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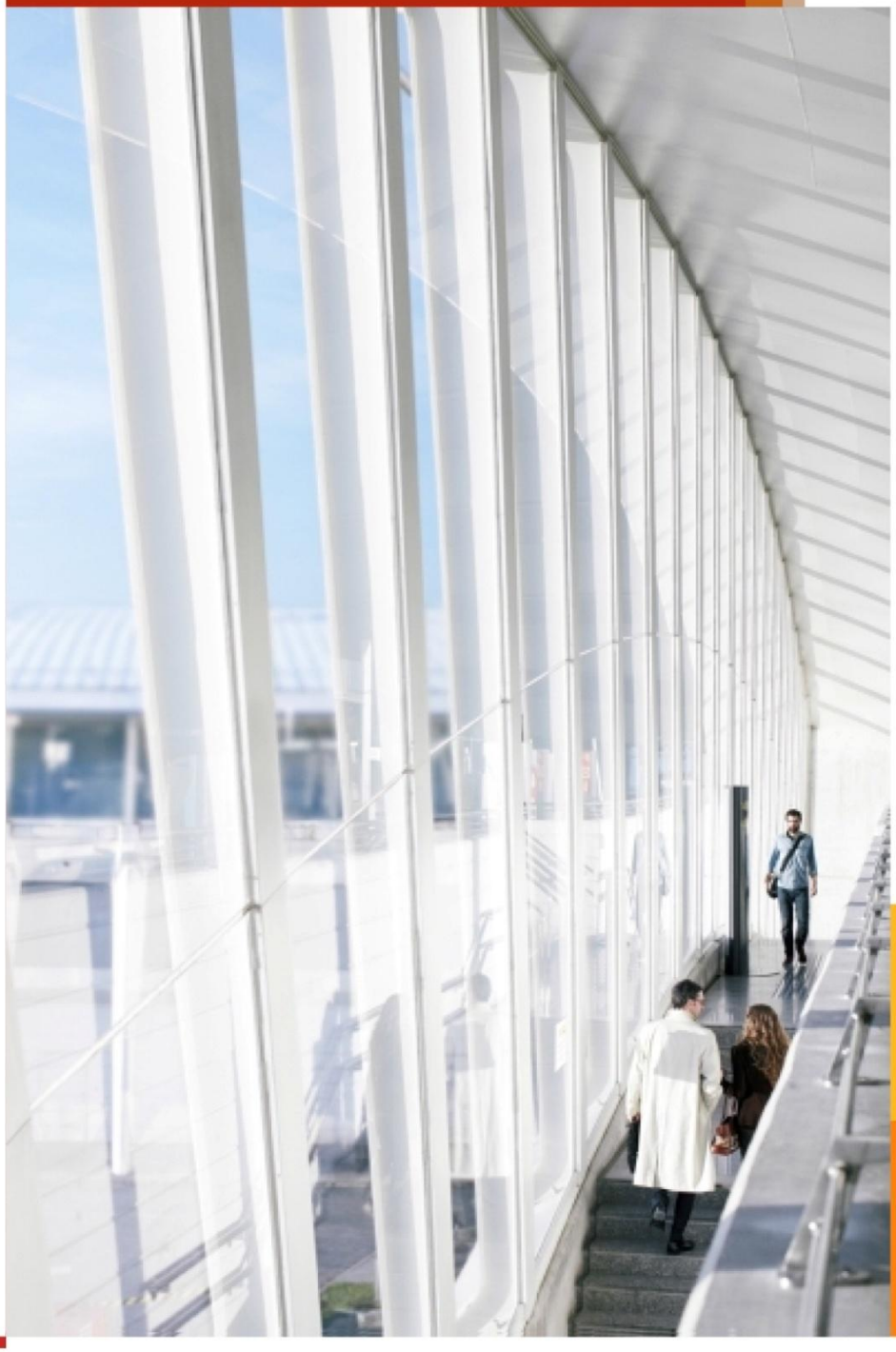
Tax Bulletin

February 2014

On 31.12.2013 L.4223/2013 which introduced amendments to the Income Tax Code, Code of Tax Procedures and Code of Tax Recording of Transactions was published in the Government Gazette (Government Gazette A' 287/2013). Herein follows a presentation of the most important changes introduced to these Codes as well as of certain issues determined by Ministerial Decisions issued subsequently in respect thereof.



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A. Amendments to the new I.T.C.

Law 4223/2013 attempts, according to its introductory report, to clarify and improve some provisions of the new Income Tax Code (I.T.C.) which principally enters into force from 1-1-2014 onwards, following the consultation with institutional bodies, such as the Capital Markets Commission, Hellenic Bankers' Association, Federation of Greek Industries etc.

The present attempts to present a summary of the amendments, the issues that are clarified and certain important issues that seem to remain unresolved.

It is noted that it had been already proclaimed that in March 2014 a new tax bill is expected to be submitted that will attempt to incorporate in a uniform legislation the tax incentives, and therefore, the total tax framework remains to a certain degree in abeyance, taking into consideration that the following is also expected:

- A series of Ministerial Decisions concerning the application of the new I.T.C.
- The proclaimed further amendment/simplification of the Code if Tax Recording of Transactions (CTRT) by the ratification of a new law on Greek accounting standards (a first draft has already been released).
- The interpretative Ministerial Circulars of the Ministry of Finance in relation to the new I.T.C.

Finally, it should be noted that the new law does not include any clarifying amendment on certain issues that we had pointed out in our previous Tax Bulletin as giving rise to interpretative discrepancies, e.g. on the provisions on Controlled Foreign Entities, the non-deductibility of expenses related to tax free dividends etc. In any case, we understand that further amendments of the provisions of the new I.T.C. (e.g. on issues of real estate capital gains tax) and the new Code of Tax Procedures (e.g. on issues of penalties) are already being discussed.

A.1 Tax residence (article 4 of the I.T.C.)

The new provisions introduce an explicit exemption from the irrebuttable presumption on establishing a tax residence in Greece

L.4172/2013 at a glance

- The definition of tax residence for individuals had been amended, whilst introducing an irrebuttable presumption of tax residence in Greece in case the individual was physically present in Greece for a period exceeding 183 days.

Amendments that are introduced

- An exemption from the tax residence of an individual in Greece is provided for the case of individuals that stay in Greece, even for period exceeding 183 days, if said stay in Greece is for tourist, medical, therapeutic or similar private purposes and the general conditions for permanent residence do not apply.

A.2 Income arising in Greece (article 5 of the I.T.C.)

L.4172/2013 at a glance

- Article 5 of L.4172/2013 includes an indicative enumeration of the categories of income that are considered as arising in Greece.

Issues to be clarified

- The addition to article 5 of the I.T.C. seems to clarify that foreign legal entities that do not maintain a permanent establishment in Greece are not taxed on profits or income received in Greece. *In any case, the extent to which it may be considered that foreign legal entities are not taxed in Greece requires further clarification. As indicated by the Scientific Committee of the Greek Parliament, it is not clear whether the purpose of this regulation is the non-subjection to income tax of every kind of income received by foreign legal entities from Greek sources (e.g. profits derived from the sale of real estate property, which up to today and on the basis to the Council of State jurisprudence was subject to tax in Greece).*

A.3 Determination of income (profits) derived from business activities (articles 21-26 of the I.T.C.)

A.3.1. Deductibility of expenses (articles 22 and 22A of the I.T.C.)

It is specified that the expenses of scientific and technological research are deductible increased by 30%

L.4172/2013 at a glance

- L.4172/2013 amended the philosophy in relation to the deductibility of expenses.

- The new law introduced a general rule on the deductibility of all real and evidenced business expenses, with the exception of some specifically enumerated expenses.

- The deductibility of expenses is permitted, to the extent that: (a) the expenses were realized for the benefit of the enterprise or in the frame of its usual business activities, (b) the expenses related to an actual transaction and the value of the transaction is not considered lower or higher than the actual value thereof as determined on the basis of the indirect tax audit method and (c) the expenses are recorded in the accounting books of the period in which they were realized and that the expenses are evidence by the respective documents.

Amendments that are introduced

- The conditions for the deductibility of expenses are amended. More specifically, the second condition was amended and expenses are now deductible if the expense relates to a real transaction and the value of the transaction is not considered as lower or higher than the market value (and not the actual value as provided by L.4174/2013 prior to its amendment) on the basis of data available to the tax administration. *This raises important questions as to how "market value" could be assessed as different from the agreed consideration in non-related party transactions.*

- A new article 22A is added, providing a procedure of approving expenses of scientific and technological research. More specifically, the new article provides that the expenses of scientific and technological research are deductible from the gross income of enterprises at the time of their realization increased by 30%. Expenses concerning fixed assets, in order to be increased, according to the aforementioned, shall be equally divided between the next 3 years. *The meaning of the last phrase is unclear to the extent that the acquisition of assets does not constitute an expense.* During the filing of the income tax return, the liable enterprise submits the respective documents in relation to the realized expenses of scientific and technological research at the General Secretariat of Research and Technology of the Ministry of Education and Religious Affairs. The audit and certification of the scientific and technological research expenses is performed within 6 months, whilst in case said deadline lapses without result, these expenses are considered as approved.

A.3.2. Deductibility of interest expenses from business income (articles 23 and 49 of the I.T.C.)

The new provisions lift a number of limitations introduced by L.4172/2013 on interest deductibility

L.4172/2013 at a glance

- Restrictions on the deductibility on interest expenses on loans undertaken from third parties correlated to the interest rate, with the exception of bank loans, were introduced (article 23).

- Particularly strict conditions of interest expense deductibility were provided.

- New rules were introduced pursuant to which the meaning of thin capitalization was determined in connection to the taxable profits before interest, tax and depreciations (EBITDA).

- It was provided that interest expenses were not deductible to the extent that the surplus of interest expenses compared to interest income exceeds a percentage of 25% of EBITDA, whilst an exception from the deductibility restriction was provided in case the amount of expenses recorded in the accounting books did not exceed the amount of € 1m per year (article 49).

Issues resolved by L.4223/2013

- Inter-bank loans and bond loans issued by societe anonymes are from now on excluded from the limitation of the maximum interest rate of article 23 of the I.T.C.

- The maximum amount of EBITDA of enterprises that is specified as a limit to the deductibility of interest expenses is increased from 25% to 30%. In parallel, a transitional provision is introduced specifying that this limit will be:

    - 60% from 1st January 2014
    - 50% from 1st January 2015
    - 40% from 1st January 2016
    - To reach 30% from 1st January 2017

- Furthermore, it is explicitly specified that the aforementioned limit does not refer to net interest expenses that do not exceed the amount of €5.000.000, whilst from 1st January 2016 this amount is reduced to €3.000.000.

- Any excess amount of non deductible interest expenses is from now on carried forward indefinitely to future years and therefore will be deductible in future years, to the extent that these future years indicate an uncovered EBITDA amount.

For example, assuming that an enterprise indicates during the accounting period 2014 tax EBITDA of € 10,000,000, interest expenses of € 7,000,000 and interest income of € 500,000. In such case, the enterprise shall proceed to a tax adjustment of € 500,000. If during the next accounting period of 2015 the EBITDA is €15,000,000, and provided that the interest expenses and income remain unchanged, the enterprise will proceed to a negative adjustment (i.e. further deduction) of € 500,000, deducting in total € 7,500,000 of gross interest expenses, thus transferring the non-deductible amount of interest expenses of 2014.

(amounts in '000 Euros)

Year	EBITDA	I.T.C. Percentage	I.T.C. Limit	Net year expense	Deductible year net expense	Carry forward to next years	Carried forward from previous years	Tax adjustments (increase of taxable revenue)
2014	10,000	60%	6,000	6,500	6,000	500	0	500
2015	15,000	50%	7,500	6,500	6,500	0	500	(500)

The amendments introduced by L.4223/2013 on the thin capitalization rules, namely the provision of a transitional period for the gradual reduction from 60% to 30% of the percentage on the tax EBITDA which is set as a limit for the deductibility of interest, until 2017, the increase of the net interest expenses recorded in the accounting books, a lower amount providing an exemption from the restriction of interest expenses from € 1m to € 5m, as well as the provision on the carry forward of non deductible interest expenses without any time restriction, seek to alleviate the adverse tax effects of the new thin capitalization rules for enterprises, taking into account the current recession of the Greek economy.

Issues to be clarified

- It is unclear whether the maximum interest rate applies even in cases of intra-group lending, in which case the arm's length nature of the interest rate is documented.

- The exemptions of bond loans does not seem to extend to cases of bond loans where the issuer is a foreign company (SPV).

- The method of applying the limits of articles 23 and 49 in case the conditions of non deductibility provided by both articles apply is not clarified, whilst it remain unclear whether article 49 applies only to related entities *(although this does not derive from the wording of the provision).*

A.3.3. Determination of business profits with the use of indirect audit methods (article 28 of the I.T.C.)

A broad list of cases for an indirect determination of business profits is introduced

L.4172/2013 at a glance

- The method of determining, by indirect audit methods according to the new Code of Tax Procedures (L.4174/2013), the income of individuals and of legal entities and other entities that exercise or seem to exercise a business activity, in case that the required books are not kept or single entry books instead of double entry books are kept, rendering the audit confirmations impossible or the books and other documents are not stored or provided for audit upon two requests was provided.

Amendments that are introduced by L.4223/2013

- A sufficiently broad list of cases permitting the indirect determination of profits derived from business activities (e.g. incorrect keeping of financial statements). *This wide option of an "out of books" determination implies serious risks of arbitrariness from the side of the tax administration, as also pointed out by the Scientific Committee of Parliament.*

A.4. Taxation of capital gains derived from the transfer of securities (articles 21, 24 and 41-43 of the new I.T.C.)

The new law rationalizes the provisions on the taxation of capital gains derived from the transfer of securities and related issues

L.4172/2013 at a glance

- Capital gains derived from the transfer of securities, as well as the transfer of a business as a whole, were subject to individuals' income tax at a rate of 15%, provided that said transfer did not constitute a business activity.

- Article 42 included various provisions on the determination of the acquisition and purchase price, the difference of which constituted the capital gain.

Issues resolved by L.4223/2013

- The new law clarifies issues of characterizing the transaction of at least three sales of listed shares as a business activity, by introducing a specific exemption for securities listed on a recognized stock exchange and bonds, unless the taxpayer exercises the aforementioned transactions in the frame of its business activity.

- It is clarified that the contribution of securities for increase of share capital is subject to tax.

- The provisions on the determination of the acquisition price of securities, mainly listed securities, is partly rationalized.

- It is clarified in article 24 that for the determination of the acquisition price the tax depreciation is taken into consideration – this provision also applies to capital gains derived from the transfer of real estate property *(the method of applying this provision is not completely clear)*.

- It is provided that the zero acquisition value refers only to cases that the transferred securities were acquired after the 29.9.1999 (date of completion of the dematerialization of securities at the Athens Stock Exchange).

- It is specifically determined that any capital gains derived from the transfer of securities by individuals is exempt from capital gains tax, if said individuals are tax resident in a state with which a Tax Treaty for the Avoidance of Double Taxation has been concluded, provided that documents are submitted to the tax administration evidencing the residence of those persons.

- For the purpose of calculating the capital gains deriving from the transfer of real estate property it seems to be clarified that the inflation adjustment of the capital gain is made on the basis of the years of ownership, as previously provided by paragraph 5 of article 41 and not with reference to the actual inflation data. Moreover, a specific provision is introduced that the capital gains tax is withheld by the notary public. *In any case, other issues remain open, such as the reference that the transfer of "participations deriving 50% of their value from real estate property directly or indirectly" is equalized to capital gains deriving from the transfer of real estate property.*

- Ministerial Circular (POL) 1004/2014 determines the acquisition value, during the transfer of securities for a consideration by individuals, in case said securities have been acquired prior to the 29th September 1999.

- Ministerial Circular (POL) 1008/2014 determines the acquisition values of real estate property in special cases in which said value is impossible to be determined (e.g. due to not keeping or non existence of required data), according to par.11 of article 41 of the I.T.C.

Issues to be clarified

- The issue remains that the new provisions seem to introduce an irrebuttable presumption for the determination of the acquisition and sale value of non-listed securities with reference to the net equity of the legal entity issuing the securities, leading to the taxation of a potentially inexistent income.

A.5. Taxation of legal entities and other entities (articles 44-58 of the I.T.C.)

The new law introduces amendments in the chapter on the taxation of legal entities and other entities, specifically with regard to the taxable income and entity subject to tax, the intra-group dividend exemptions, intra-group transactions and the mergers and restructurings regime

A.5.1. Taxable income and entities subject to tax (articles 44-45 of the I.T.C.)

L.4172/2013 at a glance

- Private companies, civil companies and joint ventures and in general every legal form that is not an individual (other entities) are subject to corporate income taxation.

- It is specified that all income received by the entities subject to corporate income taxation will be considered as income derived from business activities.

Issues that are clarified by L.4223/2013

- A specific provision is introduced, pursuant to which the taxable profits of legal entities and other entities includes the capitalization or distribution of profits for which no income tax has been paid. *This new provision re-enacts the provisions applicable under the I.T.C. up to now. The provision is of particular practical importance for legal entities publishing their financial statements according to IFRS, in which case the profits for distribution may exceed the taxable profits. In any case, the imposition of tax in such cases, especially with regard to differences between IFRS profits – taxable profits is due to time differences (e.g. different depreciation) may lead to a risk of double taxation if the issue is not resolved by the Ministry of Finance.*

- The issue of determining the profits and losses of entities that apply IFRS principles and which derive from the initial recognition of financial instruments is regulated.

- It is clarified that legal entities that keep single entry accounting books will be substantially taxed on the basis of the provisions of individual taxation.

A.5.2. Intra-group dividends (article 48 of the I.T.C.)

L.4172/2013 at a glance

- A broader provision on the tax exemption, subject to conditions, of intra-group dividends received by Greek tax resident legal entities or permanent establishments of foreign legal entities in Greece was introduced.

- It was specified that in cases of tax exempt dividend income arising from the above participations, the recipient taxpayer will not be entitled to deduct the expenses connected to such participations.

Issues that are resolved by L.4223/2013

- It is specified in article 68, par.3 that in case a Greek parent company receives dividends from a Greek or foreign subsidiary company and said dividends do not fall in the exemption provision of article 48 of the I.T.C., a credit for the corporate income tax and dividend withholding tax paid in relation to this dividend will be provided. *It is, however, not clarified when a parent-subsidiary relation is considered to exist. For example, if a Greek company participated with a percentage of 9% in another Greek company it seems to derive from the new I.T.C. that the dividend distributed by the second to the first is not exempt from tax (in contrast to the current regime), resulting in double economic taxation of the same profit. This new provision seems in any case to provide a credit for the corporate income tax paid by the second, although it is not clear if a percentage of 9% could give rise to a parent-subsidiary relationship in order for the new provision on credit to apply.*

A.5.3. Intra-group transactions (article 50 of the I.T.C.)

L.4172/2013 at a glance

- A general provision on intra-group transactions was introduced.

Issues that are resolved by L.4223/2013

- The new law introduced, by means of a word addition, an amendment to the definition of the arm's length principle with respect to the subjective frame of application. It is now explicitly specified that entities subject to complying with the arm's length principle and, therefore, documenting of transactions, are legal entities and other entities when realizing transactions with related entities. *This addition seems to broaden the frame of application of the respective obligation, since it now expressly includes aside from legal entities also other entities in general.*

A.5.4. Regime on mergers and restructuring regimes (articles 52-54 of the I.T.C.)

L.4172/2013 at a glance

- A provision on intra-group business restructurings was introduced.
- Regulations on company restructuring, and more specifically the contribution of assets in return of shares, exchange of shares, merger and spin-off, as well as the transfer of registered seat of a (Societe Europea) enterprise were included.

Issues that are resolved by L.4223/2013

- The new law introduces some ameliorations of a technical nature to the existing provisions of the I.T.C. without amending the substance thereof.
- It is clarified that the conversion of a branch into a newly formed legal entity qualifies as a contribution of assets.

Issues to be clarified

- In any case, the basic issue of interaction of the new provisions with the existing and non-abolished regime of laws 2166/1993 and 1297/1972 is not clarified. *Potentially, the issue will be regulated legislatively in the bill on tax incentives.*
- Certain issues that remained open following the initial wording of the law are not clarified, such as e.g. the accounting treatment of the transfer of losses of a sector upon spin-off etc.

A.6 Withholding Taxes (articles 61-64 of the I.T.C.)

The new law introduced amendments to the articles of the I.T.C. relating to the obligation to withhold taxes

L.4172/2013 at a glance

- The provisions on parties liable to withholdings and payments subject to withholding tax were rephrased.
- According to said provisions, the capital gain received by individuals from the transfer of real estate property is also subject to withholding tax. In such case, the person liable to effecting the withholding is the notary.
- The exemption from the obligation of withholding taxes for payments of dividends, interest and royalties by a Greek subsidiary to its parent company is significantly broadened, since it now seems to include payments of dividends, interest and royalties to Greek parent companies.
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- The withholding tax rates were amended as follows (article 64):

Type of income	Withholding Tax Rate (%)
Dividends	10%
Interest	15%
Royalties and other payments	20%
Services	20%
By exception, fees received by contractors of every kind of technical projects and lessors of public, municipal, association or port proceeds	3% on the value of the project under construction or lease payment

Amendments introduced by L.4223/2013

- The participation percentage is amended from 10% to 25% as a condition for the exemption from the obligation to withhold tax upon the payment of interest and royalties, according to the EU Interest-Royalties Directive (2003/49/EC).

- It is specified that payments of interest of bank loans, including default interest, as well as interest of intra-bank deposits are exempt from withholding tax.

- The entry into force of the provision on the withholding tax imposed on benefits in kind granted to employees or their relations, as specified in articles 13 and 60 of the I.T.C. is transferred to 2015. *The fact that the deferral of the entry into force of the specific provision implies the inherent difficulty of determining the method and of the specific procedure of effecting withholding to benefits in kind. This does not mean, however, that the respective benefits in kind are not considered as income for the beneficiary in any case.*

Issues that are resolved by L.4223/2013

- Ministerial Circular (POL) 1011/2014 determined the method of filing, the type and content of the withholding tax return according to the provisions of article 64 of the I.T.C., whilst Ministerial Circular (POL) 1012/2014 determined the time of filing the tax return. More specifically, it was specified that the tax return is filed at the latest 3 days prior to the end of the second month from the date of settling the payment subject to withholding.

- Ministerial Circular (POL) 1014/2014 determined the type, content and the manner of filing the 15% withholding tax return on the capital gains deriving from the transfer of real estate property of article 41 of the I.T.C.

Issues to be clarified

- It any case, discrepancies remain in the I.T.C. which should be clarified, for instance the exact meaning of “fees for advisory services and other similar services” of article 62 of the I.T.C. and of the meaning of “management fees”, in article 64 of the I.T.C., which may be subject to withholding.

- The extent to which a withholding should be effected on payments made to foreign legal entities remains unclear – a respective interpretative circular is expected to be issued on this matter.

A.7 Taxation of tax-free reserves (article 72 of the I.T.C.)

The new law introduces some amendments in the wording of the existing provisions of article 72 of the I.T.C., whilst specific issues on the taxation at source of tax-free reserves were clarified in the Ministerial Circular (POL) 1007/2014

L.4172/2013 at a glance

- Taxation at source for tax-free was reserves was imposed.

Amendments introduced by L.4223/2013

- It is prohibited from 1/1/2014 onwards (and not from 1/1/2015 onwards as provided by the I.T.C. prior to its amendment) to maintain special tax –free reserve accounts. Therefore, the non-distributed or non-capitalized tax free reserves, from the 1st January 2014 onwards, must be either distributed or capitalized and are subject to taxation at a rate of 19%, exhausting the tax liability or must be set-off against their tax (not accounting) losses arising in the previous five (5) years until exhaustion. *The new provisions, as interpreted by Ministerial Circular (POL) 1007/2014 may create issues of unconstitutionality.*

Issues that are resolved by L.4223/2013

- Ministerial Circular (POL) 1007/2014 provided clarifications on the taxation at source of tax-free reserves in authorization of article 72 of the I.T.C. More specifically, it is provided that the provisions of article 72 of the I.T.C. refer to tax-free reserves that have been formed exclusively on the basis of the general provisions of L.2238/1994.

- It is clarified that the provisions of the new law do not include tax free reserves that have been formed:

  a) on the basis of special legal provisions (e.g. revaluation of assets in application of the provisions of L.2065/1992, patent tax incentives in applications of article 71 of L.3842/2010, development of business parks in application of par.3 of article 62 of L.3982/2011 etc.),
  b) income taxed in a special manner exhausting their tax liability (deposit interest, capital gains derived from the sale of non-listed companies etc.) and
  c) on the basis of provisions of investment and incentive laws.

- Moreover, it is clarified that partnerships, as well as non-profit legal entities are excluded from the application of the provisions of article 72 of the I.T.C., since these legal entities do not generate profits from a business activity, do not proceed to a distribution of profits and do not have a specific capital (share capital or capital). *Therefore, the frame of application of the respective provisions is clarified.*

- Moreover, indicative cases of tax-free reserves that fall within the provisions of par.12 of article 72 of L.4172/2013 are provided. Such cases include, amongst others:

- Tax free reserves that have been formed from treasury bills and bonds issued by the Greek State until the entry into force of the provisions of par.1 of article 11 of L.2459/1997.
- Tax free reserves formed from capital gains derived from the sale of securities according to par.3 of article 10 of L.148/1967, a provision which was codified by article 38 of L.2238/1994 ratifying the Income Tax Code.
- Tax free reserves that derive from profits of mutual funds or gains from the redemption of their participations at a price higher than their acquisition value.
- Tax free reserves derived from profits from the sale of shares listed on a Stock Exchange at a price higher than their acquisition price and from transactions on derivatives on the Athens Derivatives Market.
- Tax free reserves that have been formed by construction and technical companies and which derive from actual profits to the extent that they exceed the imputed profits.
- Tax free reserves which have been formed from the appreciation due to expropriation of real estate property which is self-used or has been self-used for the exercise of the business activity of the enterprise.
- Tax free reserves that derive from the capital gains arising from the sale of real estate property by an enterprise to a leasing company, for which a leasing agreement is concluded between the leasing company and the selling company.
- Tax free reserves that have been formed from income exempt from taxation on the basis of an agreement ratified by law.
- Tax free reserves that have been formed from interest of Greek State bonds due to their holding until maturity.

Issues to be clarified

- The legal consequences of the provision that the keeping of special tax free reserves accounts from 1.1.2014 onwards should be clarified. Otherwise, the provision remains incomplete.

- In accordance with recent press speculation it is being discussed to exclude from said taxation reserves formed from sale and leaseback transcations.

A.8 Other issues

Amendments that are introduced

- The assimilation of the tax treatment of corporate bonds with State bonds is abolished. The main consequence seems to be that an exemption from interest withholding tax for foreign bondholders no longer applies. *In any case, an explicit abolition of the tax exemptions of bond loans provided by L.3156/2003 does not seem to be provided.*

- For the filing of the income tax return of individuals the 30th April of the immediately following tax year is indicated as a deadline, whereas specifically for the tax year 2014, the deadline for submission commences on the 1st February and lapses on the 30th June.

- Ministerial Circular (POL) 1026/2014 was issued pursuant to which "every taxpayer that has its tax residence in Greece and during the respective tax year derives income from abroad, which has already been taxed abroad, in order to be able to credit the income tax of paragraph 1 of article 9 of L.4172/2013, needs to submit the following documents together with the income tax return:

- For the countries with which Greece has concluded a Treaty for the Avoidance of Double Taxation (DTT) a certificate issued by the foreign tax authority evidencing the tax paid abroad.
- For other countries with which Greece has not concluded a DTT, a certificate issued by the foreign tax authority or by a statutory auditor.

- In case of tax withheld by a legal entity, a certificate by said entity, as authenticated by the competent tax authority or a certificate by a statutory auditor is required. This authentication is not required in case the withholding is effected by a public body, insurance organization or credit institution.

- The certification of the foreign tax authority should bear the Hague Apostille, provided that the foreign state falls within the list of countries that have ratified the Hague Convention, as amended and in force.

- It is provided that the provision on the deductibility by the lessee of depreciations of assets in case of financial leasing agreements concluded prior to 1.1.2014 will enter into force as of 1.1.2019.

Issues that are resolved by L.4223/2013

- It is now explicitly specified that from the entry into force of L.4172/2013 the provisions of L.2238/1994, as well as all regulatory acts and circulars issued in authorization thereof, cease to apply.

B. Amendments to the new Code of Tax Procedures

Law 4223/2013 introduces certain amendments to the C.T.P. Some of them refer to the wording, while others provide for important changes through the introduction of new articles (i.e. regarding tax certificate, EN.F.I.A. certificate etc.).

This second section follows the same structure as the first one, as it aims to provide a summary of the established changes, the matters which are clarified and some important issues which seem to remain open, while specific reference is made to recent respective Ministerial Decisions and Circulars which have been issued by the General Secretary of Public Revenues according to C.T.P. authorization.

Finally, the transitional provisions are supplemented, in order to regulate issues of applicability of tax provisions, such as mainly in the chapter referring to the imposition of penalties for infringements of the tax legislation.

B.1 Scope of application of the C.T.P. (article 1 of the C.T.P.)

The scope of application of the C.T.P. and the taxes which it regulates are broadened and clarified.

L. 4174/2013 at a glance

- The procedure for assessing, certifying and collecting public revenue provided in the Code of Tax Procedures, namely of income tax, V.A.T., real estate ownership tax, every other tax, duty, contribution etc. and of the monetary penalties imposed by the same Code for the collection of which the provisions of the aforementioned respective tax objects apply, was determined.

Amendments that are introduced

- The new provisions supplement the scope of application of the C.T.P., with regard to the taxes that it regulates. More specifically, it is provided that the provisions of the C.T.P. apply to the following public revenue:

  a. Income Tax

  b. V.A.T.

  c. EN.F.I.A.

  d. Taxation of Inheritance, Donation, Parental Grants, Dowries and Profits from Gambling

  e. Taxes, duties, contributions or monetary penalties included in the Annexes of the C.T.P. and every other tax, duty, contribution or monetary penalty for the assessment or collection of which the respective income tax and V.A.T. provisions equally apply

  f. Monetary penalties and interest provided by the C.T.P.

Issues that are clarified

- It is clarified which taxes fall into the scope of application of the C.T.P. More specifically, as provided in the Annex that is included in L. 4223/2013, the taxes which are regulated by the C.T.P. are the following:

  - Real estate transfer tax (L.1587/1950)
  - Real Estate Property Declaration (Specific Form E9) and Registry for Real Estate (articles 23 and 23A` of L.3427/2005)
  - Special Real Estate Tax (articles 15 to 18 of L.3091/2002)
  - Freelancers Duty imposed on Individuals and Legal Entities (article 31 of L.3986/2011)
  - Special Solidarity Contribution for Individuals (article 29 of L.3986/2011)
  - Luxury Tax (article 44 of L.4111/2013)
  - Tonnage Tax imposed on vessels flying a Greek and foreign flag (L.27/1975)
  - Annual Contribution imposed on Imported Foreign Exchange (article 45, par. 1 of L.4141/2013)
  - Dividend tax imposed on companies of article 25 of L.27/1975 (article 45, par. 5 of L.4141/2013)

- Casino Tickets Revenue (article 2, par.10 of L.2206/1994, article 31, par.13 of L.2873/2000, article 1 par.1 of L.3139/2003, article one, case 9, sub-par. E7 of L.4093/2012)
- Special Luxury Tax of EU Member States and Locally Produced Goods (article 17 of L.3833/2010)
- Participation of the Greek State in the Gross Profits of Online Betting and Gambling Companies (article 50 of L.4002/2011)
- Mobile Telephony Subscribers Duty and Prepaid Phone-Cards Duty (article 33 of L.3775/2009)
- Duties on Cards Games (article 8 of L.2515/1997, article 8, par.1 of L.2954/2001 and article 10, par. 2 of L.3037/2002)
- Insurance Premium Tax (article 29 of L.3492/2006)
- Annual Duty for the Operation of Designated Smoking Areas (article 45 of L.3986/2011)
- Special Tax on TV Commercials (article 1, par.12 of L.3845/2010, article 3, par.9 of the Legislative Decree of 31.12.2011 as ratified by article 2 of L.4047/2012, article 22 of the Legislative Decree of 31.12.2012 as ratified by article 1 of L.4147/2013)
- Special Tax imposed on Private Pleasure Boats (article 2 of L.3790/2009)
- Capital Concentration Tax (articles 17-31 of L.1676/1986)
- Insecticide Contribution (article 102 of L.1402/1983)
- Lump sum taxes on petroleum reserves (articles 23 of L.3634/2008, article 2 of L.3828/2010 and article four, par.6 of L.3845/2010)
- Stamp Duty (P.D. of 28th July 1931)
- Special Tax for the Development of Cinematographic Art (article 60 of L.1731/1987)
- Annual Real Estate Tax (articles 27 to 50 of L.3842/2010)
- Automatic Appreciation Tax (article 16 of L.1882/1990)
- Automatic Appreciation Tax and Real Estate Transfer Duty (articles 2 to 19 of L.3427/2005)
- Real Estate Tax for Great Value Assets (articles 21 to 35 of L.2459/1997)
- Uniform Real Estate Duty (articles 5 up to 19 of L.3634/2008)
- Extraordinary Special Duty on Built Surfaces Supplied with Electricity (article 53 of L.4021/2011)
- Extraordinary Special Real Estate Duty (first article sub-paragraph A7 of L.4152/2013)
- Individuals' Contributions (article 18 of L.3758/2009, article 30 of L.3986/2011, article 5 of L.3833/2010)
- Extraordinary Contribution on Private Pleasure Boats (article 3 of L.3790/2009)
- Special one-off Social Responsibility Contributions for Legal Entities (article 2 of L.3808/2009 and article 5 of L.3845/2010)
- Taxation at Source of Tax-Free Reserves (article 8 of L.2579/1998)
- Taxation of Bad Debt Provisions (article 9, par. 4 of L.3296/2004)
- Taxation at Source of Tax-Free Reserves of Technical Enterprises (article 3 of L.2954/2001)
- Taxation at Source of Reserves of Credit Institutions (article 10 of L.3513/2006)
- Special Tax on Banking Activities (articles 1 to 16 of L.1676/1986).

B.2 Notifications of acts of the tax administration (article 5 of the C.T.P.)

The article of the C.T.P. on the notifications of acts of the tax administration is replaced. The new provisions do not introduce substantial differentiations to article 5, but refer in detail to various issues, such as, inter alia, the case of electronic notification.

L. 4174/2013 at a glance

- The method of notification of acts of tax administration, both for individuals and legal entities, is specified. More specifically, it is provided that the notification to individuals is made:

  a) electronically, according to the provisions on electronic notification, as applicable at each time,

  b) sending a registered letter to the lastly indicated postal address of residence of the said individual or of registered seat of the legal entity,

  c) by service to the given individual or the legal representative of the legal entity, according to the provisions of the Code of Administrative Procedure, provided that the service is not possible in another manner.

  Moreover, with regard to the notification to legal entities, it was specified that this is made by delivering the act at the registered seat or establishment of the legal entity in Greece with a signed receipt note by an employee of the legal entity.

- It is provided that in case of notification of an act by registered letter, the latter is considered as legally notified following the lapse of 15 days (or 30 days in case the address is abroad) from the date of sending.

Amendments that are introduced

- The option of notification by simple letter of documents that are of an informative character issued by the General Secretary of Public Revenue, as well as administrative tax assessment acts is provided. *Although the notification of documents of an informative character by a simple letter is reasonable, also for reasons of administrative costs, however, the notification of acts of administrative assessment by simple letter may create discrepancies with regard to the time of commencement of the deadline for filing an appeal before the Directorate of Dispute Settlement.*

- A presumption of legality of the service to legal entities is established, in case that the service takes place at the lastly indicated before the tax administration address of the registered seat or office of the legal entity or the lastly indicated before the tax administration place of residence of the legal representative. Additionally, another presumption on the legality of notification at the lastly indicated before the tax administration legal or tax representative cannot be questioned is introduced in case of the latter's resignation and non-notification to the tax administration of the appointment of a new legal or tax representative. *The new presumptions on the legal service attempts to treat the issue of legal entities questioning the tax assessment acts that have been issued for reasons referring to the legality of service of the act. However, this presumption is in contrast to the set case-law, permitting the questioning of the legality of the service in case of a change of address. Moreover, as pointed out in the Report of the Scientific Committee of Parliament, to the extent that such cases of presumption of legal notifications may deter the substantial option of access of taxpayers to judicial protection, it is possible to be considered as infringing both the Constitution and ECHR.*

- It is provided that in case of electronic notification to the account of an individual or a legal entity or other entity, the act is considered as having been legally notified following the lapse of a ten (10) days period from the uploading to the account of the person to whom the service refers and the electronic notification to said person's registered e-mail account, provided that a preceding manner of receipt does not apply.

- It is provided that specifically the notification of an act referring to the taxation of real estate property may be effected by service to the taxpayer or any other adult individual related to the owner or usufruct owner of the real estate property and is present at the property or by publishing the act at the real estate property in case the other manners of notification are not possible.

Issues that are clarified

- It is specified that the notifications according to the methods indicated in the C.T.P. apply also to fiscal years, accounting periods, tax cases or obligations prior to the entry into force of the C.T.P.

B.3 Fiscal representative (article 8 of the C.T.P.)

The details on the appointment of a fiscal representative according to article 8 of the C.T.P. are to be specified by a Ministerial Decision.

L.4174 at a glance

- The obligation of appointing a fiscal representative being tax resident in Greece by a taxpayer that does not have a postal address in Greece in order for the administration to be able contact him/her is provided (without prejudice to the more specific V.A.T. provisions).

Issues that are clarified

- Ministerial Circular (POL) 1283/2013 specifies the details on the appointment of a fiscal representative, according to article 8 of the C.T.P.

- It is specified, that the person appointed as fiscal representative cannot be held liable in any way in relation to the compliance or non-compliance with the tax obligations of the taxpayer.

- The option of the fiscal representative that does not wish to continue its representation to unilaterally proceed to the submission before the tax administration of the M7 form in case the taxpayer does not proceed to his/her replacement, is provided.

- For the appointment of fiscal representative, the respective return for the granting of a tax registration number, along with the M7 form “Statement of relationships of the taxpayer” and a simple written statement signed before a Greek public authority (e.g. Greek Police Station, Prefecture, KEP etc) for the certification of his signature's authentication shall be submitted to the Tax Administration.

- In case of change of the fiscal representative, the same documents are submitted by the taxpayer to the Tax Administration within a deadline of 10 days from the occurrence of the change. In case said documents are not submitted by the taxpayer himself but by a third person, a respective authorization statement, legally certified, must also be submitted.

- With the aforementioned documents, the tax payer is obliged to declare his/her full postal address abroad and his/her e-mail address.

- In case the taxpayer does not notify the appointment of fiscal representative to the Tax Administration, the penalties for procedural infringements, as included in article 54 of the C.T.P., are imposed.

- Persons, who until the entry into force of the present Ministerial Circular have been appointed as proxy agents, will be considered as fiscal representatives following the entry into force thereof.

B.4 Tax Clearance and Liability Certification (article 12 of the C.T.P., as amended by article 41 of L. 4223/2013)

The conditions for the granting of a Tax Clearance are amended

L. 4174/2013 at a glance

- A Tax Clearance may be granted by the tax administration to a taxpayer in order to realize acts and transactions, only if it is established that the taxpayer does not have any due tax liabilities and has submitted all tax returns in the past.

- A Liability Certification, valid for one month, may be granted in order to realize acts and transactions, if the issuance of a Tax Clearance is not possible, in case the taxpayer has been included in a debt regulation program.

- A prohibition of granting a Tax Clearance or Liability Certification is provided for cases of State safeguarding measures for financial crimes.

Amendments that are introduced

- From 1.1.2014 onwards the Tax Clearance is renamed to Clearance.

- The conditions for the granting of Clearance are amended, as a Clearance may be granted to taxpayers that do not have any tax liabilities to Tax Administration for any reason and have submitted the required tax returns of the last five years. In any case, the option of non granting of a Clearance is provided in case the taxpayer has due liabilities to another authority of the public sector.

- It is established that the validity of the Clearance cannot exceed two months.

- It is provided, that a Clearance of limited validity of one month can be granted to taxpayers who have entered into a program of debt regulation or whose liabilities are not due or under suspension, while it is provided that an obligatory term of withholding is imposed in case the clearance is issued upon money collection or the transfer of real estate property or the establishment of real estate property right.

Issues that are clarified

- Ministerial Circular (POL) 1274/2013 specifies the acts and transactions which require the provision of a Clearance (i.e. money collection, payment of title payments by the Public Sector, conclusion/renewal of loan, credit and financing agreements with banks and credit institutions, transfer or establishment of property rights in general on real estate property, participation in biddings for tenders for construction or supply projects of the Public Sector, payment of assigned monetary claims against Public Sector entities etc.), as well as the respective exemptions from the obligation of the provision thereof. Moreover, the conditions of granting the clearance, the time of its validity (two months), the procedure of filing an application, the competent authority, the form and content of the clearance and the respective withholding rates in case the tax payer has debts under arrangement are specified.

- The issued Ministerial Decision (POL) 1275/2013) specifies the conditions for the issuance of a Liability Certification, particularly in cases of transfer of real estate property or establishment of property rights in return for a consideration. Moreover, the time of validity of the Liability Certification (1 month), the procedure of granting, its form and content and any matters in respect to the payment of withheld amounts is provided.

B.5 Information provided by the taxpayers and third parties (articles 14 and 15 of the C.T.P.)

Provisions are added to articles 14 and 15 of the C.T.P. with regard to the obligation of providing information to the Tax Administration by taxpayers and third parties

L. 4174/2013 at a glance

- An obligation of taxpayers and specific third parties to provide information at the Tax Administration in order to perform verifications was established.

Amendments that are introduced

- A new provision on the submission of lists on tax data, suppliers and clients for tax records issued and received by individuals with income derived from business activity, legal entities, other entities and farmers of article 41 of the V.A.T. Code is introduced.

- It is now specified that the information received from the Anti-Money Laundering Authority are granted to the Tax Administration.

Issues that are resolved

- Ministerial Circular (POL) 1022/2014 on the filing of a list on tax data for verification purposes specified that said obligation applies to:

    - Individuals with income derived from business activities
    - Legal entities
    - Other entities
    - Farmers if article 41 of the V.A.T. Code

- Taxpayers that are subject to tax but not resident in Greece, that have obtained a Tax Registration Number in Greece, in relation to purchases or sales performed under said Greek Tax Registration Number, that have been granted a licence for the realization of imports with a suspension of the V.A.T. payable upon import and reversal in case of subsequent supplies of goods in Greece.

- The content of the lists consists of:
  - The Tax registration Number of the client or supplier
  - The number of issued and received tax records
  - The value of the transaction, before V.A.T.
  - The V.A.T. imposed on the transaction
  - An indication on whether the counterparty is subject to the obligation (only in case of suppliers).

- The lists of tax data are mandatorily filed electronically and irrespective of maintaining single entry or double entry accounting books:
  - On a monthly basis by the issuer, irrespective of maintaining single entry or double entry accounting books or exemption thereof and at the latest within three days prior to the end of the deadline of submitting the periodic V.A.T. return for those maintaining double entry accounting books.
  - Until the end of the deadline for filing the periodic V.A.T. return (monthly or every three months) by the recipient and in case no obligations for filing a periodic return applies, until the twentieth day of the following month if the end of each semester to which they refer.
  - Specifically, for the first application, the aforementioned lists referring to transactions of January and February 2014 are filed per month until the deadline for submitting the list for March 2014.

- The filed data of the supplier-clients lists are verified by the General Secretariat of Public Revenue and any discrepancies and deviations are posted on the "accounts" on the liable persons that are kept at the electronic site of the Ministry of Finance, in order to be able to modify and correct them.

- Ministerial Circular (POL) 1038/2014 specified that the deadline for filing the documents of initial or amending lease agreements concluded from 1.12.2013 until 31.12.2013, irrespective from the commencement or amendment of the lease and that have not been filed at the tax office is extended until the 28.2.2014. Until the same date the respective initial or amending lease agreements concluded prior to 1.12.2013, irrespective from the commencement or amendment of the lease and that have not been filed at the tax office, are filed without the imposition of penalties.

B.6 Transfer Pricing (articles 21-22 of the C.T.P.)

Certain amendments to the relevant provisions are introduced providing clarifications on the frame of application and the respective deadlines, while providing guidance of the tax administration on the procedure of the advance pricing arrangement

L. 4174/2013 at a glance

- The obligation of related parties according to the I.T.C. to maintain a transfer pricing documentation file in relation to their transactions and transfer of operations of article 51 of the I.T.C., is integrated.

- The option of obtaining from the General Secretary of Public Revenues of an advance pricing arrangement of the methodology of specific future cross-border transactions with related parties is provided.

- It is also specified, that the object of the advance pricing arrangement constitutes the appropriate total of the criteria used for the determination of the prices of intra-group transactions during a specific time period. These criteria include mainly the transfer pricing methodology used, comparable or reference data and the respective adjustments, as well as the critical assumptions on future developments.

Amendments that are introduced

- The deadline for the submission of the Summarized Table of Transfer Pricing Information at the General Secretariat of Information Systems is amended from 50 days to 4 months following the end of every fiscal year. *This amendment implies the rationalization of the respective deadline, given that the deadline of 50 days following the end of the accounting period was particularly strict and it was very difficult in practice for the necessary data to have been compiled in order to complete the documentation of intra-group transactions, for which said obligation applies. This new provision restores the regulations of L. 2238/1994, as amended by the provisions of L. 4182/2013.*

- It is specified that the penalty imposed in cases of non submission of the Summarized Table of Transfer Pricing Information is also imposed in cases of inaccurate or incomplete Summarized Table of Transfer Pricing Information.

- A new subparagraph is added, pursuant to which an authorization is granted to the General Secretary to issue decisions providing, inter alia, for a simplified procedure of filing a transfer pricing documentation file for small and medium size enterprises. *It derives from said authorization that simplified procedures for a specific category of liable persons, namely small and medium size enterprises are integrated into the Greek legislation as well. It remains to be seen whether respective simplified procedures will indeed be introduced and to what extent the administration will in practice take advantage of the opportunity that such provisions provide.*

- The term “related enterprises” is replaced by the term “related persons”. *Thus, the subjective frame of application of the relevant provisions which specify the entities are liable to documentation is expanded.*

- It is specified that the competent authority for the audit of the transfer pricing documentation files for the accounting periods 2008-2009 which have been submitted to the Ministry of Development is the tax administration.

Issues that are clarified

- According to the authorization of article 22 of L.4174/2013, Ministerial Circular (POL) 1284/2013 was issued, in relation to the procedure of the advance pricing arrangement, the revision, revocation and cancellation thereof.

- It specified, inter alia, that the competent department is the Directorate of Audits of the General Directorate of Tax Audits and Collection of Public Revenue. Moreover, the separate stages of the procedure are determined, the content of the application for an advance pricing arrangement and the respective submission duties are determined.

- The submission duties amount to € 1,000 upon submission of the Application of Preparatory Consultation, € 5,000 upon submission of the Application of an Advance Pricing Arrangement or Revision and € 10,000 upon submission of request of consultation with foreign tax authorities. *Said amounts, though not insignificant, are by no means prohibitive.*

- It is also important to note that both article 22 of the C.T.P., as well as Ministerial Circular (POL) 1284/2013 do not include the controversial restriction which had been introduced by the previous L. 4110/2013, according to which the following could not be included in the Advance Pricing Arrangement: a) a specific price of transaction between related parties, b) a specific percentage of the margin of gross or net profit from transactions with related parties. *Said restriction had raised significant questions regarding its interpretation and its practical implementation.*

B.7 Entry into facilities (article 25 of the C.T.P.)

The powers of the tax administration in the frame of performing on-site audits a the facilities of the taxpayers are enhanced.

L.4174/2013 at a glance

- The option of the tax administration to proceed to an on-site tax audit at the facilities of the taxpayer during official office hours of the tax administration was provided.

Amendments that are introduced

- The option of extending the on-site audit at the taxpayer's facilities until its completion, even after the end of the office hours of the tax administration, if necessary, is provided.

B.8 Tax assessment (articles 30-34 of the C.T.P.)

Transitional provisions are introduced, in order for the application of the C.T.P. or of previous legislation to be clarified

L. 4174/2013 at a glance

- The meaning of "tax assessment" is defined and the categories of tax assessment acts that the tax administration may issue are provided.

- New cases of application of the prescription period of the right to impose taxes are provided.

Issues that are clarified

- For tax returns that are submitted after the 1.1.2014, irrespective of the accounting period, the time period, the tax case or obligation to which they refer, a direct tax assessment is performed immediately or an administrative tax assessment act is issued immediately, as applicable in each case.

- As from 1.1.2014 onwards, in cases of temporary or final tax audit, concerning accounting periods, time periods, tax cases or obligations prior to the entry into force of the C.T.P., a corrective tax assessment act is issued, according to the C.T.P.

- Corrective tax assessment acts of tax, duty or contribution which have been issued or are issued following a temporary or ordinary (final) tax audit, which was ordered until 31.12.2013, in case a partial tax assessment act is issued, do not prevent their subsequent correction upon a new tax audit.

- In case of a cancellation, on the basis of a decision of the administrative court, for typical reasons or reasons of a legal defect, of any assessment act, the Tax Administration, in compliance with the decision, issues, from the date of entry into force of the C.T.P. onwards, the tax assessment acts provided by the C.T.P., irrespective of the date of issuance of the decision.

B.9 Prescription period of the right of the State to issue tax assessment acts (article 36 of the C.T.P.)

Issues of applicability of provisions that were in force prior to the C.T.P. on the prescription period are clarified.

L.4174/2013 at a glance

- New cases of prescription period of the right to impose taxes are provided.

- It was provided that in case of a corrective tax assessment resulting in the amendment of the tax assessment act for a year for which the State's right to audit has been prescribed, the amendment is made to the older year which for the said right has not been prescribed (article 36 par.4).

Amendments that are introduced

- It is provided that the five-year prescription period commences from the end of the year in which the deadline for filing the tax return lapses.

Issues that are clarified

- The previously applicable versions of article 36 of the C.T.P. on the prescription period of the State right to notify tax audit assessment sheets and assessment acts of taxes, duties, contributions, continue to apply for the fiscal years, periods, cases and tax obligations to which they refer.

- Exceptionally, the twenty year prescription period of article 36, par.3 of the C.T.P. of the State's right to issue an administrative, estimate or corrective tax assessment act in cases of tax avoidance committed prior to the entry into force of the C.T.P. applies, if, at the time of its entry into force, the respective right of the State has not been prescribed.

B.10 Payment of tax (article 41 of the C.T.P.)

A Ministerial Decision provides for the method of payment of tax which is assessed during a direct and administrative tax assessment

L. 4174/2013 at a glance

- The method, time and deadlines in which the tax due is payable are determined. In case of a corrective tax assessment, the tax due is payable within 30 days from the notification of the tax assessment act to the taxpayer. In case of an estimated or preventative tax assessment, the tax is payable within 3 days from the notification of the assessment act.

Issues that have been clarified

- The option of paying of the tax due by transferring the full ownership of real estate property to a third party and simultaneously assigning the claim of payment of its consideration or a part thereof to the Greek State, in case the liable taxpayer is unable to pay the tax in cash, is provided.

- According to Ministerial Circular (POL) 1276/2013, taxes which are determined upon a direct tax assessment (article 31 of the C.T.P.) and upon an administrative tax assessment (article 32 of the C.T.P.) are paid lump sum and, exceptionally, in installments to credit institutions or the Greek Post, by using a payment code.

B.11 Tax refund (article 42 of the C.T.P.)

A Ministerial Decision specifies the procedure of the refund of income tax for legal entities

L. 4174/2013 at a glance

- It is specified that the collection of taxes constitutes a competency of the General Secretary of Public Revenues, although the collection may be assigned to every other public authority or credit institutions.

- The manner, time and deadlines in which the assessed tax is payable are determined

Amendments that are introduced

- It is provided that the right to claim the refund of unduly payments lapses at the time of prescription of the right of issuance of a tax assessment act with regard to the respective tax obligation from which the claim of the taxpayer for tax refund derives.

Issues that are clarified

- Ministerial Circular (POL) 1287/2013 was issued in relation to the procedure the refund of income tax for legal entities of a profit making character.

- It is specified that the criterion for the tax refund, which is performed after the electronic processing of the available data by the Directorate of Electronic Governance (e-Applications) until the end of every two months, as from 28/2 of every year, is the time of filing the income tax return.

- The purpose of processing of the respective data is the audit of the compliance of the taxpayers and of the verification of the amounts applied for refund and the data of the tax returns.

- For this purpose, the risk analysis method will be used, determining the cases in which the refund will be performed directly and the cases for which will previous require an audit. After the end of the tax year a sample will be chosen in order audits to be performed on beneficiaries who received refunds without a previous audit.

B.12 Program of Debt Regulation (article 43 of the C.T.P.)

Ministerial Circular (POL) 1277/2013 was issued in relation to the specific issues of the application of the debt regulation of article 43 of the C.T.P. with regard to the program of debt regulation and partial payment of debt in installments

L. 4174/2013 at a glance

- A program of debt regulation (partial payment of debt by installments) may be granted by the tax administration in case of invocation by the taxpayer of his/her financial difficulties for the payment of tax within the legal deadline.

Amendments that are introduced

- The option of submitting an application for the inclusion in a program of debt regulation even after the lapse of the deadline for the payment of tax is provided.

Issues that are clarified

- Ministerial Circular (POL) 1277/2013 was issued with regard to the specific issues of application of debt regulation of article 43 of the C.T.P.

- In particular, the debtors that may be included in the regulation are specified. The total of the assessed by the Tax Authorities, up to the date of application, tax liabilities due, which fall into the frame of application of the C.T.P. and have not been lawfully settled through suspension of collection or relief or any other legislative regulation for partial payment of due tax liabilities, can be included in the regulation.

- Following a decision of the taxpayer, the regulation may also apply to:

  a) the assessed tax liabilities which are under suspension of collection

  b) the liabilities that are not due up until the date of submission of the application for falling into the regulation.

- A prerequisite for the falling within the regulation is the submission of the income tax returns, annual V.A.T. returns of the last five years and periodic V.A.T. returns following the filing of the last annual V.A.T. return and whose submission deadline has lapsed one month prior to the date of application.

- The manner of filing of the application for admission to a program of regulation is defined. Specifically, the respective application is, in principle, submitted electronically or exceptionally at the authority competent for the collection of debt in case there is no online application or additional data is required for the review of the application.

- The regulation enters into force upon the payment of the first installment within three days from the filing of the application and the minimum amount of the installment is set at 15 Euros. The installments are paid through the usage of a unique code, the "Regulated Liability Identity (T.R.O.)" either up to 12 installments or, exceptionally, up to 24 installments.

B.13 Enforceable Orders (article 45 of the C.T.P.)

L. 4174/2013 at a glance

- The enforceable orders on the basis of which the tax administration may proceed to enforcement for the collection of tax debts are enumerated.

Amendments that are introduced

- It is specified that the decision of the Department of Internal Review in case of out-of-court petition also constitutes an enforceable order.

B. 14 Default notice of payment of liabilities/late payment (article 47 of the C.T.P.)

L.4223/2013 provides clarifications regarding the provision on the personal notification of payment of liabilities/late, whilst Ministerial Circular (POL) 1280/2013 was issued determining the form and the content of the default notice.

L. 4174/2013 at a glance

- The obligation of the tax administration to send to the taxpayer a default notice of paying the liabilities due prior to proceeding to any enforcement action is established. In case of non-payment of the amount due within 30 days from the serving of the default notice, measures of enforcement may be enforced, unless the taxpayer is within 30 days subject to a debt regulation program.

Amendments that are introduced

- The obligation of sending a default notice was replaced by the obligation of notification to the taxpayer of the default notice in case on non-payment of taxes or penalties due prior to proceeding to enforcement measures.

- An exemption from the obligation of notification to taxpayers of the default notice prior to the proceeding to enforcement measures is provided. More specifically, the notification of a default notice is not required prior to the seizure of monetary amounts or claims of the taxpayer or held by third parties.

Issues that are clarified

- It is clarified that the provisions of article 47 of the C.T.P. on the default notice of paying of liabilities due/of late payment apply to liabilities for which an enforceable order is acquired as from 1.1.2014 onwards.

- Ministerial Circular (POL) 1280/2013 was issued determining the form and the content of the default notice of paying the liability due - of late payment according to the provisions of articles 47 of the C.T.P. in cases on non-payment of liabilities due.

B.15 Safeguarding Measures (article 46 of the C.T.P.)

The provision of article 14 of L. 2523/1997 regarding the safeguarding of the State's interests is integrated and amended in the C.T.P.

L. 4174/2013 at a glance

- The provisions concerning state safeguarding measures were integrated into the C.T.P.

- In extraordinarily urgent cases and in case where the collection of the taxpayer's respective tax is at risk, the tax administration may take measures and proceed on the basis of the enforceable orders provided by the Code and without a decision, to the imposition of a provisional seizure of movable assets, real estate, property rights, claims and in general of all assets of the debtor of the State, either held by the taxpayer or by third parties. Moreover, on the basis of the above conditions, the tax administration may proceed to the appropriate conservative measures (injunction) on the basis of the enforceable order by analogous application of article 691 of the Code of Civil Procedure.

Amendments that are introduced

- With regard to the taking of safeguarding measures by the State through the imposition of a provisional seizure, it is clarified that as ground of justification for the imposition the prevention of imminent risk for the collection of taxes must be separated from the existence of the urgency, as an independent and autonomous reason. The provisional seizure may be imposed prior to the end of the deadline for the payment of the liability and even without decision. After the expiry of the legal deadline for the payment of the liability the provisional seizure is automatically transformed to compulsory seizure as from the date of the registration bearing all the legal consequences.

- The State safeguarding measures included the pre-notation of a mortgage.

- It is specified that the imposition of provisional seizures against the State debtor is imposed after the acquisition of legal order and prior to the end of the deadline for the payment of tax.

- It is provided that the provisional seizure is automatically transformed into a compulsory seizure when the liability is rendered due.

- Article 14 of L.2523/1997 regarding the State safeguarding measures is re-worded and added to the C.T.P.

- More specifically, the tax administration may impose against persons it considers to commit specific infringements of tax evasion, preventative or safeguarding measures of the State's interest of a direct and urgent character.

- Specifically, said measures are imposed in case of commitment of the infringements of non payment or inaccurate payment of V.A.T. and withholding and imposed taxes, duties or contributions, or non submission of tax returns or submission of an inaccurate V.A.T. return with the purpose of non payment of said taxes, the collection of a refund of said taxes following the deceit of the tax administration by representing false facts as true or by unlawful concealment of true facts, at an amount higher than € 150,000, as well as in case of issuance of false records or the falsifying of tax records and in case of issuance or receipt of fictitious tax records, provided that the value of the transactions of the tax records exceed cumulatively the amount of € 300,000.

- In such cases, the tax administration reserves the right not to accept and not grant documents which are legally required for the transfer of assets. Moreover, in such a case, 50% of the bank deposits, of all kinds of accounts and consignments and of the content of safe deposits of the infringers are bound, whilst the non monetary content of safe deposits and the non monetary consignments are bound in their entirety (article 46, par.5 of L.4174/2013).

- Article 46, par.5 and 6 of the C.T.P. applies also to cases for which a special audit report had been drafted pursuant to article 14 of L.2523/1997 until 31-12-2013, but none of the provided safeguarding measures have been imposed up to said date (article 50, par. 23 of L.4223/2013).

- Safeguarding measures are cumulatively imposed against the general partners of partnerships, as well as against any person who is appointed for any reason to the administration or management or representation of any legal entity or other entity as from the commitment of the tax evasion infringement of article 55, par.1 case b' ad c' of L 4174/2013 onwards or as from the commitment of the tax evasion infringement of article

55, par.1 case d' and e' of L.4174/2013, irrespective of whether they have ceased to act in said capacity.

- By a decision of the General Secretary of Public Revenue the aforementioned persons on which said safeguarding measures are imposed, are specified. Specifically, said decision that in order for Greek S.A.s, the measures are imposed to the chairmen and vice-chairmen of the Board of Directors (BoD), managing, executive and concurrent directors, administrators, general directors, directors, as well as to every person appointed either directly by the law or by private will or judicial decision or any other cause to the administration, management or representation of said companies, while if the abovementioned persons do not exist, the measures are imposed on the members of the BoDs of said companies.

- By a decision of the General Secretary of Public Revenue the cases in which the safeguarding measures are wholly or partly lifted, as well as the cases of non application of said measures are specified.

- Pursuant to the issued decision of the General Secretary of Public Revenue, the safeguarding measures do not apply to:

  a) amounts of salary and pensions which are deposited to the accounts of individuals,

  b) amounts which are paid by debiting the accounts of the infringer and by crediting accordingly the accounts of the State for the fulfillment of tax obligations of the infringer,

  c) amounts intended for the issuance of bank checks to order of the Greek State and Social Security authorities with the purpose of payment of tax and social security liabilities of the infringer,

  d) salary payments and social security contributions which are paid by the infringer by debiting his/her accounts and by crediting accordingly the related to them accounts of the beneficiaries, who are connected with him/her by an employment contract, and of the social security bodies.

  e) provided that the infringer has against the State a non assigned counter-claim, which is at least equal to the amount provided by article 46, par.5 of L.4174/2013, which can be set-off according to the provisions of the C.T.P. and of article 83 of the L.D.356/1974, if the other legal requirements are also applicable.

- An out-of-court petition can be filed at the Directorate of Dispute Settlement against the action of safeguarding State's interest according to article 63 of L.4174/2013. The deadline for the exercise of said out-of-court petition do not suspend the application of the safeguarding measures. However, the opportunity of filing an application for suspension of the imposition of said measures is provided.

- The imposition of safeguarding measures does not prevent the tax administration from proceeding to the settlement of its claims form bound assets through enforcement procedures. Said option applies also to measures which the State had imposed prior to the entry into force of the respective article over assets which were bound in application of article 14 of L.2523/1997.

- Pending applications which had been submitted up to 31-12-2013 to the Minister of Finance are examined within the framework of the special procedure by the Department of Internal Review (article 50, par. 26 of L.4223/2013). In case safeguarding measures

were imposed based on article 14 of L.2523/1997 until 31-12-2013 and no application for the withdrawal of said measures or recourse before the administrative courts had been submitted up to said date to the Minister of Finance, the taxpayer may submit an application for the review before the Department of Internal Review within a subversive deadline of 60 days as from the entry into force of L.4223/2013 (article 50, par.24 of L.4223/2013).

Issues that are clarified

- The imposition of safeguarding measures in cases of infringements of tax evasion includes also the cases for which special audit reports of article 14, par.1 of L.2523/1997 have been drafted until 31-12-2013, but no measure have been imposed until said date.

B. 16 Enforcement (article 48 of the C.T.P.)

New provisions are introduced to the C.T.P. in the section on measures for safeguarding and enforcement.

L. 4174/2013 at a glance

- The provisions for the imposition of enforcement measures were integrated into the C.T.P.

Amendments that are introduced

- The option to set off claims of the State against taxes and other State revenue that fall into the frame of application of the C.T.P. and generally the tax and customs legislation is introduced. The option for set-off expands to every other claim of the State.

B. 17 Imposition of measures in case of suspicion of fraud (article 49 of the C.T.P.)

The harmonization with the provisions of the Civil Code on the petition of defrauding of creditors is effected.

L. 4174/2013 at a glance

- The option of taking enforcement actions or pre-notification of a mortgage prior to the legal deadline for the payment of taxes or default notice or the lapse of 30 days from the aforesaid default notice is provided in case of a suspicion of fraud (transfer of assets) that endangers the collection of taxes. The consent of the Financial Prosecutor is required for the adoption of such measures by the tax administration.

- The option of filing a petition of defrauding of creditors by the tax administration for the safeguarding of the State's interests against taxpayers that proceed to the transfer of their assets is provided.

Amendments that are introduced

- The prerequisite of the consent of the Financial Prosecutor for the adoption of measures in case of a suspicion of fraud by the tax administration against taxpayers for whom there are suspicions of transfer of assets or preparatory actions with the purpose of abandoning the country or in general suspicions of actions which put in danger the collection of taxes is abolished.

- The time limit of two years for the filing of a petition of defrauding of creditors as from the date of the defrauding action is abolished. *The amendments resulted in the harmonization with the provisions of article 939 et seq. of the Civil Code with regard to the conditions for filing a petition of defrauding of creditors and the respective prescription period in case of the taxpayer transferring assets in detriment to the tax administration.*

B. 18 Joint liability (article 50 of the C.T.P.)

The new law introduces amendments to the frame of application of the provisions on joint liability

L. 4174/2013 at a glance

- The article of the I.T.C. on the joint liability of managers of legal entities, both at the time of their operation and dissolution, was re-worded, while other persons that are jointly liable are added.

Amendments that are introduced

- The personal and joint responsibility of directors, administrators, CEOs, persons appointed to the administration and liquidators of the legal entities and other entities is extended to chairmen and includes, apart from withholding taxes, V.A.T. and every tax imposed on the counterparty.

- The frame of application of the joint liability for due and not paid taxes at the time of dissolution of a legal entity or other entity is limited to its shareholders or partners at the time of said dissolution and to persons that were shareholders or partners during the last three years prior to the dissolution at a percentage of 10% (instead of the previously applicable 5%). In such case the liability is limited to the amount of the profits received within said three years.

B.19 Prescription period of the State's right to collect taxes (article 51 of the C.T.P.)

The new law introduces new cases of interrupting the prescription period

L. 4174/2013 at a glance

- A five-year prescription period for the State's right to collect taxes that are covered by the Code was provided.

- It was provided that in case of an interruption of the five year prescription period, the State maintains its right without any time restrictions to proceed to enforcement.

Amendments that are introduced

- It is provided that the prescription period commences from the end of the year in which the legal enforceable order was acquired.

- A provision is introduced, pursuant to which it is clarified that the default notice to the taxpayer, amongst other, interrupts the prescription period for State's right to collect taxes and other revenue.

- Moreover, other facts which interrupt the prescription period include the following:

    - the announcement for filing for bankruptcy,
    - the announcement for classification of creditor to the auction sale officer,
    - the announcement to the liquidator of inheritance or of dissolved legal entity or to the special liquidator of an enterprise,
    - the registration of a pre-notation or mortgage over anyone of the taxpayer's assets.

- In case of joint liable taxpayers, the interruption of the prescription period with regard to one of them applies also to the others.

- The prescription period is suspended:

    - For as long as a regulation of partial payment had been granted or the Tax Administration could not collect the dept due to a suspension of enforcement for any reason. In such case the prescription period is not completed prior to the lapse of one year from the end of the suspension.
    - For as long the taxpayer is juvenile.
    - During the litigation with regard to the enforceable order of the claim or the lawfulness of the collection or the validity of the enforcement act and up to the conclusion of one year as from the serving of irrevocable judicial decision to the Tax Administration by a process server.

- It is provided that the competent body of the tax administration is not to be held accountable for the non-commencement of the enforcement procedure for the collection of tax within the deadline of the prescription period if this is deemed as justified by the General Secretary of Public Revenue.

Issues that are clarified

- The provisions of article 51 of the Code of Tax Procedure, with regard to the prescription period and the reasons for its interruption or suspension, apply to taxes and other revenue for which the Tax Administration obtains an enforceable order as from 1.1.2014 onwards.

B.20 Interest (article 53 of the C.T.P.)

New provisions are introduced in the C.T.P. in the section on interest, with the purpose of clarifying the relevant meanings and to broaden the frame of application of the respective provisions

L. 4174/2013 at a glance

- It was provided that in case of a late payment of tax, the taxpayer is obliged to pay interest for the time period from the end of the legal deadline until the date of payment of the tax. Conversely, it is provided that in case of payment of excess tax on behalf of the taxpayer (undue payment), the tax authorities are obliged to pay interest for the time period from the date of the payment of the excess amount until the date of its refund, unless the refund of tax takes place within 90 days from the refund claim of unduly paid tax.

Amendments that are introduced

- It is provided that for a transitional period until 31.12.2015 interest for the late payment of tax, according to article 53, par.1 of the C.T.P. will be calculated on a monthly and not daily basis upon collection for the whole month.

- The competency with regard to the issuance of the decision for the determination of the interest rate of unduly paid tax and refund of unduly paid tax is amended, since the Minister of Finance, and not the General Secretary of Public Revenue, is appointed as competent.

- It derives from the wording of the provision that the interest rate can be different in cases of late payment by the taxpayer and refund of unduly paid taxes.

- The time period after which interest is calculated in favor of the taxpayer for the refund of unduly paid taxes is amended. Specifically, the interest is calculated for a time period from the date of application, for the refund of unduly paid taxes and up to the date of notification to the taxpayer for the refund, unless the refund of tax is completed within 90 days from the receipt by the tax administration of the application for a refund of tax.

- By a decision of the General Secretary of Public Revenue the interest rate of article 53 of l. 4174/2013 (ΔΠΕΙΣ 1198598 ΕΞ 31-12-2013) was determined.

- More specifically, the interest rate for calculating the interest paid by the taxpayer is specified as the interest rate of the Main Refinancing Operations of the European Central Bank (MRO) as applicable at the date of tax payment, plus 8.51 percentage points annually.

- The interest rate for calculating the interest paid to the taxpayer is determined as the interest rate of the Main Refinancing Operations of the European Central Bank (MRO) as applicable at the date of tax payment, plus 5.75 percentage points annually.

- The interest does not change with regard to the part which is related to the interest of the Main Refinancing Operations of the European Central Bank (MRO) prior to its respective cumulative change by 1 percentage point, considering as base for calculation the interest rate as in force at the date when said Decision entered into force, i.e. 1.1.2014. Therefore, given that the interest rate of the Main Refinancing Operations of the European Central Bank (MRO) is 0.25% as from November 2013, the interest rate in case of late payment of taxes to the State is 8.76% annually, while the interest rate in case of late refund of amounts to taxpayers is 6% annually.

- The calculation of interest in case of a refund of unduly paid taxes applies to refund applications filed from 1.1.2014 onwards.

- It is provided that for tax assessment acts that are issued after the 1.1.2014 but refer to tax obligations, fiscal years or cases up to 31.12.2013, the additional taxes of article 1 of L.2523/1997, as applicable at the respective fiscal year and for each tax object, are imposed. In any case, following the receipt of an assessment act (i.e. tax assessment act or penalty imposition act) interest and penalties of late payment provided by the C.T.P. are imposed.

Irrespective from the issue of constitutionality of the granting an authorization to the General Secretary of Public Revenue for the determination of the interest rate, according to the legal definition of tax, an issue is created with regard to the compliance with the principle of equality between the State and individuals due to the different interest rate imposed in case of late payment of taxes and delayed refund of unduly paid taxes. In any case, the issue has already been decided by the Special Highest Court (decision 25/2012), although this decision had decided the constitutionality of article 21 of the Code on the laws on State trials providing for a favorable interest rate for debt of the State against their private counterparties. Therefore, the outcome of the issue in case of questioning the constitutionality of the new provision of article 53 of the C.T.P. is not certain.

B.21 Penalties of procedural infringement and infringements of tax avoidance (articles 54-55 of the C.T.P.)

The meaning of the acts of tax avoidance is broadened and the meaning of concealment of income is clarified.

L. 4174/2013 at a glance

- It is provided that infringements of the tax legislation are distinguished between procedural infringements and infringements with the purpose of tax evasion.

Amendments that are introduced

- The imposition of penalties in case of registering multiple times with the tax registry is provided.

- The meaning of infringement of tax evasion is broadened, to now include:
  (a) non issuance or incorrect issuance of records of a total concealed value of at least € 5.000,
  (b) non submission of a tax return or submission of inaccurate tax return and with the purpose of concealment of any taxable basis and non payment of any other tax which falls into the frame of application of the C.T.P., resulting in the non payment of tax of an amount of at least € 5,000,
  (c) non submission of a tax return or the submission of inaccurate tax return resulting in the concealment of data which constitute an object of EN.F.I.A. and with the purpose of non payment of said tax (when such tax is at least € 5,000 per year) and
  (d) non submission of tax return or the submission of an inaccurate tax return resulting in the concealment of data that constitute an object or compose the object of the special real estate tax (L.3091/2002) and with the purpose of non payment of the respective tax.

- The provision which introduced an exception from the imposition of penalty to the recipient of a fictitious tax record, in case the fictitiousness of the tax record was exclusively attributable to the issuer of the tax record and the recipient had fully paid through a credit institution or through securities the value of the tax record and the corresponding V.A.T. to the issuer of the tax record and had submitted to the tax administration the respective supporting documents is abolished, since the recipient was considered to have acted in good faith. *The previous provision attempted to create a presumption of good faith of the recipient, adopting the respective jurisprudence of the administrative courts. By abolishing this provision, issues of prevailing legislation are created. In any case, the recipient of a ficitious tax record may invoke the good faith on case of filing an out-of-court petition or action against the issued act of assessing penalties.*

Issues that are resolved

- The meaning of the term "concealment of income" for the application of the C.T.P. is defined as "non submission of a tax return or filing of an inaccurate tax return which results in the non payment of tax of an amount of at least € 10,000€, per tax year, in case of individuals or entities obliged to maintain single entry accounting books, and of at least € 60,000 € per tax year, in case of entities obliged to maintain double entry accounting books".

- The meaning of the term "non payment, inaccurate payment, set off, deduction or keeping for withholding taxes" is defined and based, similarly, on the limits of € 10,000€, per tax year, in case of individuals or entities obliged to maintain single entry books and of at least € 60,000€ per tax year in case of entities obliged to maintain double entry books.

The new provisions set quantitative limits with regard to the definition of the meaning of committing an offence of tax evasion for income tax, withholding tax and EN.F.I.A. purposes. However, although an objectification of the infringements is attempted, the problem concerning the issue of whether a return may be characterized as inaccurate, e.g. due to the existence of simple accounting differences, will be considered as tax evasion in case of exceeding the quantitative limit, remains open.

- Ministerial Circular (POL) 1210/2013 specifies the tax procedures with regard to the imposition of penalties for non issuance, issuance of inaccurate, counterfeit, fictitious and receipt of fictitious tax records.

B.22 Penalty for the filing of an inaccurate or non-filing of a tax return (article 58 of the C.T.P.)

The new provision amends various aspects in the imposition of penalties.

L.4174/2013 at a glance

- A penalty equal to the amount of tax corresponding to the tax return that was not submitted was provided.

Amendments that are introduced

- It is provided that in case of an estimated tax assessment, the penalty amounts to 20% of the tax.

- It is provided that relating to the late filing of tax returns after the 1.1.2014 referring to fiscal, periods until the 31.12.2013, the additional taxes of article 1 of L.2523/1997, as applicable at each year and tax object, are imposed, whilst interest and penalties of late payments are imposed only for the time period following the acquisition of legal title, namely the issuance of a tax assessment act and a penalty imposition act.

- It is provided that with regard to the filing of late tax returns after the 1.1.2014 referring to periods until the 31.12.2013 and which do not give rise to a tax liability or are of an informative character, the penalties of article 4 of L.2523/1997 are imposed, limited however to the amount payable on the basis of article 54, par.2 case a' of the C.T.P.

B. 23 Penalty for late payment (article 57 of the C.T.P.)

A direct calculation of the penalty of late payment without adherence to on administrative procedure is provided.

L.4174/2013 at a glance

- The following penalties of delayed payment were specified:

Infringement	Penalty
Delayed payment of tax following the lapse of a two month deadline from the legal deadline	10% of the not duly paid tax
Delayed payment of tax after 1 year from the legal deadline	20% of the tax
Delayed payment of tax after 2 years from the legal deadline	30% of the tax

Amendments that are introduced

- It is provided that the penalties for late payment (10%, 20% and 30%) are calculated directly, i.e. as an automatic increase (without the need for a special administrative process), after the lapse of the specified time periods of two months, one year and two years respectively after the end of the legal deadline for payment. Therefore, the issuance by the tax administration of a penalty assessment act and notification to the taxpayer, according to article 62 of the C.T.P. is not required.

- It is also provided that the penalty of late payment is also calculated in case of late submission of a tax return based on the time since the original deadline for its submission. It is noted that L.4223/2013 explicitly provides the option of filing a delayed tax return until the issuance by the tax authority of an audit order or until the State's right to proceed to an audit has been prescribed. This option was already provided by L.4174/2013 in relation to the filing of an amending tax return.

Issues to be clarified

- It remains unclear if, in case of non submission of a tax return or filing of an inaccurate tax return the penalty of filing an inaccurate tax return or non filing of a tax return of article 58 of the C.T.P. and the penalty of delayed payment of article 57 of the C.T.P. apply simultaneously.

B.24 Out-of-court petition (article 63 of the C.T.P.)

The new provisions significantly broaden the competency of the Directorate for Dispute Settlement

L. 4174/2013 at a glance

- The C.T.P. provided for the filing of an out-of-court petition (ενδικοφανής προσφυγή) by the taxpayer for the review of the tax assessment act issued by the tax administration by the Department of Internal Review, in case the content of the tax assessment act is questioned within a deadline of 30 days from the notification of the act.

Amendments that are introduced

- As from 1.1.2014 onwards the Department of Internal Review of the General Secretary of Public Revenue is renamed to Directorate for Dispute Settlement.

- The competency of the new Directorate includes the review of the silent negative acts of the tax administration that are effected as from 1.1.2014 onwards.

- The law provides for a suspension of payment of 50% of the questioned amount on the condition of payment of the remaining 50%, with an exception of the case in which an administrative suspension has been granted Directorate for Dispute Settlement following a respective application of the liable taxpayer. *According to the introductory report of L.4223/2013, this provision was required for reasons of interpretative continuity with*

the remaining provision of the C.T.P., since already from the time of acquiring a legal title (i.e. issuance of a tax assessment act or penalty assessment act) the tax administration has a collectible receivable and therefore only upon payment of the 50% of the debt the payment of the remaining 50% is suspended. However, the justification of this provision does not seems very credible, given that the legislator may provide for the suspension of the total or part of the debt without establishing further conditions. In any case, this may be justified by the fact that due to the introduction of the institution of review of acts of the tax administration, the Directorate for Dispute Settlement, in reality the pre-certification is made on the basis of a "provisional" legal title, which may infringe the constitutional principal of effective protection.

- It is provided that in case of cancellation of the contested act by the new Directorate, the tax authority issues a new act, according to the decision of the Directorate for Dispute Settlement.

Issues that are resolved

- It is specified that a silent rejection of the out-of-court petition takes place at the lapse of the 60–days (exceptionally 120-days) deadline for the issuance of decision and not of the deadline for the notification of the act.

- It is provided that in case of granting of suspension of payment of a percentage of 50% of the disputed tax, the liable taxpayer is not exempt from interest of late payment. *Therefore, in such case the imposition of a penalty of late payment does not apply, as deriving from the wrong wording of the C.T.P.*

- By its decision, the administration clarified specific issues. More specifically, it is specified by the administration (Ministerial Circular POL 1002/2.1.2014) that out-of-court petitions that were filed before the Department of Internal Review and are pending on 1.1.2014, as well as those that were filed for acts that were issued until 31.12.2013, are reviewed by the new Directorate according to the provisions of article 70B of the I.T.C. (L.2238/1994) and Ministerial Circular (POL) 1209/6.9.2013.

- It is specified by the Administration (Ministerial Circular POL 1002/2-1-2014) that in case of filing an application for suspension by a legal entity, it should be mandatorily accompanied with data concerning the worldwide income and the financial status of the legal entities in the capital of which the applicant participates. *Therefore, any doubts regarding the definition of related entities for the purposes of the supporting documents which are attached to the application for suspension are lifted.*

- In case of acts or decisions of the administrative dispute settlement commission of article 70A of L.2238/1994 and of the Department of Internal Review of article 70B of the same law, the provisions of C.T.P. on the assessment of tax apply. The tax, duty, contribution or penalty, which is determined in said cases, is paid as specified by the aforementioned acts or decisions or the provisions of the respective taxation.

- In case of issuance of administrative court's decision declaring the hearing of petition or appeal as inadmissible and referral of the case back to the Tax Administration in order for the procedure of administrative settlement of the dispute to apply, the request for an administrative settlement is reviewed by the Directorate for Dispute Settlement, according to the provisions of article 63 of the C.T.P., unless the taxpayer accepts the contested act

within an exclusive 5 days deadline from the notification of the judicial decision or of respective invitation from the Tax Administration.

- In the frame of the special administrative procedure by the Directorate of Dispute Settlement, pending requests that have been submitted up to 31.12.2013 to the Minister of Finance according to article 14 par.4 of L.2523/1997 on the safeguarding of State's interests are examined.

Latest developments

- A restatement that was submitted on 3.2.2014 in a new bill of the Ministry of Health provided that the Directorate for Dispute Settlement is also competent for the examination of out-of-court petitions that were submitted before the Committee of article 70A of the I.T.C. and which were not examined until the 31.12.2013. In order for out-of-court petitions to fall within the competency of the Directorate for Dispute Settlement the filing of an application of the interest party within one month from the publication of the respective law is required. In such cases, the decision of the Directorate for Dispute Settlement is issued within two months from the publication of the law. *It should however be noted that given that the filed at the Committee of article 70A of L.2238/1994 out-of-court petitions for which no decision has been issued until the 30.12.2013 are considered as silently rejected at the above date, the 30-day deadline for filing a petition lapsed on 30/1/2014.*

B.25 Imposition, notification and payment of interest and penalties (article 62 of the C.T.P.)

The penalties with respective to penalty imposition acts and payment thereof are specified.

Amendments that are introduced

- It is provided that the penalty imposition act should include a separate justification.

- The summoning to a hearing of the taxpayer at least 30 days prior to the issuance of a penalty imposition act, in order to provide any objections, is provided. In any case, an exemption is established for penalties for procedural infringements, as well as penalties imposed during a direct, administrative, estimate or preventative tax assessment.

- It is specified that time prescription period of the State's right to issue a penalty imposition act commences from the end of the year in which the infringement for which the penalty was imposed was detected.

- The obligation of a lump sum payment of the penalty within 30 days from the notification of the penalty imposition act is provided, with the exception of penalties for late payment and the penalties of article 59 of the C.T.P. concerning the non due payment of withholding taxes.

B.26 Tax Certificate (article 65A of the C.T.P.)

A new article with regard to Tax Certificate is introduced

Amendments that are introduced

- The new article 65^{A} refers to the tax certificate that S.A.s and LLCs and branches of foreign enterprises receive.

- The provisions of said article reduce the penalties which are imposed to the liable companies for which no tax certificate is issued. The respective penalties are now calculated between € 5,000 and € 40,000, depending on the gross income of the audited tax year.

- It derives from the wording of the law that from now on the non issuance of a tax certificate or the detecting of infringements of the tax legislation constitutes a criterion for the election by the tax administration of cases subject to audit.

B.27 Transitional provisions

The transitional provisions are supplemented in order to regulate issues of legislative application.

Amendments that are introduced

- Transitional provisions on the issuance of a tax assessment act and penalty imposition act, imposition of penalties for procedural infringements and infringement of tax-avoidance, calculation of interest and penalties of delayed payment, as well as the performance of tax audits and the receipt of safeguarding measures and enforcement measures are added.

- A transitional provision was included, pursuant to which Decision of the Minster of Finance which have been issued in authorization of the V.A.T. Code ratified by L.2859/2000, as applicable until the 31.12.2013, continue to apply until the 31.3.2014 or until the issuance of decisions by the General Secretary of Public Revenue, according to the provisions of the Code of Tax Procedures, provided that these are issued at a later stage.

- A transitional provision was added according to which the decisions of the Minister of Finance regulating issues subject to the provisions of L.4223/3013 and which have been issued in authorization of the provisions of the following articles, remain in force until the 31.3.2013:

    - 7 and 17 of L.1587/1950 (A` 294) on the Real Estate Transfer Tax,

    - 23 and 23A of L.3427/2005 (A` 312) on the Real Estate Property Declaration (Specific Form E9) and Registry for Real Estate,

- 15 until 18 of L.3091/2002 (A` 330) and 58 of L.3842/2010 (A` 58) on the Special Real Estate Tax,

- As well as any other decision of the Minister of Finance, regulating procedural issues of the taxes imposed by the above laws.

- A transitional provision was added, pursuant to which the decisions of the Minister of Finance, regulating issued subject to the provisions of L.4223/2013, and which have been issued in authorization of the provision of the following articles remain in force until the issuance of a decision by the General Secretary of Public Revenue, according to the provisions of the C.T.P.:

    - 16 of L.1882/1990 (A` 43) on the Automatic Appreciation Tax
    - Articles 2 until 19 of L.3427/2005 (A` 312) on the Automatic Appreciation Tax and Real Estate Transfer Duty,
    - 21 until 35 of L.2459/1997 (A` 17) on the Real Estate Tax for Great Value Assets,
    - 27 until 50 of L.3842/2010 (A` 58) on the Annual Real Estate Tax,
    - 5 until 19 of L.3634/2008 (A` 9) and 53 of L.3842/2010 (A` 58) on the Uniform Real Estate Duty,
    - 53 of L.4021/2011(A` 218) on the Extraordinary Special Duty on Built Surfaces Supplied with Electricity
    - Article first, subparagraph A7 of L.4152/2013 (A` 107) on the Special Real Estate Duty,
    - As well as any other decision of the Minister of Finance, regulating procedural issues of the taxes imposed by the above laws.

- It was provided that the provisions of the C.T.P. will apply from 1.1.2015 to cases of the Code of Inheritances, Donations, Parental Grants and Profits from Gambling.

C. Other provisions

C.1. Real Estate Transfer Tax (article 11 of L. 4223/2013)

The Real Estate Transfer Tax rate is reduced

Amendments that are introduced

- The Real Estate Transfer Tax rates are reduced from 8% and 10% to 3% of the taxable value of the real estate property regarding transfers of real estate property which are effected as of 1.1.2014 onwards.

C.2. Annual financial contribution imposed on ship-owning companies (article 14 of L. 4223/2013)

An annual financial contribution is imposed on ship owning companies that fly a Greek or foreign flag, provided that the management of vessels is performed by a ship management company established in Greece (L.27/1975)

Amendments that are introduced

- An "annual financial contribution" for the years 2014, 2015 and 2016 is imposed on ship-owning companies with vessels flying a Greek or foreign flag, provided that the management of said vessels is performed by ship management company established in Greece according to article 25 of L.27/1975.

- The "annual financial contribution" is equal to double the final amount of tonnage tax payable according to articles 1 and 26 of L.27/1975, without calculating the deductions or reductions of article 5 and 26 par 1 and 5 of L.27/1975.

C.3. Amendment of provisions of the Code of Tax Recording of Transactions (article 51 of L.4223/2013)

Amendments are introduced to the provisions of the Code of Tax Recording of Transactions, in order to achieve a smooth transition to the new provisions, given the abolition of certain provisions from 1.1.2014 onwards.

Amendments that are introduced

- It is specified that the issuance of an "ownership title" by the taxpayer subject to the Code of Tax Recording of Transactions applies also to the receipt of services by persons that do not have an obligation to issue tax records, as already provided in the case of the supply of goods.

- The time of issuing an invoice is disconnected from the issuance of a delivery note, which is abolished as an obligation from 1.1.2014 onwards, and the deadline for issuing an

invoice for the sale of goods is specified at one month from the delivery or supply of goods and in any case within the same accounting period of the counterparties.

- The obligation of applying the appropriate security measures, specified by a decision of the General Secretary of Public Revenue for the monitoring of transferred or received inventory pending invoicing is specified.

- The provisions of article 7 of the Code of Tax Recording of Transactions (retail receipts) cease to apply from 1.1.2015 onwards.

- Articles 5 (on Delivery Notes) and 8 (in relation to transfer documents and other transaction documents) of the Code of Tax Recording of Transactions are abolished.

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