

## Update on Short-Term leases

### **Decision 1187/23.11.2017 of the Governor of Independent Public Revenue Authority sets guidelines for the implementation of the Short Term Leases regime**

Law 4472/2017, published in the Government Gazette on 19 May, introduced provisions aiming at the regulation of short-term leases in the context of sharing economy via digital platforms (please refer to our Real Estate Newsletter dated 14 June 2017) and granted legislative authorisations to the Ministers of Economy and of Tourism to further regulate the special regime by setting limitations, if necessary, for specific geographical areas and for “protection of housing” reasons. Such limitations refer to the number of properties per Income Beneficiary and on the number of days the property can be leased out per calendar year. It also granted authorisation to the Governor of Independent Public Revenue Authority to determine the procedural technicalities in connection with the operation of the Short Term Lease Register and the Short Term Lease Platform. Recent decision 1187/2017 is the first decision in this direction that applies on income earned from 1 January 2017 while the procedural technicalities set by the Governor’s decision will need to be complied with for short term leases entered from 1 January 2018 onwards.

### What is clarified with the Governor’s decision

#### **Qualifying leases and role of the digital platforms**

The special regime applies to short term leases of properties, apartments, houses or even rooms within an apartment or house, entered into through digital platforms with duration up to one (1) year. Digital Platforms are defined as the electronic, bilateral or multilateral markets, where two or more groups of users communicate through the internet and the platform administrator mediates in order to facilitate a transaction among the groups. It is clarified that, especially with respect to short term leases, digital platforms are those that provide special tools for the conclusion of the lease and do not merely advertise the property.

## Property Manager

For the purposes of application of the short term lease regime s/he is either the owner of the property or the holder of the usufruct right or the sublessor or a third party who by law represents the owner on the basis of special legal arrangements (e.g. the parents of minors, will executors, temporary property administrators, bankruptcy trustees, etc). The Property Manager is liable to comply with the obligations of the special regime *vis-à-vis* the tax authorities. Therefore only one Property Manager is allowed per property whereas in case of joint ownership only one of the co-owners can act as Property Manager.

## Income beneficiary

Is the individual or legal entity which is liable to income tax for the revenues earned from the specific property as per the provisions of the Income Tax Code. Namely, the Income Beneficiary may be the owner or the holder of usufruct right or the sublessor. The Property Manager and any co-owners of a jointly owned property are taxed as Income Beneficiaries. Exceptionally when the Property Manager is a third party, as defined above, s/he is not the income beneficiary.

## Property Owner

The Property Owner is in most cases the Property Manager and the Income Beneficiary. When it comes to subleased properties where the sublessor acts as the Property Manager, the property owner or usufruct holder should have first reported the lease agreement between the Property Owner and the sublessor, who therefore acts as Property Manager, to the “Real Estate lease electronic platform”. Otherwise, the Property Owner will be deemed to be the Property Manager. On the contrary when a co-owner acts as the Property Manager, the co-owners are not liable for making any reporting to the “Real Estate lease electronic platform”.

## Term of application

The Governor’s decision applies to short term leases entered into following 1 January 2018. Revenues from short term leases earned within 2017 will be reported by the taxpayers themselves in a special section in the annual income tax returns of the respective year.

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## Registration of the property with the Registry for Short-Term Leased Properties

- The Property Manager needs to register the property with the “Registry for short-term leased properties” of the Independent Public Revenue Authority to be formed within the near future (the Short-Term Leases Registry).

- The procedure for registration of the property with the Short-Term Leases Registry is simple; the Property Manager logs in with his personal TAXISnet username & password, fills in contact information, the details of the income beneficiaries, the special identification number awarded to the property on the property registry or if he is the sublessor, the registration number of the lease when reported with the “Real Estate lease electronic platform”. Afterwards, the registration number of the property is obtained. It is noted that if parts of the same property are leased out separately, the Property Manager needs to register each part separately.
- Short term leases reported on the Short-Term Leases Registry do not need to be declared also on the online “Real Estate lease electronic platform” of the Ministry of Finance.
- When the Property Manager ceases operations as property manager or when the property is no longer leased out for short term leases, the registration number is invalidated.
- Properties that have acquired the National Tourism Organisation special mark are not required to be registered with the Short-Term Leases Registry; however the leases themselves are reported in the Short-Term Leases Registry.

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## Reporting of a short-term lease

- The Property Manager has to report each short-term lease per tenant in the Short-Term Leases Registry. The data to be filed include the registration number of the property with the Short-Term Leases Registry, the total agreed rental or total amount payable according to the cancellation policy, the name of the digital platform through which the lease was concluded, the lessee data, the term of the lease and the manner of payment of the rental. When the reports are filed, a unique filing number is issued.
- With respect to short term leases concluded for properties for which the National Tourism Organisation special mark has been obtained and which are rented out by individuals, the special mark number must also be included.  
Short term lease reports are filed by midnight of the next working day following the departure of the tenant. In case the short term lease is cancelled or a cancellation fee is payable, an initial short term lease report may be filed by midnight of the next working day following the cancellation.
- In case any of the agreed terms are amended or the lease is cancelled, the Property Manager may file an amending short term lease report.

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## Obligations of the property owners

The property owner or the usufructuary who delegate the management of the property within the context of the short term leases need to file a declaration of lease data with the platform maintained by the Ministry of Finance and to declare the identity of the Property Manager. Unless they do that, they are considered to be the Property Managers. Such declaration precedes the registration of the property with the Short-Term Leases Registry for short-term lease properties. In case of multiple

owners, when one of them is the Property Managers, the other co-owners do not need to file a declaration of lease data.

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## Obligations of the Property Manager

- The Property Manager is the person who puts up the Property for lease on the digital platforms of the sharing economy. The registration number of the property with the Short-Term Leases Registry must be included in the listing with the digital platforms and any advertisements.
- The Property Manager has to deposit with the Consignments and Loans Fund any revenue attributable to unknown property owners/revenue beneficiaries. Such amount needs to have been deposited by the date the Short-Term Leases Registry is finalised and to include such reference in the relevant consignment note.
- The Property Manager has to report all the necessary information for the calculation of the annual revenue per property owner/income beneficiary data. The Short-Term Leases Registry is finalised each year before the beginning of the period of filing of the annual income tax returns for individuals. If the Property Manager has not filled in all the data required for the calculation of the taxable income per income beneficiary by such date, so that 100% of the income may be taxed, the income percentage that has not been attributed to an income beneficiary is taxed in the name of the Property Manager, unless he/she has deposited the corresponding amount with the Consignments and Loans Fund.
- When the property ceases to be leased out for short term leases or when the Property Manager ceases to act as Property Manager, he needs to finalise the information filed with the Short-Term Leases Registry.
- Any changes to the data filed with the Short-Term Leases Registry may be performed without penalty until the lapse of the deadline for the filing of the annual income tax returns. Following the lapse of such deadline, all the data is considered as final.
- Properties for which the National Tourism Organisation special mark for Villas has been issued are not obliged to be registered with the Short-Term Leases Registry. However, when such properties are posted on digital platforms or in any advertisement in the media the number of the special tourism mark must be included in a manifest manner.

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## Penalties

A penalty of Euro 5,000 is imposed on the Property Manager upon the following instances:

- Failure to register with the Registry;
- Failure to indicate on the digital platforms or any other advertisement in the media the registration number of the property with the Registry

- Failure to indicate on the digital platforms or any other advertisement in the media the National Tourism Organisation special mark (applicable to properties that have obtained such mark and are therefore exempt from registration with the Registry).

In case any of the above violations is assessed, the Property Manager has a 15-day deadline to comply with the obligations set by the law. In case the same infringement occurs with a year from the date the relevant penalty is imposed, the penalty is doubled. If the same infringement occurs anew, the penalty is quadrupled.

The Independent Public Revenue Authority may request information from the operators of digital platforms for purposes of identifying the Property Managers and the properties that are posted in the platforms.

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