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Tax Flash

The new Investment Incentives Law and the public consultation on the new draft tax bill

What you need to know

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On Tuesday, January 25, 2011, the bill on "Bolstering of Private Investments for Economic Growth, Entrepreneurship and Regional Sustainability" (New Investment Incentive Law) was adopted by the Greek Parliament. The main points of the new law are the following:

- Any investment plan in any sector of the economy may receive benefits under the new law. Only certain cases explicitly specified in the law are exempt (e.g. power generation from photovoltaic arrays).

- The types of subsidised expenditure for tangible and intangible assets are indicatively mentioned, whereas the expenses that may not be subsidised are exhaustively enumerated. Especially the subsidy percentage for the expenditure of intangible assets may not exceed 50% of the total eligible expenditure of the investment plan.

- The term of "new" enterprises is specifically defined for the new law's purposes (see also below). An enterprise is considered as "new", if the establishment procedures have not been completed before the enterprise applies for an aid according to the new law or if it has been established within the past 24 months prior to filing the application.

- There are three types of aid: (a) tax exemption, (b) subsidy and (c) leasing subsidy.

- The new law lists three categories of General Investment Plans and specifies the type of aid for each of them: (a) General Entrepreneurship which only the tax exemption may be granted for, whereas for the (b) Technological Development and the (c) Regional Sustainability investment plan the subsidy and/or the leasing subsidy may be granted in principle, with different percentages for the existing and the new enterprises. The remaining percentage may be covered by tax exemption.

- The new law also lists four categories of Special Investment Plans: (a) Youth Entrepreneurship, (b) Major Investment Plans, (c) Integrated Long-Term Investment Plans and (d) Synergy and Networking. The aids granted are further specified by type, volume and/or percentage for each of them.

- The percentages of aids are specified in conjunction with the division of the country in three zones (A', B', C') and are the following:

	Large enterprises	Medium-sized enterprises	Small & Micro enterprises
ZONE A' (Prefecture of Attica, Prefecture of Viotia)	15%	20%	25%
ZONE B' (Prefectures with GDP per capita > 75% of the average GDP of the country)	30%	35%	40%
ZONE C' (Prefectures with GDP per capita < 75% of the average GDP of the country)	40%	45%	50%

In any case the above percentages should comply with the ceiling set by the Regional State Aid Map (RSAM) approved by the European Commission.

- An additional 5% aid percentage and up to the ceiling set by the RSAM is granted for investment plans in Industrial Entrepreneurship Zones and Innovation Zones. Benefits are also granted up to the ceiling set by the RSAM, by enterprise size and up to 50% of the eligible expenditure, for investment plans on islands and regional units of islands that belong administratively to the Regions of the mainland.

- The new law sets a ceiling for each aid (€ 10-15 m. in principle, but graduated according to various criteria).

- The period for filing the application (April and October, with the exception of large investment projects) and the conditions for approval are further specified.

- The law specifies the conditions and evaluation criteria for each investment project and determines in general the procedure for evaluation, approval and monitoring of implementation of investment projects (further specification by ministerial decisions).

- The mode of payment of each type of aid is further determined. Especially for the aid of tax exemption the law stipulates that:

  - The amount of tax exemption aid is annually formed with the following restrictions:

    (a) The enterprise is entitled to the use benefit of the incentive from the fiscal year in which the decision on the completion and beginning of the productive operation of the investment has been published. In this fiscal year the ceiling of tax exemption to be used is set at 1/3 of the approved amount of the tax exemption aid.

    (b) In the following fiscal year the ceiling of tax exemption to be used, including the aid for the first fiscal year, is set at 2/3 of the approved amount of the tax exemption aid.

    (c) The remaining amount of the approved tax exemption aid may be covered within 10 fiscal years for new enterprises and within 8 fiscal years for existing enterprises following the fiscal year in which the decision on the completion and beginning of the productive operation of the investment has been published.

  - The amount of the tax exemption aid shall be shown as a tax-free reserve in a special account in the enterprise's accounting books and shall consist of the income tax on the net profits reported in the initial timely income tax return which shall not be paid based on the tax exemption granted.

    This new wording of the law raises questions on the implementation, as it could eventually be construed as allowing the granting of tax exemption even if the enterprise's profits are distributed. This issue should be further clarified by the ministerial decision to be issued in order to regulate the details for the implementation.

  - Where the equipment is acquired through leasing, the tax exemption to which the enterprise is entitled in each fiscal year is calculated on the part of the purchase price of the equipment which is included in the rents already paid by the end of this fiscal year.

- The law stipulates that the amounts of subsidies and leasing subsidies as well as of tax exemption shall be shown as tax-free reserves in special accounts. Said reserves may not be distributed or capitalised and shall be returned in case of dissolution of the enterprise. In case of distribution or capitalisation certain penalties shall be imposed.

  This new condition set here seems to imply that the said reserve may not be distributed / capitalised prior to the dissolution of the enterprise. The treatment in terms of accounting should be clarified.

- The law stipulates that any aid to be paid is exempt from any tax, stamp duty, right and any other charge in favour of the State or any third party.

- Finally, the new law specifies the obligations of the beneficiary enterprises and penalties in case of non-compliance.

Moreover, we would like to inform you that on Wednesday, January 26, 2011 a new draft tax bill was posted on the internet for public consultation until Tuesday, February 1, 2011. The said draft bill, which may enact significant changes in areas such as corporate income taxation (reduction of corporate income tax rate to 20%, withholding tax on dividends), reorganisation of tax administration and of procedures, is still being developed. Once the new arrangements have been finalised, we will inform you accordingly.

This information is intended only as a general update for interested persons and should not be used as a basis for decision making. For further details please contact PwC on +30 210 6874400