



Newsletter

Φορολογική Ενημέρωση* Tax Update*

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PRICEWATERHOUSECOOPERS 

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Amendments in the Greek Tax Law & Related structuring opportunities through Cyprus

Introduction

In an effort to help you remain abreast of international developments and take advantage of the opportunities these developments may pose for your business, we present below a summary of the most important amendments recently enacted in the tax laws of Greece.

In view of the recent changes, we further explain why Cyprus has an important role to play for investors taking an interest in the Greek economy in general and the Greek financial markets in particular.

Important changes and structuring opportunities through Cyprus

The change: Capital gains tax on listed shares

A capital gains tax at the rate of 10% is introduced on disposal of shares listed on the Athens Stock Exchange (ASE) or any other internationally recognised stock exchange and which are acquired on or after 1 April 2009. It was initially set to apply for shares acquired as of 1 January 2009 but it has been postponed to 1 April 2009 following the Ministerial Decision 1180/31.12.2008.

In cases where the seller of ASE listed shares is a foreign enterprise resident in a country with which Greece has signed a Double Tax Treaty, the Ministerial Decision specifies that the gains on sale of shares listed on the ASE would be treated by the Greek tax authorities as “business profit” rather than “capital gains” for the purposes of interpreting the provisions of the relevant Double Tax Treaty. This is in line with the treatment which already applies for non-listed shares.

In practice, this means that gains on disposals of Greek-listed shares by enterprises which are tax resident in states with which Greece has signed a Double Tax Treaty, would be exempt from the above 10% tax as long as the enterprise does not maintain a permanent establishment in Greece with which the disposal can be associated.

In order to benefit from the above exemption, qualifying foreign sellers must provide their local ASE brokers with a tax residence certificate confirming their country of residence. The certificate must be provided on an annual basis. As things stand at the moment, the deadline for the submission of the tax residency certificate for the year 2009 was 31 January 2009 but this may change in light of the postponement of the applicable date to 1 April 2009.

The opportunity: Holding Greek listed investments through Cyprus

In light of the above, the use of Cyprus as a holding company location for listed investments in Greece offers three major advantages:

- Cyprus has a Double Tax Treaty with Greece and therefore companies resident in Cyprus qualify for the above exemption. It must be noted that Cypriot companies benefit from this exemption irrespective of whether the Greek Tax Authorities classify the gain on disposal of listed shares as “business profits” or not because even under the “capital gains” article, Cyprus enjoys exclusive taxing rights on the gain and hence the 10% Greek tax would not apply.
- In accordance with the Cypriot tax legislation, gains on disposals of titles (including shares) are exempt from income tax in Cyprus. Therefore, further to the exemption from tax in the source country (Greece) the enterprise enjoys full exemption in the country of residence (Cyprus) as well achieving zero tax leakage on the gain. No Cypriot withholding tax would be levied upon a payment of a dividend out of this gain, either to another Cypriot company or to non-Cyprus resident shareholders (individuals or companies).
- As the exemption finally depends on the submission of an appropriate residence certificate, it must be noted that the administrative procedures between the tax authorities of the two countries are greatly facilitated by the fact that Cyprus and Greece share the same official language (Greek). This makes exchanges of documentation and communications more efficient for obvious reasons.

The change: Withholding tax at 10% on dividend payments

Until recently, Greece did not apply a withholding tax on dividend payments by Greek Societes Anonymes (SAs).

Following the recent legislative amendments, a withholding tax charge at the rate of 10% is introduced on dividend payments (interim or otherwise) made by SAs which are approved by Shareholders' General Meetings held on or after 1 January 2009.

The opportunity: EU Parent/Subsidiary Directive and dividend exemption in Cyprus

The above withholding tax provisions do not apply if the dividend payment is made to a company qualifying for exemption under the provisions of the EU Parent – Subsidiary Directive as adopted in the Greek tax laws (minimum uninterrupted holding period of 2 years, 10% minimum participation in the capital of the SA).

Cyprus, being a full member of the EU, is a very attractive location for holding investments into Greek SAs because it combines the following features:

- It provides access to the benefits of the EU Parent – Subsidiary Directive and therefore the 10% withholding tax which would otherwise be payable in Greece does not apply. Therefore, exemption from any tax at the source of the dividend income is possible.
- Subject to easily met participation exemption criteria, the dividend income would be exempt from any tax in Cyprus thus achieving zero tax in the country of residence too.

How can PwC Cyprus help?

PwC Cyprus in direct liaison with other member firms of the PwC network (in Greece and all over the world) can offer you the following:

- Comprehensive advice on how the above amendments affect you or your enterprise based on your current set-up. This applies to corporate (institutional or portfolio) as well as individual investors who are interested in taking investments positions (or increasing their current participations) in Greek companies.
- Comprehensive planning and structuring ideas to change the current set-up so as to maximise the benefit from the above developments.
- Assistance in maintaining the on-going efficiency of the structure, including (but not limited to) carrying out on your behalf all necessary procedures to obtain a valid tax residence certificates within the deadlines prescribed by the Greek law.

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