

Tax Bulletin

February 2014

*On 31.12.2013
L.4223/2013
which
introduced the
Uniform Tax on
the Ownership
of Real Estate
Property was
published in the
Government
Gazette
(Government
Gazette A'
287/2013).
Herein follows a
presentation of
the most
important
provisions.*



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The new Uniform Tax on the Ownership of Real Estate Property (EN.F.I.A.)

L.4223/2013 introduced from 2014 onwards the Uniform Tax on the Ownership of Real Estate Property (EN.F.I.A), whilst explicitly abolishing the Annual Real Estate Tax.

The EN.F.I.A. replaces in reality the Annual Real Estate Tax (applicable from 2010 until 2013) and the Special Real Estate Duty (applicable for 2013) [and previously the Extraordinary Special Real Estate Duty applicable for the years 2011 and 2012] and constitutes a combination of those taxes taking the form of a principal tax imposed on each real estate property (according to a method of calculation similar to the Special Real Estate Duty, including however land plots located either within or outside urban planning) and a supplementary tax imposed on the total value of the property rights on real estate property of the taxpayer subject to tax (according to a method of calculation similar to the Annual Real Estate Tax, namely for individuals in application of a progressive tax scale and tax free value of € 300,000, and for legal entities in application of an analogous tax rate – 5‰ or 2.5‰, without tax free band, but with a full exemption for self-used properties) .

The determination of the value of the real estate property on the basis of the method specified in article 32 of L.3842/2010 constitutes the taxable value on which the supplementary tax is imposed. It is noted that this determination of the value of real estate property and property rights is made exclusively for EN.F.I.A purposes and does not correspond to the determination of the objective value of real estate property for other capital taxation purposes (inheritance, donation, parental grants, transfers etc.).

The EN.F.I.A. is equal to the principal tax imposed on each real estate property and the supplementary tax which is imposed on the total value of property rights on real estate property subject to tax.

1. EN.F.I.A. Object (article 1 of L.4223/2013)

- The EN.F.I.A. is imposed on property rights on real estate property located in Greece and which are owned by individuals or legal entities or other entities as at 1st January of each year, irrespective of potential amendments taking place during the year and of the transfer of ownership title. The EN.F.I.A. is imposed, aside from the property rights of full ownership, bare ownership, usufruct and occupancy, also on surface rights on real estate property, as well as property or contractual rights of exclusive use of parking spaces, ancillary spaces and swimming pools located in a common area of the real estate property and constitute fixtures of the aforementioned property rights. Exceptionally, the EN.F.I.A. is imposed on the right of possession or putative possession and of occupation, as well as property pledged by local authorities.
- For the determination of EN.F.I.A. the actual condition of the real estate property, as indicated on a final registration at the Cadastre or from the ownership deed is taken into consideration. In case the actual surface of the real estate property exceeds the surface indicated on the final registration at the Cadastre or the ownership deed or the building permit or a change in use of the property has taken place, the actual surface and actual use of the real estate property are taken into consideration.

Initially, the meaning of “actual condition of the real estate property” includes both the actual surface, as well as the actual use of the property. The EN.F.I.A. is imposed on all buildings, irrespective of legality, settlement or unlawful construction thereof.

However, the case in which according to the actual condition of the real estate property, its surface is smaller than the one indicated on the “final registration at the Cadastre” is not provided for. In any case, it can be argued that in such case as well the total EN.F.I.A. will be imposed on the smaller surface, as proven by official documents in each case.

It is noted that the Cadastre constitutes a system of full registration of information relating to each and every property individually located in Greece, combining both spatial and legal details. Moreover, since there is no obligation to register potential amendments with regard to the change of use or potential settlements relating to buildings compared to the data initially registered in the Cadastral database, the receipt of information on the actual surface and use of buildings is rendered impossible. It is noted that a basic principle for the description of real estate property on the Real Estate Property Declaration (Specific Form E9) is that the real estate property must be indicated in accordance with its actual condition, which cannot be different than the condition described on the ownership titles, unless the surface of the building exceeds the one indicated on the transfer deed or building permit, in which case the actual data is recorded.

2. Taxpayers subject to EN.F.I.A. (article 2 of L.4223/2013)

- Every entity (individual or legal entity) or every other entity is subject to tax according to the property right and property percentage.

For the first time the EN.F.I.A. includes a specific reference to every other entity being subject to tax. It is noted that the new ITC included for the first time a definition of other entities, whilst a respective reference already existed in the Special Real Estate Tax.

- The case of occupying real estate property owned by a body of the General Government without the latter's consent is specifically included in the enumerated entities subject to tax. Similarly, the occupier of real estate property, with the exception of the State, owned by the Public

Properties Company S.A. and Attica Coastline S.A. with the aforementioned legal entities' consent and irrespective of the manner of occupying the real estate property is also rendered subject to tax. In such cases, the total tax equals the tax corresponding to the full ownership and burdens exclusively the third party.

3. Exemptions from EN.F.I.A. (article 3 of L.4223/2013)

- Exemptions are added, subject to conditions, for real estate property under alienation and of real estate property for which a prohibition (total or partial) of any use applies on the basis of City Planning or for reasons of environmental protection.

A similar exemption as provided by the Annual Real Estate Tax for plots outside urban planning that are owned by individuals, with regard to the calculation of principal tax is not provided, whilst continues to apply for the purpose of calculating the supplementary tax. Consequently, agricultural plots owned by individuals are subject to the principal tax, but not subject to the supplementary tax.

However, the new regime does not include a similar exemption as the one previously provided by L.3842/2010 on the Annual Real Estate Tax concerning woods and wood land, buildings under demolition, mining rights, buildings under construction for a 3 year period from the issuance of the initial building permit, maintained buildings, height rights on built plots in areas where the building band exceeds 2.5.

4. Calculation of EN.F.I.A. (principal and supplementary tax) (articles 4-5 of L.4223/2013)

4.1. Calculation of the principal tax of EN.F.I.A. (article 4 of L.4223/2013)

- The calculation of the principal tax of EN.F.I.A. is determined uniformly for property rights owned by individuals, legal entities and other entities, irrespective of the taxpayer subject to tax. It is a system of direct calculation of tax corresponding to each real estate property on the basis of a tax rate indicated in Euros per square meter of building or plot (either within or outside urban planning), in a manner analogous to the calculation of the Special Real Estate Duty on buildings.

The determination of the principal tax is not based on objective values. More specifically, the Values of the objective system (namely the Value, Plot, Initial Basic Value Zones) are used for EN.F.I.A. purposes exclusively for the categorization of real estate property in tax zones and no tax is imposed thereon.

- *The values of comparative data (€/sq.m.) for the calculation of the tax on plots in areas whether the objective system of determining the value of real estate is replaced by the values that have been determined for each zone with the lowest value of the respective Community, Municipality or Prefecture.*
- *The starting values for calculating the tax on buildings located within or outside urban planning and for which no value zone has been specified, as well as of special purpose buildings are replaced by the lowest value zone of the respective Community, Municipality or Prefecture.*

- Real estate property is from now on categorized as follows: 1. Buildings, 2. Plots (within urban planning) and 3. Agricultural plots (plots outside urban planning).

4.1.1. EN.F.I.A. on Buildings

- The principal tax on property rights on buildings is determined as follows:

Tax =	Building Surface (sq.m.) X Principal Tax (P.T.) X Building Age Rate (B.A.R.) X Floor Rate (F.R.) or Detached House Rate (D.H.R.) X Façade Rate (F.R.) X Auxiliary Spaces Rate (A.S.R., where applicable) X Incomplete Building Rate (I.B.R., where applicable)
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- The principal tax ranges from 2 € to 13 € per sq.m. (12 tax brackets/ tax zones depending on the Value Zone of the geographical position of the real estate property according to the objective system are specified), as specified in the following table:

Value Zone (€/m ²)	Tax Zone	Principal Tax (P.T.) (€/m ²)
0 - 500	1	2.00
501 - 750	2	2.80
751 - 1,000	3	2.90
1,001 - 1,500	4	3.70
1,501 - 2,000	5	4.50
2,001 - 2,500	6	6.00
2,501 - 3,000	7	7.60
3,001 - 3,500	8	9.20
3,501 - 4,000	9	9.50
4,001 - 4,500	10	11.10
4,501 - 5,000	11	11.30
5,000+	12	13.00

- With regard to the adjustment rate referring to the age it is specified that if the year of construction does not derive from a public document or the Real Estate Property Declaration (Specific Form E9), the year of issuance of the building permit is considered to be the year in which the building was declared on the Real Estate Property Declaration (Specific Form E9).
- Moreover, reducing rates for auxiliary spaces, incomplete building and special buildings are provided.

4.1.2. EN.F.I.A. on Plots (plots within urban planning)

- The principal tax on property rights on plots is determined as follows:

Tax =	Surface of the plot (sq.m.) X Tax Rate (T.R.)
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- The tax rate ranges from € 3 to € 9,000 € per acre (or € 0.003 – € 9 per sq.m. on the basis of 25 brackets), and is determined on the basis of the unit value of the plot, being the reason for the taxable value of the plot.

It is noted that the determination of the taxable value of the plot refers to the objective value of an un-built plot on the basis of the objective system for determining the value of real estate property.

- If a building is constructed on the plot, the surface of the plot on which the principal tax of EN.F.I.A. is imposed equals the remaining of the total surface after deducting the surface of the plot corresponding to the exploitation rate of the plot, on the basis of the construction realized on the plot.
- Plots located within Special Planning Designs for the Development of Public Real Estate of L.3986/2011 or within a Plan of complete Development of L.4062/2012 and only up to their transfer by an development body to third parties or that are located within Industrial Areas, Industrial Business Areas or Business Parks are included in the first taxable band (tax rate 3 €/acre).

4.1.3. EN.F.I.A. on Agricultural Plots (plots outside urban planning)

- The principal tax on property rights on agricultural plots is determined as follows:

Tax =	Surface of the plot (sq.m.) X Principal Tax Rate (P.T.R.) X Rate of Location (R.L.) X Rate of Use (R.U.) X Rate of Irrigation (R.I.) X Rate of Expropriation (R.E., where applicable) X Residence Rate (R.R., where applicable)
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- The basic tax rate is specified at 1.00 €/acre (ή 0.001 €/sq.m.).
- The rate of location is determined on the basis on the minimum Initial Base Value of the Community to which the plot belongs and ranges from 1 to 3.
- The rate of use ranges from 0.1 to 8.
- The rate of irrigation has been specified at 1.1.
- The rate of expropriation has been specified at 0.75 and
- The residence rate has been specified at 5.
- With regard to plots outside urban planning that are located within Special Planning Designs for the Development of Public Real Estate of L.3986/2011 or within a Plan of complete Development of L.4062/2012 and only up to their transfer from a development body to third parties or are located within Industrial Areas, Industrial Business Areas or Business Parks, the principal tax of EN.F.I.A. equals the result by multiplying the surface of the plot with the basic tax rate € 1.00/acre (or € 0.001/sq.m.), without taking into account the remaining rates of adjustment.

4.2. Calculation of the supplementary tax of EN.F.I.A. (article 5 of L.4223/2013)

The supplementary tax of EN.F.I.A. is imposed on the total value of the real estate property and differentiates as per the tax rates (progressive tax rates or proportionate tax rate) depending on the taxpayer subject of tax (individual or legal entity/other entity).

- The value on which the supplementary tax is imposed is determined in a special manner on the basis of the applicable Value Zone or Starting Value of the objective system of determining the value of real estate property and rates of adjustment that are determined by reference to the use and location of the property (article 32 of L.3842/2010, as in force). The aforementioned method of calculating the value is uniform for individuals and legal entities/other entities.

It is the same method of determining the value of real estate property of individuals exclusively for Annual Real Estate Tax purposes (and not other tax objects, namely Transfer, Inheritance, Donation and Parental Grants).

More specifically:

- The supplementary tax on individuals is imposed at a progressive tax rate ranging from 0.1% to 1% and provides for a tax free amount of € 300,000 of the total value of property rights subject to EN.F.I.A., excluding the value of plots outside urban planning (agricultural plots). Moreover, the value of property rights on buildings (including a potential analogy on the plots on which they are built) that have been characterized as maintained monuments or works of art and that have been built prior to the last 100 years is excluded.
- The supplementary tax on legal entities or other entities is imposed at a tax rate of 5‰ on the total value of property rights subject to EN.F.I.A., not taking into account the value of rights on properties that are exempt and the value of property rights on buildings and plots that are self-used for the production or the exercise of any business activity, irrespective of the object of business. Moreover, the total value does not include the value of property right on properties located within Special Planning Designs for the Development of Public Real Estate of L.3986/2011 or within a Plan of complete Development of L.4062/2012 and only up to their transfer by a investment body to third parties or are located within Industrial Areas, Industrial Business Parks and Business Parks.
- A reduced supplementary tax for REICs of L.2778/1999 is applied and corresponds to 2.5‰ on the total value of property rights subject to EN.F.I.A. for real estate property that is not self-used.

5. Determination of EN.F.I.A. and time of filing the tax return (article 6 of L.4223/2013)

- The EN.F.I.A. is determined by an administrative tax assessment act issued by the Tax Administration, according to the provision of the Code of Tax Procedures.
- Therefore, the obligation of filing an EN.F.I.A. tax return by legal entities/other entities is abolished, since a tax assessment act will be issued directly by the Administration, similarly to the tax clearance of Annual Real Estate Tax issued for individuals.
- For the determination of EN.F.I.A. the data of real estate property of the previous year and respective changes occurred, as indicated on the 1st January of the next year on the Real Estate

Property Declaration (Specific Form E9), are taken into consideration. For the establishment, acquisition and every other change in property rights that constitute an object to tax from 1.1.2014 onwards, the taxpayer will be obliged to file a Real Estate Property Data Declaration within thirty (30) days from the day of the change.

- Specifically for the determination of EN.F.I.A. for the year 2014 the Real Estate Property Declaration (Specific Form E9) of the years 2005 until 2014 for individuals and of the years 2013 and 2014 for legal entities/other entities are taken into account.

6. Granting of reductions and suspension of payment of tax (article 7 of L.4223/2013)

- The granting of a total exemption from EN.F.I.A. or reduction by 50% for individuals is provided, on the condition that overall income, asset and family criteria are met.
- The option of granting a suspension of the payment of tax is provided to legal entities/other entities in relation to the EN.F.I.A. of one year due and further option of re-granting said suspension up to 3 times within a time period of 10 years from the provision of the first suspension, provided that the following conditions are cumulatively met:
 - 1) the total turnover of the legal entity during the previous tax year does not exceed the ten-fold of the total tax,
 - 2) the total turnover has been reduced by a percentage exceeding 30% in relation to the previous tax year and
 - 3) the legal entity does not have any debt liabilities or is not liable for such debt liabilities against the Greek State and Insurance Funds.

7. Payment of EN.F.I.A. (article 8 of L.4223/2013)

- The tax is paid in a lump sum until the last working day for public services of the next month from the issuance of the tax assessment act or in equal monthly installments, the first of which is paid until the last working day of the next month from the issuance of the tax assessment act, whereas the last installment is paid until the last working day of December of the same year (namely the year in which the tax assessment act has been issued).

8. Joint liability for the payment of EN.F.I.A. (article 9 of L.4223/2013)

- The joint liability (as under the previous regime) of legal representatives of legal entities and other entities subject to EN.F.I.A., liquidators or temporary administrator of a legal entity under liquidation or under compulsory administration, together with the taxpayers is provided in relation to the payment of interest and penalties due by reason of the own actions or omissions.
- The joint liability of the previous owners or bare owners or usufruct holders or surface holders of real estate property, together with the taxpayers for the payment of EN.F.I.A. burdening their right acquired is provided. The option of filing an out-of-court-settlement petition within 60 days from the notification of the act of the tax authority is also provided.

9. Third party obligations in relation to EN.F.I.A. (article 9 of L.4223/2013)

- Every legal action establishing, amending or transferring for any reason property rights on real estate property or a right of pre-notation or mortgage on such property is granted is automatically void, if the deed is not accompanied by a certificate issued by the Tax Administration certifying that the same real estate property with the same data is included in the EN.F.I.A. return and that the taxpayer has paid or has been legally exempted from EN.F.I.A. for the particular real estate property and that all due installments have been paid or that a settlement or legal exemption from EN.F.I.A. has been granted in relation to the remaining real estate property during the last 5 years. The same applies to an acceptance of inheritance.
- In case the receipt of the aforementioned certificate is not possible for the 5 years prior to the transfer, for the remaining years the certificate of article 48 of L.3842/2010 on the Annual Real Estate Tax with the same content is attached.
- Prior to the payment of the tax due (EN.F.I.A. and Annual Real Estate Tax) the drafting of a deed is permitted on the condition that the certificates indicate the total amount of principal and additional and penalties taxes due for the particular real estate property, which the notary is obliged, at penalty of nullity, to pay within an exclusive deadline of 3 working days from its drafting.
- The hearing of a property action or any other action before the courts or public authority by a taxpayer subject to EN.F.I.A. on a real estate property is inadmissible if the aforementioned certificate is not provided until the hearing.

10. Transitional provisions

- The provisions of the Annual Real Estate Tax (articles 27-50 of L.3842/2010) continue to apply after the 1.1.2014 in relation to:
 - a) Annual Real Estate Tax cases for which the tax liability arose until its abolition due to the ownership of real estate property during the years 2010-2013.
 - b) EN.F.I.A. cases, as explicitly indicated in L.4223/2013, such as the obligation of providing a certificate of article 48 of L.3842/2010 on the recording of the real estate property on the Annual Real Estate Tax Return, in cases the provision of the EN.F.I.A. certificate is not possible upon the transfer of real estate property, as well as in the cases specifically regulated in the law.

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*This information is intended only as a general update for interested persons and should not be used as a basis for decision making. For further details please contact PwC:
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