

Cyprus Tax News

Amendments to the Assessment and Collection of Taxes Law



11 July 2014

Based on the Memorandum of Understanding between the Republic of Cyprus and the Troika, the House of Representatives voted specific amendments to the Assessment and Collection of Taxes Law. The amendments were published in the Gazette on 20 June 2014 and provide among others for the following:

- the obligation of all individuals to pay any remaining income tax due as calculated in their income tax return via self-assessment and
- the imposition of stricter penalties to officers of companies, in case of omission/failure to pay taxes due

Payment obligation via self-assessment for salaried individuals

In accordance with the pre-existing legislation, only companies and self-employed individuals had the obligation to calculate and pay their balance of tax due via self-assessment. All other individuals did not have such an obligation.

With the recent amendment to the Law, the self-assessment obligation is extended to all taxpayers. Therefore, salaried and other individuals that have an obligation to submit an income tax return should calculate and pay (if applicable) any remaining income tax due to the Inland Revenue Department via self-assessment within two months from the submission deadline date of the income tax return.

Hence, the self-assessment and payment of tax for such individuals should be made on or before 30 June of the following tax year.

On the other hand, if according to the income tax calculation prepared by the taxpayer as part of his/hers personal income tax return, the taxpayer is entitled to a tax refund, this refund should be repaid within 2 months from the end of the month in which the income tax return is submitted.

If the tax is not paid until the date that is specified within the Law, a penalty of 5% will be imposed on the amount of tax due plus interest.

The above amendment is effective for taxes in relation to the tax year 2014 onwards.

Extending the obligation in case of criminal offence

According to the pre-existing legislation (Section 49(1)), every person that fraudulently or willfully makes any incorrect statement or return in respect of his/her income, is guilty of criminal offence.

Furthermore, in accordance to Section 49(2), every person (including a legal person) that collaborates with, encourages or assists another person to commit such a criminal offence (as described above) is also guilty of criminal offence.

With the recent amendment to the Law, when the person committing any of the above criminal offences is a legal person then the following persons associated with the legal person are also considered to be involved in the commitment of the offence, if it is determined that they have fraudulently participated/collaborated in the commitment of such an offence.

- the managing director,
- the members of the board of directors and
- any other officer who exercises financial management duties for the legal person or any other person that is allegedly acting in any such a capacity

Every person that commits an offence as described in Section 49, paragraph (1) and/or (2), is subject to a fine not exceeding €17,000 or to imprisonment not exceeding five years or to both. A person that commits an offence according to Section 49(1) should also pay the amount of the foregone tax plus additional charges.

Criminal responsibilities for the omission of tax payment

According to the pre-existing legislation, the fraudulent omission or delay in the payment of the income tax (IT) and of the special contribution on salaries and pensions (SC) is penalised as follows:

Penalties	Legal Person	Individuals
Fine	€1,708	€854
Or imprisonment for at least	-	One year
Or both	-	€854 + one year imprisonment

With the amendments made to Section 51A, the following apply:

For taxes that are withheld at source (IT, Special Contribution for Defence (SDC) and SC) one can be charged as guilty in case of delays in paying such a tax without having to prove to the Court that the offender was fraudulent.

Furthermore, the applicable prison sentence and fines increase as follows:

Penalties	Legal Person	Individuals
Fine	€5,000	€5,000
Or imprisonment for at least	-	Two years
Or both	-	€5,000 + two year imprisonment

If the offence of non-payment or delay in payment is committed by a legal person, then the following people are also responsible for committing the offence in addition to the legal person:

- the managing director,
- the members of the board of directors and
- any other officer who exercises financial management duties for the legal person or any other person that is allegedly acting in any such capacity

For taxes that are withheld at source, any of the persons referred to above, can be charged as guilty in case of omission or delay in the payment of such a tax without having to prove to the Court that the offender acted in a fraudulent manner.

In case of conviction, they are subject to penalties and imprisonment as follows:

- i. for a total amount of tax due not exceeding €1,700, a fine of up to 20% of the tax due and
- ii. for a total amount of tax due exceeding €1,700, a fine of up to 20% of the tax due or imprisonment not exceeding two years or both.

It is worth noting that in case the taxpayer has submitted an objection to an issued tax assessment and an agreement is reached with the Commissioner of Tax, then the tax payer will have a 3 month period to pay the agreed amount. If the tax payer does not pay the agreed amount within this period this will be considered a criminal offence and in case of conviction the above penalties apply. In addition to the above penalties, the offender is obliged to pay the amount of tax due.

Notwithstanding the provisions of any other Law, a Court that finds a person guilty of the commitment of any offence under this Section has the power in addition to the imposition of the penalties described above, to order the person to pay the amount of tax due plus interest and penalties. The order issued is considered to constitute a decision of a Civil Court and can be executed, signed and implemented as a decision on a lawsuit.

The amendments in section 49 have immediate effect whilst the amendments in section 51A come into force three months after the date of publication in the Gazette, i.e. on 30 September 2014.

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