

NEWSLETTER

☒ TAX NEWSLETTER

January 2013

The present newsletter sets out in brief the recent changes introduced in Greek tax legislation, particularly to the **Code of Income Tax**, but also other tax sectors such as **VAT**, taxation of **Vessels** etc, in accordance with Law **4110/2013** (Government Gazette A' 17/23.1.2013) "*Provisions on the Taxation of Income, Regulations on Issues pertaining to the competence of the Ministry of Finance and other regulations*" as well as the new **Law 4111/2013** (Government Gazette A' 18/25.1.2013) on "*Provisions on pensions, Amendment of Law 4093/2012 etc*".

Contrary to initial expectations, Law 4110/2013 does not radically reform the tax legislation landscape. The Law is focused on revenue collection in compliance with the State's contractual undertakings arising from the Troika bailout schemes. Notwithstanding its limited scope, the Law introduces significant changes such as the shift from the regime of gross income taxation to that of **taxation of revenue sources** (salaried work – investments and real estate – dividends- services); each revenue source being **taxed individually**, at an average effective rate of approximately **33%**.

It is also noteworthy that the tax legislator seems to be taking a closer and more systematic interest in **natural persons**, which creates the ground for further changes to the taxation of natural persons, such as the capital statement and the real estate taxation. Further revisions in the Code of Tax Penalties is also anticipated. Finally, new legislation focused on entrepreneurial activity development is also expected, in order to stimulate direct foreign investments in Greece.

TABLE OF CONTENTS

NEWSLETTER.....	1
I. Income Tax of Individuals and Partnerships	4
1. Tax-scale for employees and pensioners:	4
3. Income from individual agricultural enterprise:.....	4
4. Income from individual enterprise or liberal profession:.....	4
5. No right to deduct expenses:	4
6. Income from real estate property lease and income from securities:.....	4
7. Tax deductions:.....	4
II. Income from Securities and Transfer of Shares.....	5
1. Income from interest:	5
2. Transfer of shares of non listed companies:	5
3. Transfer of shares of listed companies:	5
III. Business Income and Deductible Expenses.....	5
1. Taxable Income of entities of Limited and Unlimited partnerships with single-entry books:.....	5
2. Business remuneration:	5
3. Sale of goods to an entity established in a State of privileged tax regime:	5
4. Deductibility of initially non-deductible taxes from business revenues.....	6
5. Special Extra Solidarity “Fee” on Renewable Energy Suppliers.	6
6. Depreciations – Regressive method:	6
7. Provisions for Contingent claims:.....	6
8. Deductibility of social security contributions:.....	6
9. Farmers of Special Regime	6
IV. Capital Gains Real Estate Transfer	6
1. Capital Gains from Further Transfer:	6
2. Partial Exemption for Possession:	6
V. Tax Withholdings	6
1. Dividends, predividends or profits capitalized or distributed by Greek S.A.:	6
2. Remunerations or profits distributed to members of the Board of Directors:	6
3. Directors Salaries:.....	6
4. Profits distributed by cooperatives, Limited Liability Companies (E.P.E.), Private Capitalized Companies (I.K.E.):	6
5. Income from securities:.....	7
6. Income from derivative contracts or acts:	7
7. Group Life Insurance Contracts:	7
VI. Deemed Income Differences	7
1. Tax treatment of the difference between the reported income and the total annual expenditure:.....	7
VII. Child Support Allowance:.....	7
VIII. Taxation of Legal Entities	8
1. Tax rate for profits of S.A., Limited Liability Companies (E.P.E.) and Private Capitalized Companies (I.K.E.) and other entities of art. 101 par. 1 of ITC:	8
2. Tax withholding rate on dividends and distributed profits of such companies:.....	8
3. Special tax regimes.....	8
4. Not for-profit legal entities of art. 101 par. 2 of ITC.	8
6. Profits from commercial exploitation of ships under Greek flag earned by resident LTDs and Private Capital Companies (PCCs).....	8
7. Dividends of subsidiaries of Greek Companies established in the EU:.....	8
8. Provision for Banks’ Contingent Claims:	8
9. Sovereign Debt Restructuring Program (PSI):	8
10. Expenses deduction for foundations and other non-profit entities:	8
11. Own shares buyback- :Share capital decrease:.....	8
12. Foreign subsidiaries’ dividends:.....	8
13. Calculation of Income Tax Advances:.....	8
14. Out-of-Books determination of Taxable Profits:	8
IX. Entrepreneurial Duty.....	9
1. Increase of the entrepreneurial duty as follows:.....	9

X. Transfer Pricing Rules	9
1. Ministry of Development Transfer Pricing Rules (Art. 26 of law 3728/2008).....	9
2. Exemption from obligation to submit transfer pricing documentation files:	9
3. Penalties:	9
4. Expenses for the acquisition of goods or services from companies established in “non-cooperative countries” or “countries of privileged tax regime”:.....	9
5. Advanced Pricing Agreements:.....	9
XI. V.A.T.	9
1. Real estate lease for the exercise of a professional activity by a person or entity subject to V.A.T.,.....	9
XII. Extraordinary Special Real Estate Duty (ESRED)	10
1. Utility Bills – ESRED	10
XIII. Real Estate Statement (E 9)	10
1. Plots which are set outside city or village planning boundaries:	10
2. Real rights (in rem) on real estate owned by legal entities:	10
XIV. Car Classification Duty	10
XV. Code for the Collection of Public Revenues	10
1. Publication of Auction programs:	10
XVI. Taxation of Vessels – Shipping Companies	10
1. Ships Under Foreign Flag – Management from Greece,	10
2. Subjects to tax:	10
3. Calculation of the tax – Tax Credit:	10
4. Taxation of Dividends and Distributable Profits	11
5. Transfer of Shares or Parts:.....	11
6. Transfer of Ships, Shares or Parts of Ship-owning companies:.....	11
XVII. Contribution to Companies of Art. 25 of Law 27/1975	11
1. Imported Foreign Currency (2012-2015).....	11
2. Subjects to the Contribution:.....	11
3. Calculation of the contribution scales:.....	11
4. Law 27/1975 Offices and Branches:	11
XVIII. Luxurious Lifestyle Tax	12
1. Deemed Income from Ownership or Possession:.....	12
2. Calculation of Tax:	12
XIX. Code for the Tax Recording of Transactions	12
1. Exemption from the keeping of books and the issue of retail receipts:	12
2. Exception from the exemption:	12
3. Technical amendments to article 6 of the Code (“invoicing of transactions”).....	12
4. Provision of Similar Multiple Services:	12

Reference to amended laws and provisions is based on express references in the body of the Law.

I. Income Tax of Individuals and Partnerships

(a) What Changes?

1. **Tax-scale for employees and pensioners:**
A new tax-scale is introduced for employees, pensioners and entrepreneurs, who are deemed as employees as per the provisions of the provisions of the present law, as follows:

Income bracket (Euro)	Tax rate	Bracket tax (Euro)	Total income (Euro)	Total tax (Euro)
25.000	22%	5.500	25.000	5.500
17.000	32%	5.440	42.000	10.940
Excess amount	42%			

2. **Tax-scale for Non-employees**
A new tax-scale is introduced for non-employees (individual enterprise, freelancers), as follows:

Income bracket (Euro)	Tax rate	Bracket tax (Euro)	Total income (Euro)	Total tax (Euro)
50.000	26%	13.000	50.000	13.000
Excess amount	33%			

3. **Income from individual agricultural enterprise:**
- Taxed at a rate of 13%.
 - Especially for the accounting year of 2013 the tax-scale for employees-pensioners applies.
4. **Income from individual enterprise or liberal profession:**
Deemed as income from salaried work, under the following cumulative conditions:
- If there is a written contract with the service recipient; and

- The total number of service recipients does not exceed three (3) OR if 75% of the income of the above mentioned persons derives from one (1) service recipient.

5. **No right to deduct expenses:**
Those who gain income from salaries are **not entitled** to deduct the expenses of article 31 of the Code of Income Tax.
6. **Income from real estate property lease and income from securities:**
Application of the following tax-scale in the cases when the tax withholding doesn't exhaust the tax obligation of the beneficiary:

Income bracket (Euro)	Tax rate	Bracket tax (Euro)	Total income (Euro)	Total tax (Euro)
12.000	10%	1.200	12.000	1.200
Excess amount	33%			

7. **Tax deductions:**
Tax reductions for income arising according to the tax-scale of employees-pensioners, are entered into force, as follows:
- a. **Lump sum Deduction**
- For income up to Euro 21.000: tax reduction of Euro 2.100.
 - For income over Euro 21.000: tax reduction of Euro 100 per Euro 1.000 and onwards until the threshold of 2.100, under the condition that the taxpayer will adduce the recognized receipts from the purchase of goods or the reception of services, at a percentage of 25% of the reported individual income, never higher than Euro 10.500. In case of non gathering of the necessary amount of receipts, a tax 22 %

is imposed on the amount of non-gathered receipts.

- b. **10% Deduction for paid expenses:**
- For medical care.
 - For the alimony which is paid by the one spouse to the other.
 - For donations towards the State, the church legal entities, the hospitals, non-profit legal persons, hospital institutions.

(b) *Laws / Provision Amended*

1. Articles 9, 45 of Law 2238/1994.

II. Income from Securities and Transfer of Shares

(a) *What Changes?*

1. **Income from interest:**
 - Increase of the rate of the **flat tax** on interest income from 10 % to **15%**.
 - Tax withholding is effected on interest income paid by natural persons abroad, as follows:
 - **20%** when the beneficiary is a natural person.
 - **33%** when the beneficiary is a legal person.
2. **Transfer of shares of non listed companies:**

The capital gains from the transfer of shares acquired from July 1st 2013 onwards, are taxed at a rate of 20%.
3. **Transfer of shares of listed companies:**
 - **The gains** of natural persons or enterprises which maintain single-entry or double-entry books, arising from the sale of shares listed on the Athens Stock Exchange, are taxed at a rate of 20%.
 - The aforementioned apply to stocks acquired by any means **from July 1st**

2013 and onwards. The tax burdens the stock seller.

4. **Transactions tax on listed shares transfers**

The transactions tax (2 ‰) will still be imposed to listed shares transfers to shares acquired after July 1st 2013, alongside the capital gains tax of 20 %.

(b) *Laws / Provision Amended*

1. Articles 12, 13, 38 of Law 2238/1994.

III. Business Income and Deductible Expenses

(a) *What Changes?*

1. **Taxable Income of entities of Limited and Unlimited partnerships with single-entry books:**

- **New income tax scale** introduced for subjects of paragraph 4 article 2 (limited and unlimited partnerships, civil not for profit companies) with double entry books, as follows:

Income bracket (Euro)	Tax rate	Bracket tax (Euro)	Total income (Euro)	Total tax (Euro)
50.000	26%	13.000	50.000	13.000
Excess amount	33%			

- **26% flat tax** for partnerships with double entry books. In case of **distribution of profits**, the provisions for capital companies, are applied by analogy, thus a flat tax at a 10 % rate is imposed on distributed profits.)

2. **Business remuneration:**

Taxation on such is **abolished**, as business remuneration ceases to constitute taxable income from business operation.
3. **Sale of goods to an entity established in a State of privileged tax regime:**

Counterproof is allowed that such transactions made by a Greek enterprise with a natural or legal person or legal entity established in a State of privileged tax regime, are real and within the usual course of business.

4. **Deductibility of initially non-deductible taxes from business revenues.**

Possible, in case of recharge to the counterparty.

5. **Special Extra Solidarity “Fee” on Renewable Energy Suppliers.**

Deductible, in equal installments, within five years.

6. **Depreciations – Regressive method:**

The depreciation procedure for fixed assets owned by the company has been modified; the diminishing method has been abolished.

7. **Provisions for Contingent claims:**

Introduction of the possibility to carry out contingent claim provisions at a percentage of 0,5%, for freelancers.

8. **Deductibility of social security contributions:**

Addition of expense for the social security contributions to the expenses deducted from the gross income of article 31 of ITC.

9. **Farmers of Special Regime**

Abolition of out-of-books determination of the taxable income of special regime farmers, gained from January the 1st 2014.

(b) Laws / Provision Amended

1. Articles 10, 30, 31 of Law 2238/1994
2. Articles 42, 43, 44 of Law.2238/1994 are abolished.

IV. Capital Gains Real Estate Transfer

(a) What Changes?

1. **Capital Gains from Further Transfer:**
Exhaustive taxation on the capital gains from transfer against payment of real estate

or any part thereof, if first acquired from 1/1/2013 and onwards, at a rate of **20%**.

2. **Partial Exemption for Possession:**

Exemption of profit up to Euro 25.000, provided that the real property has been held for at least five (5) years.

(b) Laws / Provision Amended

1. Article 33 of Law 2238/1994.

V. Tax Withholdings

(a) What Changes?

1. **Dividends, predividends or profits capitalized or distributed by Greek S.A.:**

- **Reduction** of the withholding tax rate, now set at 10%, with **exhaustion** of further tax obligation.
- **Same applies** by analogy to predividends and dividends collected by a natural person, residing in Greece from a non-resident S.A..

2. **Remunerations or profits distributed to members of the Board of Directors:**

Tax withholding at a rate of **40%** is imposed on remunerations or profits distributed to members of the Board of Directors, which constitute income from securities.

3. **Directors Salaries:**

Tax withholding at a rate of 40% on salaries paid to Directors on the basis of an employment contract or mandate agreement.

4. **Profits distributed by cooperatives, Limited Liability Companies (E.P.E.), Private Capitalized Companies (I.K.E.):**

- **Decrease** of the withholding tax rate on profits distributed by cooperatives, E.P.E., I.K.E. from 25 to **10%**.
- **Application by analogy** of tax withholding of 10% on the profits earned by a natural person, resident in Greece, from a non-resident limited liability company.

- In both cases, the withholding exhausts the subject's tax obligation.

5. **Income from securities:**

- **A tax withholding of 33%** on the income from securities, except for dividends and interest deriving from stocks and founder's shares acquired by foreign legal entities, which don't have permanent establishment in Greece.
- **A tax withholding of 20%** when the beneficiary of the income from securities is a natural person, foreign resident.

6. **Income from derivative contracts or acts:**

- **Increase of the withholding rate** from 15% to **20%** for income arising from derivative contracts or acts, gained by natural or legal persons,
- **Exhaustion** of further tax obligation of all the beneficiaries except the legal entities of article 101 par. 1 of ITC (S.A., LTDs etc).

7. **Group Life Insurance Contracts:**

An exhaustive tax withholding on the sums paid to beneficiaries by reason of group life insurance contracts for companies, as follows:

- At a rate of **10%** for lump sums reaching up to Euro 40.000.
- At a rate of **20%** for lump sums, on their part which exceeds the amount of Euro 40.000.
- At a rate of **15%** for each periodical payment.

(b) Laws / Provision Amended

1. Articles 54,55, 114 of Law 2238/1994.

VI. Deemed Income Differences

(a) What Changes?

1. **Tax treatment of the difference between the reported income and the total annual expenditure:**

Modification of the taxation method for differences between the reported income and the total annual expenditure, in order for the difference to accrue to the income of the category through which the biggest income is reported, and if no income through no category is reported, the difference is deemed as income from salaries and wages.

(b) Laws / Provision Amended

1. Article 19 of Law.2238/1994.

VII. Child Support Allowance:

(a) What Changes?

Introduction of An allowance for children support is set, which amounts to Euro 40 per month for each dependent child. Especially, for the third child and above, an annual allowance for a family with three children or more of Euro 500 for each child, is initiated, under the condition that the family income reaches up to Euro 45.000.

(b) Laws / Provision Amended

1. Law 4093/2012.

VIII. Taxation of Legal Entities

(a) What Changes?

1. **Tax rate for profits of S.A., Limited Liability Companies (E.P.E.) and Private Capitalized Companies (I.K.E.) and other entities of art. 101 par. 1 of ITC:**
Increase from 20 to **26 %**.
2. **Tax withholding rate on dividends and distributed profits** of such companies:
Decrease from 25 % to **10 %**.
3. **Special tax regimes**
Abolished (e.g. income from securities with exhaustion of tax liability).
4. **Not for-profit legal entities of art. 101 par. 2 of ITC.**
Increase of their income tax rate to **26 %**.
5. **Special tax regime of Banks and Insurances S.A.- Exemptions of Agricultural Cooperatives:**
Abolished.
6. **Profits from commercial exploitation of ships** under Greek flag earned by resident LTDs and Private Capital Companies (PCCs)
Exempted from Income Tax.
7. **Dividends of subsidiaries of Greek Companies established in the EU:**
 - **Exemption** from income tax on dividends.
 - **Exemption** also applicable to S.A. or LTDs., which report losses and cannot establish tax-free reserve from profits.
 - A **tax deduction** on the legal entity's applicable income tax shall apply in case such reserves are distributed up to the amount of the corporate income and any withholding tax that has burdened the non-resident subsidiary.
8. **Provision for Banks' Contingent Claims:**
A unified rate 1 % of 1% is introduced for the deduction of contingent claims.
9. **Sovereign Debt Restructuring Program (PSI):**
Deductibility of losses by legal entities from their gross revenues, in 30 equal annual installments.
10. **Expenses deduction for foundations and other non-profit entities:**
Increase from 50 % to 75 % of the allowed deduction rate for the calculation of income arising from the lease of immovable property.
11. **Own shares buyback- :Share capital decrease:**
Tax withholding on the amount remitted to the share-holders of a Greek S.A., in case the S.A. acquires its own shares with the aim of capital decrease.
12. **Foreign subsidiaries' dividends:**
 - A **tax deduction** from the applicable income is granted up to the amount of the respective corporate income and any withholding tax on dividends from EU subsidiaries, in case the conditions of the EU Parent – Subsidiary Directive are not met.
 - The deduction also applies to dividends paid from a non-EU subsidiary with a double taxation treaty for any eventually made tax withholding. Such deduction extends up to the amount of the applicable Greek income tax.
13. **Calculation of Income Tax Advances:**
Deductibility only of the tax withheld in Greece.
14. **Out-of-Books determination of Taxable Profits:**
The prerogative of the tax authorities to proceed to an "out -of -books" determination of the taxable profits is restricted to the case of non maintenance of the proper accounting books and records.

(b) Laws / Provision Amended

- Articles 32, 99,103,105,109,111 114 of Law.2238/1994.

IX Entrepreneurial Duty**(a) What Changes?**

- Increase** of the entrepreneurial duty as follows:

For legal entities having commercial activities in cities and villages with a population inferior to 200.000 inhabitants: Euro 800.

- For legal entities having commercial activities in cities with a population superior to 200.000 inhabitants: **Euro 1.000**.
- For individual businesses and free: **Euro 650**. The increase is not applicable for free lancers taxed as wage earners.
- For every branch: **Euro 600**.

(b) Laws / Provision Amended

- Law 3986/2011.

X. Transfer Pricing Rules**(a) What Changes?**

- Ministry of Development Transfer Pricing Rules (Art. 26 of law 3728/2008).**
 - **Abolished:** Their content is incorporated by transfer pricing rules of the ITC.
 - **Expansion** of the notion of “**related entities**”.
 - **Arm’s length** rule henceforth expressly includes loans, share transfers and transfer of parts as well as real estate property between “related entities”.
 - The preparation of a “documentation file” is henceforth obligatory for transactions with both resident and non-resident relates entities.
- Exemption from obligation to submit transfer pricing documentation files:**

- **Law 89/67** Foreign commercial and industrial companies of the Compulsory
- **Transactions**, whose total value does not exceed Euro 200.000, or Euro 100.000 when the annual turnover of the affiliated companies does not exceed Euro 5.000.000: **Exempted**.

3. **Penalties:**

- The late filing of informative charts triggers the assessment of a penalty equal to 1/1000 of the business’ gross revenue and in any case from **Euro 1.000 to Euro 10.000**.
- The non-filing of such chart or the omission to provide a documentation file incurs a penalty equal to 1/100 of the business’ gross revenue, and in any case from Euro **10.000 to Euro 100.000**.

4. **Expenses for the acquisition of goods or services from companies established in “non-cooperative countries” or “countries of privileged tax regime”:**

Deductible, when remitted to foreign affiliated companies for which a documentation file has to be submitted.

5. **Advanced Pricing Agreements:**

Possible pre-approval by decisions of the General Directorate of Tax Audits of the Ministry of Finance.

(b) Laws / Provision Amended

- Articles 51B,39,39^A of Law.2238/1994, article 4 of Law 2523/1997
- The articles 39B,39Γ. were added

XI. V.A.T.**(a) What Changes?**

- Real estate lease for the exercise of a professional activity by a person or entity subject to V.A.T.,**

Optional submission to V.A.T. from 1.1.2013 following lessor request to the competent tax authority.

(b) Laws / Provision Amended

1. Article 8 of Law 2859/2000.

XII. Extraordinary Special Real Estate Duty (ESRED)

(a) What Changes?

1. Utility Bills – ESRED

Possible separation of the ESRED from the utility bill and possibility for assessment by the Tax Authority (subject to conditions), following request of the owner or the beneficiary of a real estate to the competent Tax Authority.

(b) Laws / Provision Amended

1. Article 53 of Law.4021/2011.

XIII. Real Estate Statement (E 9)

(a) What Changes?

1. Plots which are set outside city or village planning boundaries:

Obligation of natural persons possessing real rights to them, as of 1.1.2013 to complete submit an E9 Real Estate Statement status to *taxisnet* webpage, by 30.6.2012.

2. Real rights (in rem) on real estate owned by legal entities:

Obligation to submit electronically a declaration regarding their real estate property status as of 1.1.2013 by 30.6.2013.

(b) Laws / Provision Amended

1. Article 23 of Law 3427/2005.

XIV. Car Classification Duty

(a) What Changes?

1. Retirement of Cars - Decreased Car Classification Duty

Extension of the relevant provisions until 31.12.2013.

2. Used Cars:

Same classification as new cars for luxury tax purposes.

(b) Laws / Provision Amended

1. Articles 8 N.3899/2010, 17 of Law 3833/2010.

XV. Code for the Collection of Public Revenues

(a) What Changes?

1. Publication of Auction programs:

Possible also on a specific web page.

(b) Laws / Provision Amended

1. Article 41 L.D. 356/1974.

XVI. Taxation of Vessels – Shipping Companies

(a) What Changes?

1. Ships Under Foreign Flag – Management from Greece,

Taxation of ships under foreign flag, in case their management is exercised by Greek companies or foreign companies established in Greece. Amendment of article 26 of La. 27/1975.

2. Subjects to tax:

The foreign ship-owners or ship-owner companies. The managing companies, which are established in Greece under the provisions of art. 25 of law 27/1975 are jointly liable for the remittance of the tax.

3. Calculation of the tax – Tax Credit:

- With the same criteria as the tax imposed on ships under Greek flag (**tonnage tax**).
 - Any tonnage or similar tax proved to be remitted for the ship under foreign flag abroad is deducted from the Greek tax, up to the amount due in Greece.
4. **Taxation of Dividends and Distributable Profits**
Exemption of the shareholders of the above mentioned companies from any tax, duty, contribution or withholding, up to natural person, for the income acquired from dividends or distribution of net profits, whether such profits are acquired directly or through holding companies.
5. **Transfer of Shares or Parts:**
Exemption from any taxation of the transfer of shares or parts of Greek or foreign ship-owner companies, under Greek or foreign flags, regardless the reason of the transfer.
6. **Transfer of Ships, Shares or Parts of Ship-owning companies:**
- **Exempted from inheritance tax** in case of transfer of ships, shares or parts of Greek or foreign companies owning ships under Greek or foreign flag, whose capacity exceeds 1.500 registered tons.
 - The same exemption applies for the shares or parts of intermediary holding companies.

(b) *Laws / Provision Amended*

1. Article 26 of Law 27/1975

XVII. Contribution to Companies of Art. 25 of Law 27/1975

(a) *What Changes?*

1. **Imported Foreign Currency (2012-2015)**

A contribution is imposed for four (4) years, to the total annual imported foreign currency.

2. **Subjects to the Contribution:**

The branches and offices of foreign businesses dealing exclusively with:

- The exploitation, chartering, insurance, the settlement of averages, the brokerage of sales or freights or insurances of **ships under Greek of foreign flag, exceeding 500 registered tons**. Such activity for passenger ferry-boats and merchant ships covering local transports is **excluded**.
- The representation of ship-owner companies, as well as of businesses having the above mentioned activities.

3. **Calculation of the contribution scales:**

Annual total imported exchange bracket (in U.S. dollars)	rate %	Tax bracket	Total amount of exchange (in U.S. dollars)	Total tax (in U.S. dollars)
200.000	10	20.000	200.000	20.000
200.000	8	16.000	400.000	36.000
Excess amount	6			

4. **Law 27/1975 Offices and Branches:**

Exemption from the contribution for Greek and foreign companies who have established an office or branch under art. 25 of law 27/1975 and are dealing with the management or exploitation of ships under Greek or foreign flag, as well as undertaking any further activities, for which they have obtained a permit of establishment.

(b) *Laws / Provision Amended*

1. Article 25 of Law. 27/1975

XVIII. Luxurious Lifestyle Tax

(a) What Changes?

1. Deemed Income from Ownership or Possession:

Introduction of a “Luxurious lifestyle tax”, assessed along with the income tax, starting from financial year 2014, on the amounts of objective expenses (“deemed income”) arising from the ownership or the possession of:

- Passenger cars, having a motor engine exceeding 1.929 c.c.
- aircrafts
- helicopters and gliders
- swimming pools.

2. Calculation of Tax:

- For cars having a motor engine from 1.929 – 2.500 c.c.: **5 %** on the amount of “deemed income”.
- For cars exceeding 2.500 c.c. and the remaining mentioned assets: **10 %** on the amount of “deemed income”.
- Cars having first circulated in Greece for more than 10 years: **Exempted** from tax.

(b) Laws / Provision Amended

1. New Tax has been introduced

For professionals having a professional establishment, as well as those providing repairing and technical services.

3. Technical amendments to article 6 of the Code (“invoicing of transactions”).

4. Provision of Similar Multiple Services:

Abolition of possibility of a brief description of the service, in case of provision of similar multiple services.

(b) Laws / Provision Amended

1. Articles 3, 6 of Law.4093/2012.

XIX. Code for the Tax Recording of Transactions

(a) What Changes?

1. Exemption from the keeping of books and the issue of retail receipts:

Decrease of the annual turnover threshold from Euro 10.000 to Euro 5.000.

2. Exception from the exemption:

For any further comment or query on the above or any other issue, please liaise with the competent client partner or you may liaise with the Coordination Partner, who will refer you to the competent partner within KGDI.

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