Greece's Independent Authority for Public Revenues ("AADE") recently issued a new Circular E.2064/2023, which introduces guidelines for the correct and uniform implementation of the Income Tax Code's provisions concerning individuals and tax residence in Greece. By virtue of this new Circular, the definition of tax residence, along with the criteria for acquiring it, are clarified in line with international standards and guidelines, including EU Directives and OECD Clarifying Guidelines on Article 4 of the Model Tax Convention (2017 edition).

WHY THIS MATTERS

The Circular's guidance has the potential to impact globally-mobile employees as tax residency is critical in determining an individual's Greek tax status and whether another jurisdiction may have taxing rights over that individual, notwithstanding the existence of a double taxation treaty. This can affect assignment (and tax) planning and budgeting. It also can impact return filing status. Employers are also affected as their employer obligations (e.g., tax equalisations) may vary depending on an individual's tax residency status.

Circular: More Details

Specifically, with reference to the criteria introduced in paragraph 1 of Article 4 of the Income Tax Code ("ITC"), the terms "permanent residence," "habitual abode," and "centre of vital interests" are explained with more clarity. Moreover, the definition of an individual's "centre of vital interests" is clarified such that all personal and economic relations binding the individual to a certain territory should be examined holistically (as a whole), also taking into consideration the actual facts of each particular case.

The new Circular provides clear guidelines on how to calculate the days of presence of the individual in Greece as well as how to determine the year during which the individual should be considered a tax resident of Greece for the first time and be obliged to submit an income tax return declaring his or her worldwide income.

Furthermore, the new Circular clarifies certain other issues such as:

- The alternative remedies that an individual can seek in case he/she is considered tax resident both in Greece and in some other country (dual tax residence issue);
- The obligation of the tax authorities to provide specifically reasoned justification when they decide that an individual is a tax resident of Greece, given that in principle the tax authorities also bear the burden of proof of the actual facts that support their decision;
- The procedure for changing tax residence for the year following the year of departure and the procedure and documents required during the previous years in accordance with already existing circulars;
- The obligation of the taxpayer to keep the documents evidencing that the criteria of Article 4 ITC are met, in case of a future tax audit, etc.

KPMG INSIGHTS

It is worth mentioning that the new Circular makes reference to numerous decisions of the Council of State, on which the above-mentioned clarifications were based, and provides certain specific examples for the better understanding of such clarifications while implementing the provisions of Article 4 ITC.

Tax residence issues, especially when interpretations and tax authorities' positions shift and change, can be fraught with complications and challenges.

It is a leading practice to discuss residency issues – amongst other tax-related issues – with employees assigned abroad from Greece or employees inbound to Greece, *before* they depart their home country or upon arrival in the host country.

Any questions or concerns can be addressed to the employee's tax service provider or to the GMS / tax team with KPMG in Greece (see the Contacts section).

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RELATED RESOURCE:

This article is excerpted, with permission, from "Circular E.2064/2023 of AADE: Guidelines on tax residency of individuals in Greece," published in *TaxNewsflash* (9 November 2023), a publication of the KPMG International member firm in Greece. This newsletter is also available in Greek. In English, click [here](#). In Greek, click [here](#).

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or the following professional with the KPMG International member firm in Greece:



Georgia Stamatelou

Partner, Tax

Tel. + 30 210 60 62 227

gstamatelou@kpmg.gr

The information contained in this newsletter was submitted by the KPMG International member firm in Greece.

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