Law 4549/2018 | Key tax provisions affecting individuals

The Greek Parliament ratified Law 4549/2018 on 14 June 2018. The new law introduces, among others, a number of tax provisions. This newsletter summarises the key tax provisions affecting individuals.

Restricted scope of transactions generating business income for individuals

The new law limits the definition of transactions that may generate taxable business income for individuals. According to revised provision (article 21 Income Tax Code ("ITC"), gains from the following transactions are not treated as taxable business income:

- sale of assets which have been acquired by way of inheritance or gift from first or second degree relatives;
- sale of assets which have been retained for at least five years prior to the sale;
- one-off transfer of immovable property or securities. To be noted that the transfer of listed securities was already excluded from the scope of the provision.

Any other one-off transaction aiming at profits may be treated as a business transaction. Gains arising from such a transaction are taxed as ordinary business income at a rate of up to 45%.

Rationalised taxable basis upon sale of securities acquired by gift or inheritance

Capital gains earned by individuals from the sale of securities are generally equal to their sale price reduced by their acquisition cost. However, the Greek Ministry of Finance has taken the position that the acquisition cost of securities acquired by gift or inheritance should be deemed as equal only to the amount of gift or inheritance tax paid at that time (Circular POL 1032/2015).

The new law however, introduces a revised wording of article 42 ITC, indicating that the acquisition cost in such circumstances is equal to the taxable value of the securities at the time of gift or inheritance.

Payments to investment linked insurance policies as a reportable capital expenditure

Payments made by individuals in the context of investment linked insurance policies qualify as capital expenditure to the extent that they concern investment products. Thus, the taxpayers will be obliged to report them in their annual income tax returns and substantiate the source of the funds accordingly. Based on the wording of the newly introduced provision, it seems that only the contribution in cash will be considered as a capital expenditure.

Revised definition of tax residence of individuals

According to the ITC, an individual is considered as a Greek tax resident, among others, in the event that the *center of his vital interests* is located in Greece.

The new rule reformulates the definition of “the center of vital interests” as the place of an individual’s personal, economic and social ties. The revised wording is in line with Judgment 1445/2016 of the Greek Supreme Administrative Court, ruling that the place of residence of an individual should be determined by taking into account all relevant facts and in particular, the existence of a house, the physical presence of the individual and his/her family members (including relatives other than the spouse and children), the place of employment/professional activity, of property interests, of administrative links with public authorities and institutions (social security, professional, social), of development of political, cultural or other activities.

For further information, please contact:

Costas Kallideris
Partner, Head of Private Clients
T (+30) 210 69 67 000
E c.kallideris@zeya.com

Anna Paraskeva
Senior Associate, Private Clients
T (+30) 210 69 67 000
E a.paraskeva@zeya.com

Mantha Stamatiou
Senior Associate, Private Clients
T (+30) 210 69 67 000
E m.stamatiou@zeya.com

Established in 1893, Zepos & Yannopoulos is one of the leading and largest Law firms in Greece providing comprehensive legal and tax services to companies conducting business in Greece.

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