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SEPTEMBER 2020

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New legal and tax framework for the reinforcement of the development procedures of the Greek economy

- A. Law 4714/2020**
- ***Establishment of Out-of-Court Tax Dispute Resolution Committee (Art. 16)***

- ***New tax dispute resolution mechanisms (Art. 21-48)***

- ***Mandatory reporting of information on reportable cross-border arrangements (“MDR mandatory disclosure regime”) and deferral of deadlines for such disclosure (Art. 49-57)***

- Under the perspective of reinforcement of the development procedures of the Greek economy and the introduction of new tax incentives for the businesses and the investments in general, two new Laws were published and more significantly **L. 4712/2020** and **L. 4714/2020** prescribing the following:

- A new tax dispute resolution mechanism is introduced with the establishment of an **Out-of-Court Tax Dispute Resolution Committee** at the General Secretariat for Tax Policy and Public Property aiming at the prompt tax dispute resolution, a flexible administrative justice and the limitation of the bureaucracy. Objective of the abovementioned Committee is to settle tax disputes pending before the Supreme Administrative Court and the ordinary Administrative Courts upon the submission of a special electronic application by the taxpayers **until the 31.12.2020**.

- The Committee may propose acceptance or rejection of the application. After the acceptance of the Committee’s proposal by the taxpayer, the dispute is **irrevocably** settled with the publishment of the out-of-court resolution minutes on the website of the Ministry of Finance.

- The **EU Directive 2017/1852** on tax dispute resolution mechanisms arising from disputes between Greece and one or more EU Member States due to the implementation of Double Tax Treaties (“DTTs”) is incorporated into the Greek legislation.

- New L. 4714/2020 incorporated the two **EU Directives 2018/822** and **2020/876**, regarding the mandatory reporting of information on reportable cross-border arrangements (“MDR mandatory disclosure regime”) and the 6-month deferral of deadlines for such disclosure. An obligation of disclosure to the Tax Authorities of certain aggressive tax planning cross-border arrangements is introduced to intermediaries (lawyers, tax consultants and accountants etc.) but also under conditions to the relevant taxpayers in which they have been involved. Following to this disclosure, an exchange of such information will take place between the Tax Authorities of EU Member States through a secured central reporting system.

- The conditions for the implementation of this obligation are as follows:
 - ***The existence of a cross-border arrangement***
 - ***The taxes arising from the cross-border arrangement fall within the scope of the national legislation***
 - ***Identification of any indications of potential aggressive tax planning.***

➤ *Introduction of an alternative and beneficial income taxation regime for individuals earning pension income abroad, who transfer their tax residence in Greece (Art. 1)*

- **Deadline for the disclosure** of the cross-border arrangements is in any case **30 days** from their conclusion and for the exchange of information **1 month after the expiration of 3 months beginning from the disclosure.**
- A new alternate taxation of income arising outside Greece is introduced for individuals earning pension income from abroad, who transfer their tax residence in Greece under certain conditions:
- *They have not been Greek tax residents for the previous 5 of the last 6 years before the transfer of their tax residence in Greece and*
- *They transfer their tax residence from a country with which Greece has a valid agreement concerning administrative cooperation on tax issues.*
- *There should be evidence that Greece is the center of the individuals' vital interests*
- *The provisions of the special non-dom regime of Article 5A of the ITC, which cover foreign investors is not applicable for the abovementioned individuals.*
- *Any foreign tax paid abroad for their foreign incomes is credited by the Greek Tax due, up to the amount of the Greek tax corresponding to those incomes.*
- *Foreign-sourced income is exempted from the special solidarity contribution while any inheritance and/or property donations taxes are due and payable according to the general provisions of the donation tax code.*
- Every tax year, a tax at a **rate of seven percent (7%) on the foreign-sourced income** is paid by the individuals, with exhaustion of the tax liability for this income. The tax is paid each tax year in one (1) installment until the last working day of July and cannot be offset against other tax liabilities or any credit balances. Greek-sourced income is subject to tax in accordance with the general provisions of the ITC.
- The **deadline for the filing for the application** for the transfer of the tax residence is **on 31st March of each respective tax year**. The individuals who meet the conditions and have already transferred their tax residence from abroad to Greece within the previous tax year, may also file an application within the same deadline. The maximum duration for the implementation of this regime is set at 15 tax years, beginning from the next tax year from the date of filing of the application, while there is a possibility to revoke this regime within the 15-year period.

- In case of non-payment of the whole tax amount due in one tax year, the individual shall **be excluded** from the implementation of the alternate taxation and shall be onwards submitted to the ordinary taxation based on the general provisions for the ITC taxation of their global income.
- For those individuals having transferred their tax residence in Greece during 2019 and meet the requirements of the above regime may file their FY2019 income tax return **until 31.10.2020** and the tax due is paid by the taxpayers within a month from the approval of their application.
- **A Joint Decision of Minister of Finance and of the Governor of Independent Revenue Public Authority will be issued and circulated regarding the implementation of the further details of the above process.**
- Any income received from the transfer of stocks acquired by stock option plans is defined and taxed as **income from capital alienation** as following:
 - The income gained by an employee or a partner or a shareholder or a managing director of a legal person or legal entity in the framework of stock-option plans, regardless of whether the employment relation is in force or not, is taxable with the favorable tax rate of 15% and not as employment income any more, under the condition that the shares are transferred after the expiration of a 24 or 36 -month-period from the receipt of those stock-option plans.
 - In case of shares received due to the achievement of specific goals or the occurrence of a specific event which has been set as a prerequisite for the shares' transfer there is no payroll tax at all.
- A new provision is introduced to the Greek Law upon the incorporation into Greek legislation of **Article 5 of the Directive (EU) 2016/1164** regarding the *exit tax rules*. More significantly, in the case that a **tax payer** (legal person/legal entity having its tax residence and permanent establishment in Greece) **transfers its assets or tax residence outside Greece, the economic value of any capital gain is taxed** (even though that gain has not yet been realized at the time of the exit). The tax imposed is calculated on following taxable basis:
 - **The market value of the assets transferred, minus their value for tax purposes at the time of exit.**
 - **Hybrid mismatches** are related to the differences in the legal characterization of payments or entities **between two different states** and are divided into the following categories:
 - **Mismatches leading to double deduction**

➤ *Stock-option plans*
(Art. 3)

➤ *Exit taxation regime and hybrid mismatches*
(Art. 58-59)

➤ **Penalties for non-maintenance of accounting books and records and regarding memories of cash machines (Art. 101)**

B. Law 4712/2020

➤ **Super deduction of R&D expenditure by 100% as an additional incentive (Art. 46 and 55)**

➤ **Introduction of Tax Incentives for angel investors (Art. 49)**

- **Mismatches leading to double deduction without inclusion**
- **Imported mismatches**
- **Mismatches including permanent establishments**
- **Hybrid transfers**
- **Tax residence mismatches.**
- **The above mismatches are settled with correction rules.**
- **The imposition of penalties is regulated in the case of non-maintenance of accounting books and records according to the provisions of L. 4308/2014, non-preservation of cash machines for retail sales and tax memories and data created by cash machines' violation or falsification or operating based on non-approved specifications.**
- **R&D expenses** including the depreciation of equipment utilized for the needs of scientific and technological research, are deducted from **legal entities' gross income increased to 100%**. The verification of the R&D expenses will be conducted by certified auditors as well. The criteria of characterization of the R&D expenses will be defined with a joint Ministerial Decision of the Minister of Finance and Development and Investments, issued after the proposal of the Governor of the Independent Authority of Public Revenues (AADE).
- **Tax incentives for angel investors** apply to individuals - tax payers contributing capital to a duly registered start-up company and more specifically, a deduction of an amount equal to 50% of the amount of their contribution from their taxable income in the fiscal year in which this contribution was effected is provided.
- **The limit for the capital contributions arises at the amount of 300.000,00 euros per fiscal year, which are invested in up to 3 different start-up companies with a maximum amount of investment 100.000,00 euros per start-up company.**
- **Further issues and details arising from the above capital contributions and the procedure of their deduction from the taxable income of the individuals shall be determined by a joint decision of the Minister of Finance, the Minister responsible for research and technology and the Governor of the Independent Authority of Public Revenues.**

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