

TAX & LAW ALERT

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DECISIONS

New Law for attracting the establishment of service centers in Greece and for expanding the golden visa regime to encompass investments in securities

Summary

On March 28, 2019 the Greek Parliament passed the much awaited bill for regulating the protection of the residence of low income debtors from auction procedures. Although it was for this topic that the bill attracted a lot of attention, its other chapters include some important novelties too. The present alert refers to the new incentives, which this bill introduces into Law 89/1967, for investments in new service activities in Greece, and to a new type of residence by investment permit relating to investments in securities or a bank deposit in Greece and becoming applicable in parallel to the existing program of residence by real estate investment.

Law 89/1967 Shared Service Centers

Up till now shared service centers established in Greece and providing services exclusively to their headquarters or affiliates abroad have enjoyed clarity and predictability with regards to the determination of their tax obligations by reference to a pre-approved operating expense margin (5% for low value-adding

intra-group services, in the sense of Chapter VII.D. of the OECD Transfer Pricing Guidelines, or higher in other cases). Specifically, their status has been regulated by Law 89/1967, which was amended in 2005 by law 3427, in order to comply with the EU State Aid rules.

The new bill clarifies that the following intra-group services: the development of software and IT-support, the storage and administration of data, the supply chain management, the HR management and training and the operation of call centers, can qualify for the Law 89/1967 regime as can those that pertain to consulting, central accounting support, production, processes and service quality controls, preparation of designs, studies and contracts, advertisement and marketing, data processing and R&D, which so far have been included in its scope.

Hence any of these entities established in Greece or branches of foreign entities can apply in order to obtain a license of the Ministry of Economy and Finance to operate under the Law 89/1967 regime provided that they only supply any of the foregoing intra-group services abroad. The other conditions, namely to have hired at least 4

persons in Greece (one of which can, under the new law, be a part-time employee) and to have annual operating expenses in Greece of at least € 100,000 remain the same.

The most important novelty introduced is the state financing, via cash grants, of the hiring and training of employees and of R&D expenses and the availability of this incentive not only to entities delivering intra-group services abroad, but also to entities delivering any of the foregoing services in the market, whether in Greece or abroad. However, for domestic or cross-border market facing entities or branches it is required that they hire, within one year from the disbursement of the cash grant, at least 150 people. For Law 89/1967 entities providing intra-group services exclusively abroad it is sufficient that the number of new recruits is no less than the number determined in a relevant ministerial decree, which, according to the bill, will specify the relevant implementation details.

The state financing can reach up to 50% of the relevant expense category and cannot exceed:

- € 5 mil, annually, for the recruitment of people with disabilities or the hiring of disadvantaged people, in the sense of Art. 32 and 33 of the EU Regulation 651/2014,
- € 200,000 for the first year from hiring of any other person,
- € 20 mil for an industrial R&D project
- € 15 mil for experimental research
- € 7.5 mil for feasibility or preparation studies relating to research activities.

The general prerequisite for companies to access this grant is the creation, with any of the aforementioned services, of a new activity, which the company or the group to which it belongs has not been conducting during the last 2 years in Greece.

Exceptionally, companies that will apply for this incentive until 28.06.2019 can qualify

even if this new activity has started earlier, but not before 01.01.2019.

Golden visa for investments in securities

So far Art. 16 of the Immigration Code (Law 4251/2014) related to the residence permit of non EU citizens who planned to carry out an investment with a positive impact on the Greek economy. To qualify, the investor has to provide a presentation of the investment project and a business plan, with cash flow projections for the first 5 years from the implementation of the investment and with a forecast of the number of recruits.

The new bill introduces into the above provision a new category of investors qualifying, along with the above category of investors and the real estate investors of Art. 20 of the same law, for a 5-year golden visa (which is subject to renewal). Namely, the long awaited new type of residence by investment in securities or saving accounts, of at least € 400,000, is now, by virtue of this new bill, enacted. The investment can comprise any of the following:

- Contribution of capital or subscription in a bond loan of a company registered or established in Greece, provided the relevant shares or bonds issued in exchange start trading on a regulated market or a multilateral trading facility operating in Greece
- Contribution of capital to a Real Estate Investment Company of Art. 21 of Law 2778/1999, whose aim is to exclusively invest in Greece
- Contribution of capital to a venture capital company or fund exclusively investing in businesses established in Greece
- Purchase of Greek State bonds the maturity of which is no earlier than 3 years thereafter

- The opening of an at least 12-month saving account at a domestic financial institution with a fixed mandate of renewal
- The purchase for € 800,000 or more of shares, corporate bonds or bonds of the Greek State traded in regulated markets or multilateral trading facilities operating in Greece
- The purchase of units in a mutual fund established either in Greece or any other country and whose purpose is to invest exclusively in shares, corporate bonds or bonds of the Greek State and which are traded in regulated markets or multilateral trading facilities operating in Greece, provided the following conditions are cumulatively met: (i) the assets of the fund are at least € 3 mil; (ii) both the fund and the manager thereof are licensed by the capital markets supervisory authority of the country of their registration; (iii) such authority is a member of the International Organization of Securities Commissions; (iv) such authority has concluded a bilateral agreement for the exchange of information with the Greek Securities Commission.

With the exception of the purchase of shares, corporate bonds or Greek State bonds via a regulated market operating in Greece, in which case the minimum investment amount is € 800,000, in all other cases the minimum investment amount is € 400,000.

The realization and holding of the investment must be certified by the relevant investment firm, as such firm is defined in Ar. 1 of EU Directive 2014/65, or by the

intermediating credit institution operating in Greece. In case the investment is carried out via a foreign legal entity, the relevant implementation decree to be issued can specify a higher number of residence permits allowed, which can reach up to 3 (shareholders or executives), provided the value of the investment is no less than double the corresponding minimum amount set out above.

The application is filed to the relevant Greek Consulate within the year following the one of the implementation of the investment. The Greek Consulate is obliged to send the relevant supporting documents within one month from their receipt to the Directorate of Foreign Capital of the Ministry of Economy, which must conclude within one month from their submission.

The non-EU country citizen who has received an entrance visa as investor in securities or bank deposit is issued a 5-year residence permit, provided that he submits a recent certificate that he continues to hold the investment. The residence permit is each time renewed for subsequent 5-year periods subject to the same conditions.

The residence permit is issued to three generation family members (spouse, parents and unmarried children below 21 years of age).

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