# Tax Flash

## “New tax bill and other tax provisions”

**December 2012**

*The new tax bill does not introduce a new Income Tax Code, however it introduces important amendments which we hereby briefly mention and we will analyze in detail after the tax bill is passed through the Parliament.*

### A. New tax bill

The new tax bill was submitted before Parliament on 13.12.2012.

This new tax bill introduced significant amendments to the Code of Income Taxation for Individuals and Legal Entities (L. 2238/1994). Additionally, some provisions of the VAT Code, the Customs Code, and the Public Revenue Collections Code and laws on shipping companies (L. 27/1975 and L. 814/1978) are amended. Despite earlier rumors for an overall tax reform, changes are now partial. Due to the fact that further changes may take place until the tax bill is passed through the Parliament, we hereby summarize the most important changes introduced by the new tax bill.

- The taxable basis is broadened through the restriction of tax exemptions and deductions.
- A distinction between employment income and income derived from business activities is introduced.
- Simplification of the progressive tax scale applicable to individuals and pensioners, including the provision of a tax reduction, instead of a tax free amount is provided. The higher rate is 42% for income that surpass the EUR 42,000.
- The income received by freelancers issuing services receipts may be treated as employment income, subject to conditions. In such case, the individuals that are taxed on the progressive tax scale applicable to individuals shall not be entitled to deduct expenses.
- Introduction of a common progressive tax scale applicable to sole partnerships and freelancers at a rate of 26% up to income EUR 50,000 and of 33% for the excess amount when double entry books are kept.
- Income derived from the leasing of property is taxed at a flat rate at source 10% for income up to EUR 12,000 and 33% for the excess amount.
- A new method for taxing partnerships and limited partnerships is introduced.
- The corporate income tax rate is increased from 20% to 26%.
- The withholding tax rate applicable to dividends and profit distributions or capitalizations is reduced from 25% to 10%.
- The tax rate applicable to profit distributions (excluding shareholders’ dividends and interest from shares and founders’ shares) made by SAs to foreign beneficiaries - legal entities is reduced from 40% to 33%. In the case of foreign individual beneficiaries, a 20% withholding tax is imposed. The same stands for payment of interest from individuals.

- The new income tax scales are applicable from calendar year 2014 onwards (fiscal period of 2013), whereas the taxation of distributed profits applies for profits that are distributed and approved by General Meetings from 1.1.2014 onwards.

- The withholding tax rate applicable to payments of BoD Members of SAs is increased from 35% to 40% from fiscal year 2014 onwards.

- The withholding tax rate applicable to interest on bank deposits and bond loans is increased from 10% to 15%. In relation to interest on bank deposits these provisions apply for interest paid or credited from 1.12.2012 onwards, as well as for interest on bond loans for bonds issued from 1.1.2013 onwards.

- The withholding tax rate applicable to interest payable by individuals to foreign beneficiaries is amended. In case of beneficiaries - individuals a 20% withholding tax applies, whereas in case of a legal entity a 33% withholding tax applies.

- The way of taxation upon transfer of non-listed shares of SAs is amended by introducing a tax rate of 20% on the deriving capital gains.

- Capital gains derived from the sale of listed shares acquired from the 1.4.2013 onwards are taxed at a rate of 20%. The 0.2% stock exchange transaction duty is maintained.

- A 20% income tax on capital gains derived from the transfer of real estate property is imposed.

- Withholding tax on amounts payable to beneficiaries that correspond to insurance premiums paid by a company for group life insurance plans of their employees is introduced. The tax rate is set at 10% for lump-sum payments up to EUR 40,000 and 20% for any amounts exceeding EUR 40,000 and 15% for periodic paid benefits, but are doubled in case of early redemption.

- The provisions concerning the deductibility of expenses from the gross income of enterprises are amended, such as the depreciation rates for fixed assets.

- The irrebuttable presumption is converted into a rebuttable presumption for sales performed to entities resident or established in states with a preferential tax regime, by introducing the possibility for the interested party to prove that the transactions are real and don't result in the transfer of profits, having as ultimate goal the tax avoidance or tax evasion. This provision enters into force for income received from calendar year 2013 onwards.

- The special taxation of banks is abolished.

- The rejection of books is limited only to cases where proper accounting books and records are not kept or not furnished at all upon a tax audit.

- The obligation of filing income tax returns to persons that previously did not have such obligation is extended.

- The obligation to declare all income, whether tax exempt or not, in the annual income tax return for individuals is stipulated.

- The double legal framework regulating intra-group transactions (Ministry of Finance – Ministry of Development) is abolished and is only regulated by the respective provisions in the tax legislation.

- The option for entering into an advance pricing arrangement (APA) with the tax authorities is introduced by submitting an application at the General Directorate of Tax Audits and Collection of Public Revenue of the Ministry of Finance.

- The requirement of tax certificate issued by certified auditors is extended also to Greek branches of foreign companies.

- The Extraordinary Special Duty on Built Surfaces Supplied with Electricity is no longer collected by the Public Electricity Company through the utility bill for electricity sent to consumers, but it will be assessed by the tax office following the filing of an application by the owner or usufruct holder before the competent tax office and the payment of at least the current and any due installments, if any, for the year 2012.

- The tonnage tax regime is extended also to vessels flying a foreign flag which are managed by Greek or foreign ship management companies established in Greece. The application of this new provision enters into force from 1.1.2013 onwards.

- Leases of real estate property for exercise of business activities may optionally be subject to VAT, provided that the lessee is entitled to VAT deductions.

Once the tax bill is passed through the Parliament, an analytical Tax Flash will follow.

**B. Law on the "Ratification of the Memorandum of Understanding between the Ministry of Administrative Reform and Electronic Government of the Hellenic Republic and the Ministry of Economic Affairs and Communications of the Republic of Estonia on cooperation in ways of combating corruption and bureaucracy through e-government and information and communication technologies"**

The above law was passed through the Parliament on 5.12.2012, while its publication in the Government Gazette is still pending. Article 2 includes provisions on the tax prescription period. More specifically:

- The deadline for the statute of limitation of State's right for the notification of tax assessment sheets or the imposition of taxes, duties or charges that lapsed on 31.12.2012 is extended until 31.12.2013.

- The deadline for the statute of limitation for the collecting of debts of every nature that have been assessed by tax offices and customs authorities that lapses in the years 2012 and 2013 is extended until 31.12.2013.

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*268, Kifissias Avenue*
*15232 Halandri*
*tel. +30 210 6874400*