

New Regime for Short-Term leases

Law 4472/2017, published in the Government Gazette on 19 of May, introduces provisions aiming at the regulation of short-term leases in the context of sharing economy via digital platforms. This is the second attempt to regulate this activity through the enactment of a special regime. The first law was passed last December (Law 4446/2016), but remained inactive, since the necessary secondary legislation was never enacted. Law 4472/2017 (i) introduces article 39A in the Income Tax Code titled "Income from short-term leases in the context of sharing economy" and (ii) substitutes the previously applicable regime on the same subject matter. The provisions of Law 4472 apply on income earned from 1 January 2017.

What changed compared to the previously applicable regime?

Persons entitled to the special regime

The new regime applies to both individuals and legal entities whereas until now only private individuals qualified for its application.

Term of qualifying leases

Qualifying short-term leases via digital platforms may have a duration of up to one (1) year, whereas under the previously applicable regime the duration thereof was limited to 90 days per calendar year (60 days for islands with less than ten thousand inhabitants). Under the new regime a 90-day or 60-day limit may be activated in specific geographical areas following a Ministerial Decision, if this is considered necessary for reasons pertaining to the "protection of housing".

Number of properties per taxpayer

There is no general restriction on the number of properties to be operated by the same taxpayer. However, specific restrictions may be activated in certain geographical areas, following a Ministerial Decision, if this is considered necessary for reasons pertaining to the "protection of housing". Under the previously applicable regime, qualifying properties could not be more than two properties per taxpayer.

Technical specifications

A wide array of lodgings is considered suitable for being rented, including individual rooms within apartments or houses. No minimum technical requirements/conditions such as minimum space, lighting etc. are set forth in this respect.

Key features of the new regime

- The leased properties are furnished and no other services are rendered with the exception of bed linen.
- The Property Manager [i.e. the person who is responsible for undertaking the procedure for uploading the property to the digital platforms and for taking care of the short-term lease of the property (the “Property Manager”)] needs to be registered with the “Registry for short-term lease properties” kept with the Independent Public Revenue Authority to be formed within the near future;
- The registration number with the aforementioned Registry needs to appear in all postings taking place in digital platforms or in the media;
- Properties which already hold the special tourism mark issued by the National Tourism Organisation (“EOT”) do not need to be registered with the aforementioned Registry. However, all postings of such properties that take place in digital platforms or in any advertisement in the media need to refer to the EOT special tourism mark;
- Short-term leases (with the exception of those properties holding a special tourism mark) are to be reported in a special short-term lease platform and not in the platform of leased properties;
- Income earned from short-term leases qualifies as income from immovable property, provided no services other than bed linen are rendered. In the event that additional services are rendered, the relevant income qualifies as business income;
- Rentals from short-term leases that qualify under the special regime are exempt from VAT.

Law 4472 also sets forth the sanctions to be imposed in cases of non-registration with the Registry for short-term lease properties, non-observance of the reporting obligation, submission of inaccurate declarations, non-timely submission of declarations etc.

Inspections for auditing the compliance with the provisions of the short-term lease regime are to be performed by officers of the Independent Public Revenue Authority, the Ministry of Tourism and the Finance Police.

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.

Overall assessment

The new framework appears in many aspects to be less restrictive than the one initially adopted back in December 2016. The overall tax treatment of taxpayers (i.e. from an income tax, VAT and property tax perspective) engaging in short-term leases without rendering services to the guests appears to be straightforward. On the other hand, the overall tax treatment, in the event that services are rendered to guests, is open to interpretation and thus further guidance or amendments in legislation are anticipated.

It remains to be seen how swiftly the new regime will be activated, given the long delays and final freezing of the initially attempted regulation. It will also be interesting to observe the results of the current absence of restrictions/specific requirements to be met by the properties to be rented out. Also, while it is clear that the absence of restrictions for qualifying properties will encourage more owners to exploit their properties through short-term leases, especially in touristic areas, one wonders whether these areas will face, on one hand, a shortage of available properties for long-term leases, as has been the case in other European cities, and fierce objections by regulated tourism lodgings/hotels on the other.

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