

Tax Flash

Tax provisions introduced in the bill on prior actions

January 2018

On January 15, 2018, L. 4512/2018 on the prior actions for the purpose of completion of the third review in the course of the third Economic Adjustment Programme, which contains, among others, tax provisions of great importance, has been enacted.

A. Incorporation of tax incentives in the ITC

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Patent incentives

- Existing provisions governing tax incentives are incorporated in the Income Tax Code (“ITC”). More specifically:
 - Art. 71 of L. 3842/2010 providing for a 3-year income tax exemption of the profits deriving from the sale of goods, for the production of which an internationally recognized patent has been used, is incorporated in the ITC. The exempt profits are booked in a special reserve, which is taxed pursuant to the general provisions upon its distribution or capitalization.

Capitalization of reserves formed by listed companies by application of incentive laws

- Art. 101 of L. 1892/2010, which provides that upon capitalization of reserves formed by application of incentive laws a final tax of 5% is due exhausting the tax liability of the company and its shareholders, is incorporated in the ITC. The provision applies until 31.12.2020. The tax rate is increased to 10% and 20%, if the capitalization takes place in 2019 and 2020 respectively.

Capitalization of reserves formed by non listed companies by application of incentive laws

- Art. 13 of L. 1473/1984, which provides that upon capitalization of reserves formed by application of incentive laws a final tax of 10% is due, while a simultaneous increase of the capital by the same amount with contributions by the shareholders should take place (exhausting the tax liability of the company and its shareholders), is incorporated in the ITC.

Such provision also applies until 31.12.2020, whereas in case the capitalization takes place within 2020, the rate is increased to 20%.

As per the previously applicable provisions in both the above cases, there is a restriction not to dissolve the company or decrease its capital for a period of 10 years; otherwise tax is due based on the general provisions upon the time of the dissolution or the decrease of capital while the tax paid upon the capitalization is deducted from the tax due.

B. Decrease of penalties

Possibility for submission of late tax returns after the notification of the tax audit order with reduced penalties

- The possibility of the submission of a late (initial or amending) tax return following the issuance of a tax audit order is introduced.
- In case of the submission of a tax return following the notification of the tax audit order and until the notification of the preliminary corrective tax assessment act, the penalties can reach up to 50% of the tax due, as the case may be.

- In such case, however, on the condition that the taxpayer proceeds with payment of the tax within 30 days, the respective penalty (and not the interest for late payment) is reduced to 60%.

The above reduction is not possible in cases of submission of late employment withholding tax returns.

- Furthermore, the penalties are also reduced to 60% in case the taxpayer consents by means of an irrevocable and unconditional statement to the final corrective tax assessment act, which either will be issued or has been already issued but not yet notified to the taxpayer by 17.01.2018 (i.e. publication date of L. 4512/2018), and further proceeds with payment of the respective penalties within 30 days.
- Such possibility also applies to pending cases before the before the Dispute Resolution Directorate (DRD) or the administrative courts.

C. Procedural provisions

Procedural provisions

- The provisions of the VAT Code with respect to which persons subject to VAT are obliged to file the forms for the commencement of activities, any amendments or termination of the business activities are incorporated in the Code of Tax Procedures (“CTP”).
- The Tax registration number/VAT number of a legal person is not deactivated due to the change of its legal form or its liquidation or its deregistration from the Greek General Commercial Registry, but continues to exist for the settlement of any pending tax obligations of the legal person.

D. Establishment of New Directorate of Economic Crime Investigation

Establishment of new Directorate of Economic Crime Investigation

- A new Directorate is established in the Ministry of Finance titled “Directorate of Economic Crime Investigation”. Purpose of this Directorate is the conduct of investigations, preliminary examinations or inquiries for the identification of any tax criminal offences committed (tax evasion).
- Apart from the cases of tax evasion, any additional infringements of the tax legislation which are identified during the examination for the tax evasion offence are also notified to the Independent Authority of Public Revenue (IAPR).
- The conclusions of the investigation, which are transmitted to the IAPR, are not binding to the latter, which retains the authority to conduct tax audits.
- It is also provided that cases transmitted by the New Directorate to the IAPR are prioritized while a preliminary audit note and the preliminary corrective tax assessment act is issued within 1 month from the transmission of the report of the new Directorate.

The fact that the new Directorate conducts investigation for criminal offences (as the tax evasion) does not prevent the parallel audit of the same taxpayer by the IAPR.

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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:

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



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