

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

Greece suspends capital gains tax on real estate, Circulars provide guidelines on Automatic Exchange of Country-by-Country Reports, change of tax residence for individuals and the concept of tax evasion in cases of tax audits and transfer pricing violations. The EU Council publishes a list of non-cooperative jurisdictions.

In This Issue

- **New Suspension of Capital Gains Tax on Real Estate Property Disposals**
- **Guidelines for Filing and Exchange of CbC Reports by Multinational Enterprises (MNEs)**
- **Amended Procedure for Change of Tax Residency Status**
- **New Circular Aims to Relax the Definition of Tax Evasion**
- **EU Council - List of Non-Cooperative Jurisdictions**

A. New Suspension of the Capital Gains Tax on Real Estate Property Disposals

By virtue of Law 4509/2017, the capital gains tax arising from disposals of real estate property has been further suspended until 31 December 2018.

B. Guidelines for Filing and Exchange of CbC Reports by Multinational Enterprises (MNEs)

1. Following the ratification of the CbC MCAA by the Greek parliament (Law 4490/2017), the Ministry of Finance issued Circular POL. 1184/2017 providing guidelines for the filing

and exchange of CbC Reports by MNE Groups with total consolidated group revenues of more than €750m.

2. The Ultimate Parent Entity (UPE) of an MNE Group that is resident for tax purposes in Greece, or any other Reporting Entity, must file a CbC Report with respect to the fiscal year within 12 months of the last day of the MNE Group's reporting fiscal year.
3. The filing of CbC Reports by Greek Reporting Entities is effected through an electronic platform to which access is given to the individual registered as the competent person of the Reporting Entity.
4. Specific notifications should be sent by Greek Constituents for fiscal years starting from 1 January 2016 onwards.

C. Amended Procedure for Change of Tax Residency Status

1. By way of Ministerial Circular POL. 1201/2017, the Ministry of Finance provides new guidelines for changes of tax residence.
2. In particular the new Circular details the procedure to be followed when changing a natural person's tax residence and for the first time regulates cases where only one spouse transfers its tax residence outside Greece.
3. Natural persons who wish to change their status from tax resident to non-tax resident must file with the tax authorities:
 - a. an application by 10 March; and
 - b. supporting documentation for the application by 10 September,

BERNITSAS briefing

or the last working day prior to these dates, of the year following the tax year of their departure.

4. The Circular also details the documents that must be filed with the tax authorities evidencing the non-tax resident status of the natural person.

D. New Circular Aims to Relax the Definition of Tax Evasion

1. The Independent Public Revenue Authority provides guidelines on the definition of tax evasion, as regulated by Article 66 of Law 4174/2013, by way of Circular POL. 1209/2017. The Circular clarifies the meaning of tax evasion in an effort to prevent a broad interpretation by the tax authorities.
2. In particular, it is clarified that the tax authorities should not file criminal complaints against taxpayers for tax evasion for amounts exceeding €100,000 where the tax assessment derives from:
 - a. disallowed business expenses; or
 - b. adjustments for transfer pricing purposes.

3. However the above guidelines do not apply in cases of fictitious transactions or transactions aiming to conceal taxable income.

E. EU Council - List of Non-Cooperative Jurisdictions

1. The European Council approved and published a list of non-cooperative jurisdictions in taxation matters.
2. The following jurisdictions are included in the list:

1	American Samoa	10	Namibia
2	Bahrain	11	Palau
3	Barbados	12	Panama
4	Grenada	13	Saint Lucia
5	Guam	14	Samoa
6	Korea (Republic of)	15	Trinidad and Tobago
7	Macao SAR	16	Tunisia
8	Marshall Islands	17	United Arab Emirates
9	Mongolia		

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