

“Urgent regulations relating to the implementation of the Mid-term Framework of Fiscal Strategy 2013-2016”

November 2012

By virtue of the new provisions a significant simplification of the transactions framework is effected, compared with the Code of Books and Record. The fundamental underlying principle is that the recording of transactions should be carried out in a way that allows for the necessary audit verifications.

On November 12, 2012, the Law 4093/2012 on “Approval of Mid-term Framework of Fiscal Strategy 2013-2016 – Urgent Regulations relating to the implementation of L.4046/2012 and the Mid-term Framework of Fiscal Strategy 2013-2016” was published in the Greek Government Gazette.

The above law, *inter alia*, contains certain tax provisions.

A. Code of Tax Recording of Transactions – Integration of the European Directive 2006/112/EE on Invoicing Regulations

The new law provides for the abolition of the Code of Books and Records as of 1.1.2013 and its replacement from the Code of Tax Recording of Transactions. The most important amendments introduced by the new Code are the following:

i. Way of Recording of Transactions

- The new Code provides for the persons liable for Recording of transactions and, in particular, the persons liable to maintain books, issue records and submit data for reconciliation.
- The Recording of transactions in accounting books and records should reflect and support data entries in aggregate and in detail, so that the analytical drawing of information is easy and the reconciliation thereof feasible for a tax audit.
- Exceptionally, it is provided that the records issued for transactions with foreign counterparties may be expressed in foreign language (not Greek) and that the foreign currency in which the transaction is carried out may be recorded therein. Exceptionally, invoices and records in lieu of invoices, whether consolidated with transport documents or not, may be expressed in foreign language also within the country.
- For transactions with individuals, non-entrepreneurs, an electronic copy of the fiscal documents or other reports that are intended for such clients, may be sent to them, provided that the client accepts such receipt of electronic records.
- The liable person for Recording of transactions may merge or consolidate any book or books, record or records, book and record or books and records in another, provided that from the book or record that derives from such merging or consolidation, one can derive at least the data of the merged or consolidated books or records. In case of consolidation of book with record, the book may be maintained in more than one copies.

- The divergence between the enterprise of sale of goods and supply of services is abolished.

ii. Maintenance of single entry and double entry books - Additional Obligations

- The Code provides for the maintenance of single entry or double entry books, which correspond to former B' and C' category books respectively.
- The category of books to be maintained rests upon the form of the legal entity, the business activity as well as the amount of annual gross revenue of the previous fiscal period. In particular:
 1. The annual gross revenue thresholds are for single entry books up to EUR 1,500,000 and for double entry books over EUR 1,500,000.
 2. Liable for maintenance of double entry books are Greek and foreign societies anonymes (SAs), limited liability companies (LLCs) and private companies. By exception, foreign companies established in Greece under the provisions of Law 89/1967 (and for reasons of clarity art. 25 of L. 27/1975) and 378/1968, branches of foreign airlines operating in Greece and exempt from income tax subject to reciprocity, as well as foreign SAs and LLCs which do not maintain an installation in Greece, if they carry out the erection of an owned building within Greece or carry out additions or expansions in such a building, may maintain single entry books.
 3. Liable for maintenance of single entry books are entrepreneurs pursuing specific business activities, such as newspapers and magazines agents, as well as the wholesale reseller of tobacco products, the operator of the second category of art. 3 of L. 27/75 vessels, the gas and oil retailers and the sellers of heating oil (diesel).
- The individuals who, during the previous annual fiscal period, have realized revenues up to EUR 10,000 from the sale of goods or provision of services, in aggregate or separately, are exempt from the obligation to maintain books and issue retail receipts. Some exemptions to the above are provided.
- The non authenticated books that are maintained electronically are not required to be printed out, provided their data are kept in electronic means of storage and on the condition that those data are immediately printed out upon a tax audit request.

iii. Dates of Updating of Books

- The updating of double entry books is performed:
 1. When maintaining double entry books:
 - For the journal(s) until the end of the month (and not until the 15th day as it was the previous case) following the issuance or receipt of the document in question and in case of cash transactions the date they are carried out. This deadline cannot exceed the due date for submission of the VAT return.

In broad lines, the obligation to maintain double-entry books will be extended to all companies incorporated by share capital as well as to companies with turnover over EUR 1.5 m. All other companies will maintain single entry books.

The dates for Books update are extended.

- For the inventory book with the value of stock and other assets as well as the closing of the balance sheet until the due date for submission of the income tax return.

2. When maintaining single entry books, the updating of the expense-revenue book with the above transactions is carried out until the end of the month following each calendar quarter and not beyond the due date for submission of the periodic VAT return.

- In the event of machine malfunction or where a non-operation of software occurs, the deadline for updating other books except of the analytical information of art. 4 par. 23, will be extended. Such extension cannot exceed the deadline for submission of the income tax return.

iv. Authentication of Books and Records

- The obligation for authentication of books and records is abolished. However, authentication is obligatory until 31.12.2013 for the delivery notes as well as for the receipts for the provision of services.

Comment - Observation:

- *There is no explicit reference as to where there is an obligation to use cash register or electronic tax register mechanism of L. 1809/88.*

- The liable person for Recording of transactions that maintains double entry books is obliged to maintain an electronic file of audit per fiscal year, which is updated until the end of the month following the end of the deadline for filing the income tax return with the analytical data of the last provisional and the final trial balance of accounts of all degrees, of journals, of the inventory and balance sheet book, the information of the special purposes books, and the fixed asset register, if such records are maintained electronically.

v. Abolition of Books and Records

- The Warehouse Book is abolished. The monitoring, however, of merchandise for enterprises with turnover over EUR 5,000,000 will be made through the account 94 of analytical accounting, provided by the Greek General Chart of Accounts (Presidential Decree 1123/1980), which refers to merchandise and ways of keeping the merchandise in warehouse.
- The books of production – costing and technical specifications are abolished.
- The transactions of branches with dependent accounting, rather than being entered into separate books or lists, must be recorded in the books of the head office and especially purchases, sales and cash register of each branch are maintained separately from the respective data of the head office or other branch.
- The Receipt Note is abolished and is being replaced by the issuance of a Delivery Note. The liable person for Recording of a transaction issues a

The special purposes books, as well as the books of production – costing and technical specifications are abolished with only certain exceptions .

delivery note for quantities of goods or fixed assets received at the liable persons registered locations without the accompaniment of a delivery note from any third party for the purpose of purchase, sale, intermediation for sale, storage, safe-keeping, use as well as for processing in the case where the sender is liable to reflect transaction or a special status farmer. If a purchase invoice is issued immediately upon receipt of the goods there is no need to issue a delivery note.

- The new provisions abolish the following listings and trial balances:
 1. The listing of doctors' names as recorded in the clinics' doctors' book of records.
 2. The listing of third party entrepreneurs - customers whose stock is recorded in a logistics company's storage book.
 3. The listing of entrepreneurs - counterparties submitted by tourist bus operators.
 4. The trial balance of detailed accounts for the closing accounting period prepared by entrepreneurs maintaining double entry accounting books.
- All special purposes books which were required by the Code of Books and Records are abolished with exception of the following cases: (i) the operators of hotels and guest houses, (ii) the operators of schools and colleges and every other business or organization involved in tuition or professional education, (iii) the operators of clinics and places of therapy, (iv) doctors and dentists of all specializations, (v) the operators of aesthetic centers and gymnasiums and (vi) the operators of parking lots. The special purposes books maintained mandatorily by the above liable persons, have to be authenticated by the relevant tax offices or can be replaced by electronic archives for which each entry is secured through the secure signature provisions of law 1809/1988 (FEK 222A). The above obligation is abolished as of 1.1.2014.
- The obligation to issue a delivery note for non trading goods is abolished.

vi. Reconciliations and Proof of Transactions

- Transactions exceeding EUR 3,000 which concern purchases of goods or receipts of services can only be recognized for the purchaser/recipient if the payment is made in one or more instalments through a bank account or cheque issued by the purchaser/recipient of the services. Moreover, the tax records exceeding EUR 3,000 that pertain to purchases of agricultural products by a producer of such products, shall be paid in part or in full, exclusively and only by cheque of the purchaser or by deposit in a bank account. By exception to those mentioned in the preceding phrases, the offsetting of mutual counterclaims between counterparties is allowed.
- Documents of any kind for collection or payment in cash for transactions of individuals or legal entities or joint ventures with an amount exceeding EUR 12,000, issued by the banks and other credit institutions, must indicate the Tax Registration Number (TRN) of the counterparty. In case of

The rules on transactions payments become more austere aiming to limit cash transactions.

a foreign individual the number of passport or identification card shall be indicated.

- With respect to cheques covering the repayment of professional transactions, irrespective of the amount, the TRN of the issuer, of the endorser each time, as well as of the ultimate bearer collecting the cheque shall be indicated. In addition, it is mandatory that the TRN of the issuer of the cheque which is presented for repayment of a liability to the State is indicated, regardless of the amount.
- It is defined that the burden of proof of the transaction lies with both the issuer and the recipient of the document and the verification of the records of the contracting parties may be conducted through a data base or registry of liable persons for Recording of transactions, which are available by the General Secretariat of Information Systems of the Ministry of Finance, in which case tax confidentiality is waived.

vii. Transport documents and Records of Other Transactions

- It is stipulated that in case of payment of remunerations, daily wages or other provisions to employees (of the public or private sector) that are not liable for Recording of transactions by virtue of another provision, instead of issuing an expense receipt, a list may be concluded. Moreover, a simplified procedure of payment of remunerations, daily wages and pensions via banks is defined.

viii. Transitional Provisions

- It is stipulated that the provisions for delivery notes, retail receipts and transport documents as well as the records of other transactions (arts 5, 7 and 8 of the new Code) will apply until 31.12.2013 and will be amended afterwards following reassessment from a Special Committee that will be composed by a decision of the Minister of Finance with the purpose of further simplification and improvement of respective provisions.
- Any provision contrary to the provisions of arts 1-13 of the L. 4093/2012 will be not applicable to issues which are settled by it.
- The administrative documents and Ministerial Circulars of the Ministry of Finance issued up today are not applicable.
- It is stipulated that where existing provisions make a reference to the provisions of the Code of Books and Records (P.D. 186/1992), after the enforcement of the present law shall be considered as the relevant provisions of the arts 1-13 of L.4093/2012. It seems therefore that art. 5 of L. 2523/1997 regarding the penalties imposed in case of infringement of the Code of Books and Records will apply in case of infringement of the provisions of the new Code of Tax Recording of Transactions (arts 1-13 of L. 4093/2012).

Transitional provisions are provided in order to properly implement the transition to the New Recording of Transactions System.

Comments - Observations:

- *Due to the fact that the Code of Tax Recording of Transactions does not contain provisions regarding the validity, inadequacy and inaccuracy of books and records (as the art. 30 of the old Code of Books and Records contained), there is a vagueness with respect to the issue of definition of the tax obligations in case the liable person deviates from the obligation of providing analytical information, or in case the liable person does not maintain, safeguards or presents the books upon a tax audit request. The vagueness is enhanced due to the fact that arts 30 and 32 of the Code of Tax Income (regarding the definition of gross and net income in case of inadequacy and inadequacy of books) remain in force as well as art. 48 par. 3 of VAT Code regarding the definition of income and value of purchases and expenses in case of inadequacy or inaccuracy of books.*
- *It is provided that for the evaluation of inventories the rules of evaluation set by the Greek General Chart of Accounts (P.D. 1123/1980) will be mandatorily applied. It should be noted that until now the evaluation of inventories was made in accordance with the provisions of art. 28 of the Code of Books and Records that are abolished by the new Code.*
- *Although existing provisions stipulate that where a reference is made to the provisions of the Code of Books and Records, after the enforcement of the present law shall be considered as the relevant provisions of the arts 1-13 of L.4093/2012, and, consequently, art. 5 of L. 2523/1997 regarding the penalties imposed in case of infringement of the Code of Books and Records will apply in case of infringement of the provisions of the new Code of tax recording of transactions (arts 1-13 of L. 4093/2012), we believe that interpretative issues will be created, and, therefore that the respective provision should be amended in order to refer to the replacement of the Code of Books and Records by the Code of Tax Recording of Transactions.*
- *The issuance of the new Penalty Law 2523/1997 is expected.*

B. Other Tax Provisions

i. VAT Code and Custom Code Amendments

- Changes on the indirect taxation (VAT – Special Consumption Tax (SCT) of farmers will be implemented.
- The SCT calculation method on manufactured tobacco is amended.

ii. Annual Circulation Tax

- The Annual Circulation Tax collection method is amended.
- The supply of the Annual Circulation Tax banderol is abolished, whereas the annual payment period of said taxes is set to be between November 1 and December 31 (without taxpayers having to be previously informed). Exceptionally, for the current year the commencing payment date is the 15th of November.
- In case of non-timely payment, non-payment or partial payment of such tax a fine equal to the Annual Circulation Tax liability shall be paid.
- In the event of non-payment of due Annual Circulation Tax, the Head of the competent tax office (DOY) is empowered to request, in writing, from the police authorities to remove the car number plates and the car registration certificate.
- It is provided that official catalogues listing unpaid Annual Circulation Tax shall be compiled from the General Secretariat of Information Systems (GSIS), in order for the competent tax office (DOY) to proceed with tax assessments.
- It is provided that, for the transfer of ownership of a vehicle the prior payment of existing or outstanding Annual Circulation Tax, including any fines imposed, will be required.

iii. Special Solidarity Contribution on Renewable Energy Sources (RES)

- An extraordinary special solidarity contribution is provided for producers of electricity by way of photovoltaic plants, which will be calculated on the basis of the electricity power sales to the Electricity Network Grid effected by such producers. Said extraordinary contribution shall be in effect for 2 years (i.e. between 01/07/2012 and 30/06/2014), with one further year extension option. The calculation rate of said contribution is set at 25%, 30% and 27%, depending on the commencing date of trial operation or of the activation of the connection to the Electricity Network Grid and on the basis of the entry price which will be taken into account in order to determine the compensation of the produced electricity.
- A 10% special solidarity contribution tax rate for the remainder RES categories and Cogeneration of Highly Efficient Electricity and Heat (CHEEH stations) is provided.
- The special solidarity contribution tax liabilities will be withheld from the Operator of Electricity Market SA (OEM SA) and the Manager of the Greek Electricity Distribution Network SA (MGEDN SA) upon clearance.
- No special solidarity contribution tax will be imposed to those producers who have agreed a remuneration price after August, 2012, i.e. on the basis of the of the new reduced prices. Moreover, such special solidarity

contribution tax will not be imposed on photovoltaic installations affixed on buildings.

Comments – Observations:

- *With regards to the special solidarity contribution tax, a concern arises, as to whether it is compatible with the Greek Constitution and EU Legislation, due to the fact that it is not imposed on the profits of the liable companies, but on a specific type of transaction, and particularly, on the sale price of electricity power from producers to the Electricity Network Grid.*

iv. Taxation on profits from gambling

- The lottery tickets profits provisions are amended and renamed as profits from gambling games.
- It is defined that gambling games profits are the amounts paid or credited to the player/ gambler resulting from such gambling game, after the deduction of the participation price.
- Subject to said taxation are also the gambling games profits, from games organised by licensed providers pursuant to article 45 of L. 4002/2011, as well as, the profits sourced from mutual horse racing bet organised by licensed providers.
- A 10% tax rate shall be applied per lottery/game ticket profits or bets carried out by columns or on the amount paid or credited as profit to the player at the end of the game session on gambling games carried out by gaming sessions.
- The date of entry into force of these provisions is stipulated to commence one 1.1.2013, whereas regarding the mutual horse racing bet from 1.1.2014.

v. Rights of the State on the Casino profits

- A Euro 6 uniform entrance ticket, for access to be granted to the “gaming machinery” or the “gaming tables”, in all casinos operating in Greece, will be implemented .
- A 20% on the total value of the ticket shall be withheld from the casino, as a right for disposal and expenses cover, also, including the corresponding VAT, whilst the remainder amount (i.e.80%) constitutes an attributable to the State right.
- The participation of the State in the gross profits of all the casinos operating in Greece is increased by 2 basis points.

C. Fiscal administration provisions

- A General Secretariat for Public Revenues is established at the Ministry of Finance, whilst the General Secretariat of Tax and Customs is abolished.
- It is also provided that the position of a General Secretary of Public Revenue will be established with a five-year term. Fiscal administration competences of the Minister of Finance and of the Deputy Minister of Finance will be gradually transferred to the General Secretary.
- It is provided for an exceptional procedure - other than the one defined in the Code of Civil Servants – of the selection of the heads of the Ministry of Finance having as a main criterion the achievement of qualitative and quantitative targets.

D. Procedural Provisions of tax disputes in general

- The deadline for recourses (for tax and customs disputes) is reduced from 60 to 30 days. The new deadline refers to acts issued or omissions occurred after the 12.11.2012 (date of publication of the present Law).
- Due to its ambiguities, the relevant rule of article 5 of L.4079/2012, regarding the limitation of the appeal deadline, is repealed.

E. Other Provisions

i. Custom Clearing System – Customs Agents and Certified Appraisers

- Numerous provisions of L.718/1977 are amended and repealed, in order for the custom clearing operation system to be simplified.
- With the abolishment of all the relevant restrictions, customs agents' and certified appraisers' professions will cease to operate as closed guilds, thus being released.

ii. Leasing of private-use trucks

- The notification to the tax authorities of the hiring contracts of private-use trucks from leasing companies is imposed.

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