

Definition of tax evasion: Long anticipated ministerial guidance published to rationalise scope of application

On 20 December 2017, the Independent Public Revenue Authority released official guidance (Ministerial Decision POL 1209/2017) on the definition of tax evasion, in line with article 66 of Law 4174/2013.

The guidance clarifies that the assessment of corporate income tax of an amount exceeding Euro 100,000, does not constitute tax evasion, to the extent that such assessment results from the readjustment of taxable profits, following:

- (i) disallowance of ordinary business expenses, and/or
- (ii) transfer pricing readjustments.

The guidance also refers to fictitious transactions, as an example of an intentional concealment of taxable income that may be treated as tax evasion, within the scope of article 66 of Law 4174/2013.

The guidance is expected to have a significant impact on the market, as it reduces the scope of application of (i) the 20-year Statute of Limitation, which applies in the event of tax evasion and (ii) legal provisions on criminal liabilities of BoD members of Greek corporations.

For further details please contact:

Costas Kallideris

T (+30) 210 69 67 000

E c.kallideris@zeya.com

Elina Filippou

T (+30) 210 69 67 000

E e.filippou@zeya.com

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280, Kifissias Ave.
152 32 Halandri
Athens, Greece

newsletters@zeya.com
Tel.: (+30) 210 69 67 000
Fax: (+30) 210 69 94 640
www.zeya.com

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