BERNITSAS briefing

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TAX BRIEFING: Monthly Insight

Recent Developments in Tax Legislation

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A. Law 4887/2022 on Investments in Greece

1. The Greek Parliament enacted a new development law (Law 4887/2022 - the Law) which replaces the previous law (Law 4399/2016) and introduces new tools for business development.
2. The Law provides for the following types of aid:
   a. tax relief (exemption from the payment of corporate income tax on profits);
   b. subsidy of capital in order to cover part of eligible expenses;
   c. subsidy of leasing for the acquisition of new machinery and other equipment (not permitted to exceed the period of 7 years);
   d. employment cost subsidy;
   e. fixed corporate income tax rate for a period of 12 years and for specific investments; and
   f. funding of corporate risk (only for New Business Scheme).
3. All types of aid can be provided to the investor either separately or in combination. Specific limitations apply to the subsidy of funds and leasing.
4. The main aid schemes adopted by the Law are the following:
   a. Digital and Technological Business Transformation;
   b. Green Transition – Environmental Business Upgrade;
   c. New Business Research and Applied Innovation;
   d. Agrifood – Primary Production and Processing of Agricultural Products – Fisheries;
   e. Manufacturing – Supply Chain;
   f. Business Extroversion;
   g. Support for Tourism Investments – Alternative Forms of Tourism;
   h. Large Scale Investments; and
   i. Entrepreneurship 360°.
5. The financial contribution of each entity to the cost of the investment plan may be covered either by own funds or by external financing, provided that 25% of this subsidized cost does not include any State aid, public support or provision.
6. The minimum amount for the investment plan depends on the size of the investing legal entity. In particular the minimum amount is set at:
   a. €1,000,000 for large enterprises;
   b. €500,000 for medium enterprise;
   c. €250,000 for small enterprises; and
   d. €100,000 for very small enterprises.
7. A three-phase process for the monitoring and completion of the investment is adopted by the Law. This includes:
   a. submission of the application;
   b. review of the investment plan; and
   c. monitoring of the implementation of the investment by the competent authority.

B. Circular E. 2013/2022 on VAT on Insurance Agents' and Insurance Coordinators' Compensation

1. By way of Circular E.2013/2022 the Independent Authority of Public Revenues (IAPR) clarified that the amount paid to insurance agents or insurance coordinators in the case of:
   a. termination of the contract (at the fault of the insurance undertaking); or
   b. permanent total disability; or
   c. death or departure due to retirement of the insurance agent or the coordinator of insurance agents,

   is VAT exempted.
2. The Circular supports that in so far as the commission received by the insurance agent or the insurance coordinator from the insurance undertaking is exempt from VAT, such exemption should also apply in the cases under 1 a, b and c.

C. Circular E.2018/2022 on Controlled Foreign Companies (CFC)

1. By way of Article 66 of Law 4172/2013 (Income Tax Code - ITC), Greece introduced Controlled Foreign Companies (CFC) rules to its tax legislation.
2. In 2019, Article 66 was amended to include the ATAD (Anti-Tax Avoidance Directive) provisions on CFCs.
3. By way of Circular E.2018/2022 the IAPR provides guidelines on the tax treatment of income deriving from CFCs and the process that should be adopted for its assessment.
4. CFCs are defined as legal entities:
    a. which are controlled by a Greek tax resident;
    b. the effective corporate tax of which is less than 50% of the respective tax payable under Greek tax legislation; and
    c. which have more than 30% of their net income classified as passive income.
5. Passive income includes:
    a. interest or other income from financial instruments;
    b. royalties or other income from intellectual property;
    c. dividends and income from sale of shares;
    d. income from financial leasing;
    e. income from insurance and banking activities; and
    f. income from invoicing companies.
6. Pursuant to the CFC rules, any passive income earned by a CFC is re-attributed to the Greek shareholder (or partner or Headquarters).
7. Such passive income is treated for tax purposes as business income in Greece subject to the ordinary income tax rate (currently 44% for individuals and 22% for legal entities or persons) applicable at the time.
8. Losses of CFCs are set-off against future profits which are not carried forward by the Greek shareholder.
9. Potential corporate tax paid by CFCs is credited against the tax liability of its Greek shareholder.
10. In the case of profits' distribution, any tax paid by the CFC in the past for undistributed earnings is deducted from the tax upon their distribution to the Greek shareholder. The same mechanism applies in the case of gains from the disposal of the participation in a CFC.

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