



## Indirect Tax & Customs Legislation Recent Developments **Law 4389/2016**

Law 4389/2016 (FEK A'94/27-05-2016) introduces important changes to the Greek VAT Code (Law 2859/2000), the National Customs Code (Law 2960/2001) and other laws.

In particular:

### **A. Amendments to Greek VAT Code (Law 2859/2000)**

- The standard VAT rate increased from 23% to 24% on 1 June 2016.
- The application of the special VAT rates (reduced by

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30%) for the **second group** of Aegean islands (i.e. Syros, Thasos, Andros, Tinos, Karpathos, Milos, Skyros, Alonissos, Kea (Tzia), Antiparos and Sifnos) is abolished as from 1 June 2016 and replaced with the regular rates of 6%, 13% and 24% that apply in the mainland.

- It should be noted that the special VAT rates were abolished for the **first group** of islands (Mykonos, Naxos, Paros, Rhodes, Santorini and Skiathos) on 1 October 2015.
- As from 1 June 2016, the special VAT rates (reduced by 30% of the regular rates) apply to the islands of the Prefectures of Lesbos, Chios, Dodecanese, Samos, Cyclades and the islands of Samothrace and Northern Sporades, **except for** islands included in the first or second group, for which the special rates already have been abolished (see above).

**Ministerial Circular POL. 1061/2016** clarifies the following:

- With respect to the Aegean islands for which the special VAT rates still apply, the standard VAT rate increased from 16% to 17% due to the increase in the standard VAT rate in the mainland, while the reduced and super reduced VAT rates (namely 9% and 4%, respectively) remain the same.
- VAT will be calculated on the new rates for the following:
  - a) Tax records issued as from 1 June 2016, regardless of whether the relevant transactions were carried out before that date;
  - b) **Credit invoices** issued as from 1 June 2016 relating to transactions carried out before that date.
- If a **tax record is issued to waive** a transaction (e.g. an accounting note, etc.), the VAT rate of the original transaction will apply, since the original transaction is cancelled in its entirety.

## **B. Changes to National Customs Code (Law 2960/2001)**

### **Excise Duty on Liquids for Electronic Cigarettes and Coffee**

As from 1 January 2017, excise duty will be imposed on the following products, whether imported from third countries, originating from other EU member states or produced in Greece:

- a) Liquid refills for electronic cigarettes or to special refilling containers or single use small bottles: EUR 0.10 /ml;
- b) Roasted or non-roasted coffee: EUR 3/ kg and EUR 2 kg of net weight, respectively;
- c) Instant coffee: EUR 4/kg of net weight; and
- d) Other products based on coffee extracts, essences or supplements, or based on coffee: EUR 4/kg of the net weight of the final product.

It is also specified that these products may be placed in a tax warehouse regime, which will result in the suspension of payment of excise duties.

### **New Rates for Registration/Classification Duties**

- New rates are introduced for the registration duty classification of passenger cars. The rates (4% to 32%, depending on the taxable value of the vehicle) are further differentiated depending on the volume of carbon dioxide emissions (CO<sub>2</sub>).
- The rates may be increased by 200% or 500% for cars with older technology. The registration duty for hybrid cars is limited to 50% of the applicable rates and pure electric vehicles are not subject to duty at all.
- New rates of registration duty are specified for trucks. The assessment of classification duties on certain trucks is suspended.
- The impairment of the taxable amount for used passenger cars depending on its age is maintained. The impairment rate is decreased to EUR 0.1 for

every 500 km exceeding the annual average.

- "Jeep"-type vehicles are classified as passenger cars and their special treatment is abolished.
- The above rules apply as from 1 June 2016.

### **Tax increase on cigarettes**

- The proportional tax rate on cigarettes, calculated on the retail price of 1,000 sticks, will increase from 20% to 26%, resulting in an additional charge of EUR 0.22 per pack of 20 cigarettes.
- The excise duty rate for fine-cut tobacco that is destined for rolling cigarettes will be increased.
- The above rules will apply as from 1 January 2017.

### **Readjustment of excise duties rate on ethyl alcohol**

- The excise duty rate on ethyl alcohol that is destined for the production of ouzo or that is contained in tsipouro and raki, is reduced by 50%.
- The excise duty rate is readjusted (effective 1 June 2016) to (i) EUR 5 (from EUR 2.6) per PLATO grade per volume and beer hectoliter; and (ii) to EUR 2.5 (from EUR 1.3) for beer produced in Greece or in other EU member states by small breweries (annual production of less than 200,000 hl).
- The reduced excise duty rates on ethyl alcohol that applies in the Dodecanese is abolished.

### **Increase in excise duty on certain energy products**

- The excise duty rate applicable to benzene, diesel for all uses, lamp oil (kerosene) for all uses, LPG and biodiesel from fatty acid methyl esters will be readjusted effective 1 January 2017.
- The excise duty for diesel (oil of internal combustion used for engines) and lamp oil (kerosene) that are used for heating purposes for the period 15 October to 30 April of each year are EUR 280/hectoliter

starting on 15 October 2016.

### **Excise duty on natural gas**

- Natural gas used exclusively for the production of electricity is exempt from excise duties retroactively as from 1 January 2016.
- The excise duty rate that applies to natural gas used for heating purposes and that is destined for domestic use will be reduced from EUR 1.5 to EUR 0.30/gigajoule as from 1 January 2017.
- The excise duty rate that applies to natural gas used for other purposes (besides engines and heating) is readjusted, and as from 1 January 2017 will be imposed proportionally on the basis of actual annual consumption.
- The exemption for natural gas used by large-scale or small industries as raw materials from their products (excluding energy products) is abolished retroactively as from 1 January 2016.

### **C. Other Indirect Taxes and Fees**

#### **Accommodation Tax**

Accommodation tax will be imposed on hotels, rooms-to-rent and apartments in Greece beginning on 1 January 2018 with the tax paid by the recipient of the service.

The tax will be a fixed amount per day, depending on the classification of the facility, as follows (EUR):

- 0.50 for 1-2 star hotels
- 1.50 for 3 star hotels
- 3.00 for 4 star hotels
- 4.00 for 5 star hotels
- 0.25 for 1-2 key rooms/apartments
- 0.50 for 3 key rooms/apartments
- 1.00 for 4 key rooms/apartments

The accommodation tax will be levied on the customer at the time the tax document is issued and it is attributed

along with monthly returns of the service provider.

Accommodation tax will not be imposed if the accommodation services are provided by the above companies free of charge.

### **Cable TV Duty**

- Proportionate “Cable TV Duty” is imposed on subscribers;
- It is calculated at a rate of 10% on the monthly bill of each cable TV connection, including the fixed fee (before VAT);
- The duty applies to bills issued as from 1 June 2016.

### **Fixed Telephone Subscribers Duty**

- A proportionate fixed telephone subscribers duty will be levied on subscribers;
- The duty will be calculated at a rate of 5% on the monthly bill of each subscription; and
- The duty will apply to bills issued as from 1 January 2017.

### **Abolition of beer tax**

Beer tax (at 3%) that was applicable to the sale of beer within the Greek territory is abolished as from the date the law was published in the government gazette, i.e. 27 May 2016.

However, the excise duty rate for beer is increased as stated above (see “Readjustment of Excise Duties rate on Ethyl Alcohol”).

### **Changes to Luxury Tax**

The luxury tax applicable for passenger cars is abolished as from 1 June 2016.

The tax is indirectly incorporated in the vehicle classification duties that now are calculated at varying rates, depending on the taxable value.

### **D. Other VAT Issues**

The VAT department of the Ministry of Finance has

issued guidance (Decision ΔΕΕΦΑ 1067167 ΕΞ 2016/25.4.16) which provides that services provided between establishments of the same legal entity, i.e. by a head office to a branch and vice versa, fall outside the scope of VAT. The guidance has its basis in the decision issued by the Court of Justice of the European Union (CJEU) in the *CFE* case (C-210/04).

According to Court's rationale, the branch must not operate independently; if this was the case no legal relationship would exist with the head office and VAT would apply. Based on the CJEU decision, it is necessary to look at whether the branch bears its own business risks and whether it depends on the head office in determining whether the branch operates as an independent person and thus can have a legal relationship with the head office.

There are some questions as to whether the guidance issued by the Ministry suggests that the tax authorities not impose VAT on every transaction (or only on administrative services) between a head office and a branch. It also needs to be clarified whether a different rule should apply where the head office or the branch is established in a third country, and whether the supplier of the services preserves the right to deduct input VAT.

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