

Tax Flash

May 2023

Amendments to the tax legislation regarding the transfer of real estate, the modernization of the relevant procedure and reporting formalities were introduced by the recent L. 5036/2023.

Facilitating the transfer of property is the main objective of the amendments, which can be summarised as follows:

Abolishment of purchaser's joint liability for ENFIA as well as for gift and/or inheritance tax liability

Following the enactment of the Law, the purchaser is no longer jointly liable with the seller for the payment of the seller's past tax liabilities from the annual ENFIA and gift and/or inheritance tax corresponding to the real estate property to be acquired for a consideration.

The above provisions contribute to the limitation of significant delays in real estate transactions and apply for real estate transfers taking place from 28.03.2023 (Law's publication).

Changes to the issuance of tax clearance certificate for sellers with tax debts

In case the taxpayers have entered into a tax debts' settlement scheme or have debts that are either not due or are suspended, they are now entitled to obtain a tax certificate with a maximum duration of one month.

Specifically for the transfer of real property for consideration, the tax clearance certificate provides that the following amounts should be withheld from the purchase price:

Type of tax debts	Percentage to be withheld from the purchase amount
Tax debts under a settlement scheme	70% of the purchase price and up to the amount of the total tax debts*
Tax debts under suspension over 50.000 EUR	50% of the purchase price and up to the amount of the total tax debts*
Both of the above types of tax debts	The amount to be withheld shall be calculated in accordance with the objective value and shall not exceed the purchase amount. **

** To the extent that the purchase price is not lower than the property's objective value.*

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The percentages to be withheld in case of debts from inheritance, parental benefit and donation tax that have not become overdue may be determined by a joint decision of the Minister of Finance and the Governor of the IAPR.

Changes to the content and other formalities of the ENFIA clearance certificate

The content of the ENFIA certificate is redefined in order to facilitate real estate transfers for a consideration, which under the previous regime were delayed or even postponed in case the seller had tax debts from ENFIA that could not be settled or paid.

The ENFIA certificate is disconnected from the payment of the tax

The requirement to certify with the ENFIA certificate the payment of the tax due on the property to be transferred is abolished.

In particular, in cases of transfer deeds or establishment of a property rights for a consideration, the ENFIA clearance certificate will only certify that the respective property – and not all of the taxpayer's real properties - has been reported in the

ENFIA return for the 5 years preceding the transfer. The certificate will cover the last 6 years before the transfer in case the current year's ENFIA assessment has already been issued. Effective from 01/06/2023 (therefore any Certificates already issued are valid until the end of May 2023).

Conclusion of a transfer deed prior to the repayment of ENFIA

Furthermore, the transfer deed can be concluded even prior to the full repayment of the ENFIA corresponding to the specific real property, provided that the relevant ENFIA certificate clearly states the total amount of ENFIA and interests due for the property in question, which the notary is obliged to remit within 3 working days from the execution of the relevant deed under penalty of nullity.

ENFIA certificate for acceptance of inheritance

In cases of deeds for the acceptance of inheritance rights the ENFIA certificate for the tax years when the deceased was liable is issued under the condition that the ENFIA tax corresponding to the percentage and the right inherited has been settled or an exemption has lawfully applied.

Extension of the reductions applied for the calculation of the principal tax for 2023

Properties which fall within tax zones 2 and 3, as the latter have been applied as from 1.1.2022, will be taxed with the principal tax that corresponds to tax zones 1 and 2 - i.e. they are subject to reduced principal ENFIA tax - respectively for 2023, under specific conditions.

Amendments concerning the article 105 certificate and the withholding of inheritance/gift tax due

The obligation for notaries to attach the certificate to a contract of real property transfer or creation of rights in rem for consideration is abolished, when the property was acquired by death, donation or parental gift. It is sufficient to state explicitly in the deed that the applicable inheritance/gift/parental benefit tax return has been filed.

In the same cases, the notary's obligation to withhold from the sale price and refund to the State any taxes due from the above-mentioned taxes is abolished.

Automatic and digital update of E9 return

The uploading of the transfer deed to the electronic application “myPROPERTY” by the notary digitally and automatically updates the property data return (E9) based on the details of the parties' properties, relieving them of this obligation.

Details on the operation of the application and the time of its launch are expected by a decision of the Governor of the IAPR.

Amendments to the E9 returns until June 30th, 2023 without penalties

Especially for the tax year 2023, amendments can be made to E9 returns until the 30 June 2023, without incurring any fines and penalties for delayed filling. The payment of the ENFIA shall be made in instalments by the end of February.

Finally, as of 28/3/2023 the mandatory audit by the tax administration in cases of submission of an amending ENFIA return resulting in a tax reduction of more than 300 euros is abolished.

Let's talk

For a deeper discussion on the amendments to the tax legislation, please contact:



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