

Tax Flash Law 4336/2015

August 2015

On August 14th 2015, Law 4336/2015 “**Provisions regarding pensions - Ratification of the Draft Agreement on the Financial Assistance by the European Stability Mechanism (E.S.M) regarding the implementation of the Financing Agreement**”, introducing important tax provisions, as well as the commitment of the Greek Government to adopt additional tax measures for the implementation of the Agreement, was voted by the Greek Parliament. The most important points are summarized below.

Part I – Voted tax measures

A. Income Tax Code

Increase of the advance tax payment

- It is clarified that the increased advance tax at the rate of 100% applies to the profits earned in tax year 2014 by all legal entities (SA, LTD, Private Capital Company “IKE”) as well as by partnerships, non-profit entities of public or private law, civil law companies and joint ventures of partnerships.
- It is established that the advance tax on business income earned by individuals as of January 1st, 2016 is increased to 100%.

For the tax year 2015, the advance tax rate is set to 75%.

Abolition of the obligation to pay the withholding tax of 26% for the deductibility of specific expenses

- Abolition of the obligation to pay a 26% withholding tax as a prerequisite for the deductibility of the expenses related to payments made to individuals/legal entities which are tax residents in non-cooperative states or states with a preferential tax regime.

Said expenses will be tax deductible if the taxpayer is in a position to evidence that they relate to real and ordinary transactions and had not been realized for tax evasion or tax avoidance purposes; in other words, the provision applies in its version as in force prior to the amendment introduced by L. 4321/2015.

Decrease of the installments of the CIT of year 2014

- The payment of the Corporate Income Tax arising from the Corporate Income Tax returns of tax year 2014 filed from 14 August 2015 up to 20 August 2015 will be paid in 5 equal installments instead of 8 installments currently applicable.

Abolition of discounts as of the tax year 2015

- Abolition of the discount of 2% applying in case of one-off payment of the corporate and individual income taxes as of tax year 2015.

B. VAT

VAT on private schools

- Amendment of the provision concerning the exemption from VAT of the education services as of July 20th, 2015. In particular, education services provided by private institutions are exempt from VAT only under several strict conditions (e.g. no systematic profit-seeking activity, unpaid administration and management of said institutions etc.), with the exception of pre-school education.

Therefore, education services provided by private schools, tutorials schools of all educational levels, foreign language and computer centers are now subject to the standard VAT rate if the above conditions are not met.

Gradual abolition of the reduced VAT rates on islands

- The abolition of the reduced VAT rates starts as of October 1st, 2015 for specific islands with a view to fully eliminate reduced VAT rates applicable in Greek islands as of January 1st, 2017.

Amendment of the time of declaration of the adjustment of VAT deductions

- Adjustment of VAT deductions effected during an accounting period should be included in the VAT return to be submitted by the last working day of the 4th month (instead of the 7th month applicable under the previous provisions) following the lapse of the accounting period.

C. Uniform Tax on the Ownership of Real Estate Property (ENFIA)

ENFIA assessment notes

- It is clarified that ENFIA assessment notes for the year 2015 will be issued up to 26 October 2015.

The first installment should be paid up to 30 October 2015, whereas the last one up to the last working day of February 2016.

Maintenance of the deduction applying to empty and non-electrified buildings

- The discount of 20% applicable in case of empty and non-electrified buildings will continue to apply in year 2015.

D. Shipping taxation

Expansion of the scope of application of tonnage tax on vessels

- Expansion of the tonnage tax levied on certain categories of vessels flying Greek flag (professional vessels, leisure yachts, ferries etc.) to vessels flying flags of European Union or European Union Area Member – States with exhaustion of the income tax liability of the shipowners on income earned from the related activity.

Said provision aligns the regime applying to said category of vessels following the European Commission's accusation for discriminatory treatment of foreign flag vessels compared to Greek flag ones.

The aforementioned provision applies to maritime transport services provided as of January 1st, 2015.

Increase of tonnage tax rates and rates of the special contribution of L. 29/1975

- The rates of tonnage tax and special contribution of Greek-owned vessels flying a foreign flag which are affiliated for insurance purposes with NAT are increased by 4% annually for the period 2016-2020.

Extention of the annual contribution on the imported foreign exchange of companies of article 25 of L. 27/1975 and increase of the relevant rates for the period 2016-2019

- Extention of the contribution of article 43 of L. 4111/2013 applying on companies of article 45 of L. 27/1975 on the total annual amount of the imported and converted in Euro foreign exchange for 4 years.
- The relevant rates are readjusted for the period 2016-2019 as follows:

| Annual amount of the imported and converted in Euro foreign exchange (amounts in USD) | Rate for the period 2016-2020 | Rate for the period 2012-2015 |
|---|-------------------------------|-------------------------------|
| • Up to 200,000 | 7% | 5% |
| • 200,001 – 400,000 | 6% | 4% |
| • Excess amount | 5% | 3% |

Review of the exemptions on tax shipping sector

- However, uncertainty still exists as to the purpose of the further examination/abolition of the tax exemptions applying to the shipping sector mentioned in further measures to be implemented based on the Memorandum (see also below Part II).

Part II – Future tax reforms for the implementation of the Financing Agreement – “Memorandum for the three-year programme of EMS”

Except from the above mentioned measures introduced by L. 4336/2015, the Government has been committed to proceeding immediately and until early 2016 to the introduction of major tax reforms (Income Tax Code, Code of Tax Procedures, VAT, etc.) in order to improve the effectiveness of the implementation of the tax legislation and the collection of taxes within the framework of the implementation of the Financing Agreement, the most important of which are summarized below. However, it should be noted that many of the issues are mentioned very briefly without any clarifications as to the relevant purpose.

A. Reforms concerning income taxation

- The solidarity contribution will be integrated into the Income Tax Code.

Said integration seems to deprive such contribution from its “extraordinary” character and thus, said contribution becomes permanent, essentially by increasing the income tax rates.

- Review of the framework of capital taxation by developping the tax framework for collective investment vehicles and their participants.
- Increase of the rates on income for rents. In particular, for annual income up to Euro 12.000 the applicable rate will be 15% (instead of 11% currently applicable), whereas for annual income exceeding Euro 12.000 the applicable rate will be 35% (instead of 33% currently applicable).
- Review of the withholding tax imposed on technical services.

- Modernization of the provisions of the Income Tax Code concerning mergers/acquisitions and corporate reserve accounts.

It is not clear what is the exact purpose, although, to a great extent, one could expect the consolidation of the current provisions providing for different regimes (e.g. L. 2166/1993, P.D. 1297/1972, L. 4172/2013).

- Publication of all Ministerial Decisions and Circulars for the implementation of the Income Tax Code and Code of Tax Procedures up to March 2016.

B. Reforms regarding real estate tax

- Harmonization of the objective values of real estate properties with market values up to January 1st, 2017 (with a possible adjustment of ENFIA rates so as to neutralize any fiscal impact).

C. Measures for combatting tax evasion

Government's commitment to take the appropriate measures so as to ensure the effective and efficient fight against tax evasion is the most important commitment to its lenders and, at the same time, a great challenge given that similar reforms have been also announced in the past, without, however, producing any significant results.

- The expected plan for the fight against tax evasion to be implemented within the year includes, among others:
 - The expansion and the modernization of the definition of “tax fraud” and tax evasion to all taxes.
 - The adoption of new criminal law provisions on tax evasion and tax fraud.
 - The identification of undeclared deposits by checking bank transactions in banking institutions in Greece or abroad.
 - The introduction of a voluntary disclosure programme for the undeclared income with appropriate sanctions, without however any amnesty provisions.

Voluntary disclosure programmes of other countries may be followed, e.g., Italy.

- Establishment of a Wealth Registry.
- Filing of requests to EU Member-States for the provision of data on asset ownership and acquisition by Greek citizens.
- Creation of a database to monitor the balance sheets of parent-subsidiary companies to improve risk analysis criteria for transfer pricing.

- Further modernization of the tax administration by strengthening the independence of the General Secretariat of Public Revenues (which has already acquired competence over SDOE through the present Law).
- A series of measures in the field of debt collection, some of which have been already included in the present Law.

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