

TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

In This Issue

A. EU Directive on Automatic Exchange of Information on Revenues from Transactions in Crypto-Assets and on Advance Tax Rulings for the Wealthiest (High Net Worth) Individuals

B. Updates to the List of Non-Cooperative Countries for 2022

C. Circular E.2064/2023 Provides New Guidelines on the Tax Residence of Individuals in Greece

A. EU Directive (DAC8) on Automatic Exchange of Information on Revenues from Transactions in Crypto-Assets and on Advance Tax Rulings for the Wealthiest (High Net Worth) Individuals

1. On 17 October 2023, the Council of the EU adopted a Directive (**DAC8**) amending EU rules on administrative cooperation in the area of taxation. The amendments mainly concern the reporting and automatic exchange of information on revenues from transactions in crypto-assets and on advance tax rulings for the wealthiest (high net worth) individuals.
2. DAC8 amends Directive 2011/16/EU on administrative cooperation in the field of taxation.
3. The aim of the Directive is to strengthen the existing legislative framework by enlarging the scope for registration and reporting obligations and overall administrative cooperation of tax administrations.
4. Additional categories of assets and income, such as crypto-assets, will now be covered. There will be a mandatory automatic exchange between tax authorities of information which will have to be provided by reporting crypto-asset service providers. So far, the decentralised nature of crypto-assets has made it difficult for Member States' tax

administrations to ensure tax compliance. The inherent cross-border nature of crypto-assets requires strong international administrative cooperation to ensure effective tax collection.

5. This Directive covers a broad scope of crypto-assets, building on the definitions that are set out in the regulation on markets in crypto-assets (MiCA). Crypto-assets that have been issued in a decentralised manner and stablecoins, including e-money tokens and certain non-fungible tokens (NFTs), are also included in the scope of the Directive.
6. DAC8 aims at extending the scope of the current rules on exchange of tax relevant information by including provisions on:
 - a. exchange of advance cross-border rulings concerning high-net-worth individuals; and
 - b. provisions on automatic exchange of information on non-custodial dividends and similar revenues, in order to reduce the risks of tax evasion, tax avoidance and tax fraud, as the current provisions of DAC do not cover this type of income.
7. The third objective of DAC8 is to amend a number of other existing provisions of DAC. In particular, the proposal seeks to improve the rules on reporting and communication of the Tax Identification Number (TIN) in order to:
 - a. facilitate the tax authorities in identifying the relevant taxpayers and correctly assessing related taxes; and
 - b. amend DAC provisions on penalties that are to be applied by Member States to persons for the failure of compliance with national legislation on reporting requirements adopted pursuant to DAC.

B. Updates to the List of Non-Cooperative Countries for 2022

1. By way of Decision A.1160/2023, the Independent Authority of Public Revenues (**IAPR**) issued the updated list of countries considered to be non-cooperative for 2022.
2. For the purposes of the Controlled Foreign Companies (**CFC**) Rules, the non-distributed income of a CFC, subject among

BERNITSAS briefing

other things to tax in a non-cooperative country or in a country with a preferential tax regime, may be considered as taxable income of the Greek tax resident who controls it.

- The CFC Rules do not apply to EU tax resident CFCs and EAA tax resident CFCs (EAA countries with which an agreement for the exchange of information is in force), provided the establishment or economic activity they pursue is not artificial and aimed at the avoidance of tax due.
- The following countries are included in the list of the non-cooperative countries for 2022:

1	Sint Maarten
2	Haiti
3	Cote d' Ivoire
4	Algeria
5	Angola
6	Anguilla
7	Antigua and Barbuda
8	Vanuatu
9	Kingdom of Lesotho
10	Vietnam
11	British Virgin islands
12	Gabon
13	Ghana
14	Guyana
15	Guinea
16	Guatemala
17	Kazakhstan
18	Cambodia
19	Congo (Rep. of)
20	Belarus
21	Liberia
22	Madagascar
23	Mali
24	Mauritania
25	Benin
26	Botswana
27	Burkina Faso
28	Niger
29	Nicaragua
30	Dominica
31	Honduras
32	Palau
33	Panama
34	Papua New Guinea
35	Rwanda

36	Seychelles
37	Thailand
38	Tanzania
39	Togo
40	Trinidad and Tobago
41	Djibouti
42	Chad
43	Philippines

- Within the framework of the Convention on Mutual Administrative Assistance in Tax Matters (**MAC**), the following countries are considered as non-cooperative countries with respect to the time period determined by the Ministry of Finance:

Country		Time period in year 2022 during which the country is considered as non-cooperative
1	Mauritania	1.1.2022 - 31.07.2022
2	Rwanda	1.1.2022 - 30.11.2022
3	Thailand	1.1.2022 - 31.03.2022

C. Circular E.2064/2023 Provides New Guidelines on the Tax Residence of Individuals in Greece

- By way of Circular E.2064/2023 the IAPR provides guidelines on the tax residence of individuals in Greece.
- For individuals applying for relocation to Greece and registration as Greek tax residents, the criteria of the Income Tax Code relating to tax residence (such as the 183 days or habitual residence rules) are not examined.
- These criteria are examined only in the case of individuals that have not been registered on the tax register in Greece although they qualify as Greek tax residents.
- The Circular provides clarification on specific concepts of the tax residence such as the 'main residence', 'permanent residence', 'habitual abode', 'center of vital interests', 'personal relations' and 'economic relations'. All the above concepts are interpreted in accordance with the commentary of Article 4 of the OECD Convention for the Avoidance of Double Taxation.
- In assessing the factual elements that constitute the centre of a person's vital interests, all the elements that constitute this concept must be taken into account. The appointment of an individual as a member of the Board of Directors of an SA or as an administrator in a Limited Liability Company or a Private Company, or the exercise of limited activity in Greece, does not in itself suffice for the determination of the tax residence of the individual.

6. Any day during which the individual is in the Greek territory, irrespective of the duration of this presence (part of a day, date of arrival and date of departure), is considered as a 'day of presence' in Greece.
7. An individual must file an income tax return as a Greek resident for the year that the threshold of 183 days' presence in Greece is exceeded. In the event that the above threshold is exceeded during the following year from the year of arrival, the individual will have to file a tax return as a Greek tax resident for the year that the threshold of 183 days was exceeded.
8. Any dispute related to the tax residence of the individual may be settled under the procedure of mutual settlement or the tax resolution mechanisms of Directive 2017/1852.

Contact



Fotodotis Malamas
Counsel
E fmalamas@bernitsaslaw.com

This Briefing is intended to provide general information and is not meant to constitute a comprehensive analysis of the matters set out herein or to be relied upon as legal advice. It is not meant to create a lawyer-client relationship. Legal and other professional advice should be sought before applying any of the information in this Briefing to a specific situation.

Bernitsas Law Firm is a partnership of attorneys regulated by Presidential Decree 81/2005 and Law 4194/2013, as currently in force, with its registered address at 5 Lykavittou Street, Athens 106 72, Greece.

If you no longer wish to receive Briefings from us, please click here to [Unsubscribe](#)