

## TAX BRIEFING: Monthly Insight

# Recent Developments in Tax Legislation

### In This Issue

#### **A. Joint Decision A.1036/2020 on the Process and Requirements for the Special Tax Regime of HNWI's Introduced by Law 4646/2019**

#### **B. Joint Ministerial Decision For The Set-Off of Expenses Related to R&D and Investment Projects Against the Claim of the State from Clawback**

#### **A. Joint Decision A.1036/2020 on the Process and Requirements for the Special Tax Regime of HNWI's Introduced by Law 4646/2019**

1. In an effort to develop an attractive environment for investments in Greece, Law 4646/2020 introduced a new tax regime for High Net Worth Individuals (HNWIs) that transfer their tax residence and invest in Greece which has been included in Article 5A of Law 4172/2013. By way of Decision A.1036/2020 (Government's Gazette Bulletin B' 624/26.02.2020) the Ministry of Finance provided guidelines for the implementation of this new tax regime.
2. The competent tax authority for the submission, review, approval or rejection of the Article 5A application shall be the Tax Office of Foreign Residents and Alternative Income Taxation of Domestic Tax Residents (Directorate C'1).
3. HNWI's transferring their tax residence in Greece, may be subject to the alternative income taxation method for income acquired abroad, if the following requirements cumulatively apply:
  - a. They have to reside abroad for 7 out of the last 8 years;
  - b. The investment should be higher than €500,000.00 and may pertain to real estate property, securities and shareholdings; and
  - c. The investment has to be concluded within three years from the date of the application.
4. HNWI's have to:
  - a. file the relevant application to the competent tax

- b. file supporting documents, defined on a case-by-case basis, referred to in Article 3 of the Joint Decision.
5. The application for the relevant tax year shall be received by the competent tax authority, even if it is not accompanied by all the relevant supporting documents at the time of submission. In this case, HNWI's may file the remaining documents, within 60 days from submission of the application.
6. The competent tax authority has to either accept or reject the application within 60 days from its submission. In case the application is accepted, the HNWI shall be considered a Greek tax resident for the said and for following tax years. The special regime is terminated after the expiration of 15 tax years and cannot be extended further.
7. HNWI's that meet the above conditions enjoy the following tax benefits:
  - a. Non-Greek sourced income is tax exempted and not reported.
  - b. An annual flat tax liability of €100,000.00 is introduced for non-Greek sourced income.
  - c. This benefit is extended to close relatives of HNWI's with the payment of an additional annual tax of €20,000.00 per person.
  - d. Assets outside Greece are not subject to gift or inheritance tax.
  - e. No justification is required for funds remitted to Greece.
8. HNWI's have to pay the annual tax within 30 days from approval date.
9. HNWI's may request to withdraw from this special tax regime by submitting an application until 31 March of the respective tax year. In case they withdraw, they shall be taxed for their worldwide income under the general provisions of the ITC and shall not be liable for the payment of the flat tax for the said tax year.
10. If the investment is not concluded within three years HNWI's will be excluded from the special tax regime and will be subject to income tax under the general provisions of the ITC retroactively from the first year of entering the special

# BERNITSAS briefing

tax regime. The flat tax amounts paid for the previous tax years shall not be refunded.

11. The above apply to applications filed within 2020 tax year and onwards.

## B. Joint Ministerial Decision for the Set-Off of Expenses Related to R&D and Investment Projects Against the Claim of the State from Clawback

1. On 24 January 2020, the Ministers of Health and of Development, Investments and Finance issued the Joint Ministerial Decision (JMD), (Γ.Π. Β1.Β2/4577/2020, Government Gazette Bulletin Β' 380/07.02.2020) detailing the procedure and the prerequisites for the set-off of research and development expenses (R&D) and expenses pertaining to investment projects related to the development of products or services or production lines against the claim of the Greek National Health Service Organization (EOPPY) by the clawback. The said incentive applies for R&D expenses and expenses related to investment projects incurred solely within the second half of 2019 tax year and onwards.
2. In accordance with the relevant JMD, the total amount of expenses related to R&D and investment projects to be set off for 2019 tax year, may not exceed the amount of €50 million evenly distributed between the two categories of expenses (R&D activities and investment projects). The said amount is expected to increase to €100 million as of 2020 tax year and onwards.
3. Beneficiaries of the incentive are:
  - a. holders of marketing authorizations for medical products for human use or their local representatives in Greece; or
  - b. any pharmaceutical company subject to payments of clawback and pharmaceutical spending by hospitals.
4. The beneficiaries have to:
  - a. be cleared in terms of their tax and social security

contributions payments;

- b. have settled any debt deriving from clawback, pharmaceutical spending and rebate payments of previous years; and
  - c. make timely rebate payments as of 2020 onwards.
5. The eligible expenses per each R&D activity or investment project are detailed in the JMD.
  6. The said expenses have to be financed by the respective legal entity and should not be partially or totally funded by any national, European or international body.
  7. The approval procedure for the set-off of the expenses against the State claw back is the following:
    - a. The documentation package for the eligible expenses, maintained in the records of each beneficiary, will be attested by a statutory auditor or an auditing firm and at a later stage by special Certification Committees- formed by virtue of a decision of the Secretary General for Research and Technology (SGRT).
    - b. Upon attestation of the documentation package, the special Certification Committee should issue a certification report for the approval of the SGTR.
  8. After the process is complete, the SGTR should issue the relevant certificates, which shall be sent to the beneficiaries and communicated to the competent tax authorities, the Ministry of Health, and EOPPY.
  9. Within 10 days from the receipt of the clawback form by the Ministry of Health and/or EOPPY, the beneficiaries should submit the SGRT certificate to the competent body, depending on the type of clawback to be set-off (non-hospital or hospital).
  10. Set-off requests are submitted to the SGRT within the first 4 months after the end of the respective tax year. Provided that the Certification Committees are timely formed by the SGRT, the requests are reviewed within 1 month after the elapse of the time limit for their filing.

## Contacts



**Panayotis Bernitsas**  
Managing Partner  
E [pbernitsas@bernitsaslaw.com](mailto:pbernitsas@bernitsaslaw.com)



**Fotodotis Malamas**  
Counsel  
E [fmalamas@bernitsaslaw.com](mailto: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](#)