

Recent Corporate and International Tax News

During the last month, there have been many interesting developments in corporate tax; we have selected a few which we summarise below.

New Double Tax Treaty between Greece and the Republic of Singapore

The Double Tax Treaty between Greece and the Republic of Singapore, signed on 30 May 2019, is now ratified (by virtue of Law 4879/2022). The Treaty shall apply the earliest from 1st January 2023, as the ratification instruments that must be exchanged between the two jurisdictions in order for the Treaty to enter into force are yet to be exchanged.

The Treaty does not eliminate the currently applicable Greek domestic withholding tax of 5% as it provides that dividends may be taxed at 5% if the beneficial owner is a company that directly holds at least 25% of the paying company's capital or else at 10%. As regards interest and royalties, the Greek domestic rate of 15% is reduced to 7.5% for Singapore-resident beneficial owners, whereas it is eliminated when beneficial owners are banks, the government and certain specified institutions.

Key corporate tax measures adopted by virtue of Law 4876/2021

Several corporate tax provisions have been implemented by virtue of Law 4876/2021.

The key ones may be summarised as follows:

- A suspension of taxation at 0.5% of donations to public entities, municipalities and other administrative divisions, as well as churches and not-for-profit legal entities pursuing national, religious, charitable, educational, cultural or generally beneficial to society purposes is extended until 30 June 2022.

- The real estate transfer tax due on transfers of immovable property for consideration (as well as in the context of donation or parental gift), concluded between 1st January 2022 and until and including 31st January 2022, is to be calculated on the basis of a deemed transfer as at 31st December 2021, provided that the relevant tax returns have been filed by that date.
- Article 48A of the Income Tax Code regarding the Greek participation exemption concerning capital gains from share disposals participation exemption is amended in order for its provisions to be applicable to relevant income earned by Greek legal persons as from 1st January 2020 instead of 1st July 2020.
- The super-deduction of 30% for advertisement expenses is extended to tax year 2022.

Guidelines on the penalty arising as a result of the reduction of income tax prepayment in case of errors in the VAT return – Circular E. 2232/2021

Circular E. 2232/2021 provides clarifications with respect to the imposition of income tax related penalties at the level of legal persons and legal entities, as well as at the level of individuals engaged in business activities, due to incorrect VAT reporting that resulted effectively in the reduction of the advance payment of income tax for the tax year 2019.

By way of background, based on rules previously introduced in order to mitigate the impact on

businesses of the Covid-19 crisis, the advance payment of income tax by reference to the income tax of the tax year of 2019 had been reduced proportionately to the reduction of the taxpayers' turnover in the 1st semester of 2020 as compared to the respective amount for the 1st semester of 2019, as reflected in the relevant VAT returns.

In this context, it was provided that a penalty amounting to twice the value of the reduced advance payment would be imposed in the event that a person benefited from the aforementioned reduction of the advance payment of tax, although not entitled to it.

In the Circular it is clarified that no such penalty is to be imposed to persons with incorrect turnover reporting in their VAT returns filed until 31.7.2020, provided that such persons have corrected such errors through filing amending VAT or income tax returns or through notifications to the Tax Administration until the end of the year in respect of the income of which the tax was to be prepaid.

Determination of the number of tax audits that will be carried out during 2022 – Decision A. 1265/2021

By virtue of Decision A. 1265/2021, it is provided that in the year 2022, twenty-five thousand (25,000) full and partial tax audits will be carried out by the audit administration of the General Directorate of Tax Administration, out of which: at least 70% will relate to tax years, cases, periods or liabilities of the last five years. In this context, at least 75% of the afore-mentioned audits (namely those relating to the last five years) will, in principle, relate to audits of the last three years, for which the deadline for filing an income tax return has expired. It is further provided that apart from the above audits, the audit administration will perform 2,500 tax audits with the aim of verifying the proper fulfillment of the non-annual obligations related to the taxation of capital.

Application requirements for the cost plus regime of Law 89/1967 for service companies and retroactivity – Decision 142581/28-12-2021

In Decision 142581/28-12-2021, the Deputy Minister of Development and Investments redefined the process, details and supporting documentation that needs to be furnished to the Ministry of Development and Investments with respect to application forms submitted by foreign or domestic companies for application of licensing under the provisions of the cost plus regime of Law 89/1967.

In an effort of facilitating the licencing process, it is provided in the Decision that companies may also request a temporary permit for the establishment of a Law 89/1967 office following the submission of specific documentation, requesting inter alia that the final permit provides that the profit margin approved for the Law 89/1967 office is applied retrospectively from the time of issuance of the temporary permit.

Guidelines on the tax treatment of investors' negative returns caused by negative interest rates– Circular E. 2008/2022

Circular E. 2008/2022 provides clarifications with regard to the tax treatment of negative returns of investors caused by market conditions and monetary policy. By way of example, the Circular refers to deposit accounts associated to the ECB's interest rate (when negative). The Circular clarifies that such negative returns on investments, namely negative interest rates, qualify as losses due to an impairment of the amount invested, equal to the amount of the relevant negative interest.

On this basis, the Circular clarifies that, when it comes to legal persons and legal entities, such impairment qualifies as a final and settled capital loss which is deductible on the general deductibility conditions in respect of business expenses (set out in article 22 of the Income Tax

Code). Deductibility is founded on the reasoning that all revenues of legal persons and legal entities are deemed to be revenues from business activities. As regards individuals, the Circular relies on a classification of interest income as income from capital instead of income from business activities, regardless of whether an individual is engaged in a business activity or not. Such classification, in conjunction with the treatment of negative investment revenues as losses instead of negative income, leads in

accordance with the reasoning of the authorities to the disallowance of their deductibility as regards individuals, in the absence of an express provision in the Income Tax Code allowing to deduct expenses against capital income (which is taxed at a separate rate).

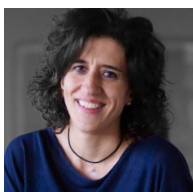
Contact us



Maria Zoupa

Partner

m.zoupa@zeya.com



Daphne Cozonis

Partner

d.cozonis@zeya.com



Ioanna Tapeinou

Senior Associate

i.tapeinou@zeya.com

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280 Kifissias Ave., 152 32 Halandri, Athens, Greece
newsletters@zeya.com
Tel.: (+30) 210 696.70.00 | Fax: (+30) 210 699.46.40

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