

TAX ALERT

Disputes about Greek tax residency status shall be judged by the First Instance Administrative Courts

Discussion

On 29.06.2020 Law 4700/2020 was promulgated on the Government's Gazette. The law discharges Greece's Conseil d' Etat (Greece's Supreme Administrative Court) from ruling on disputes relating to the rejection by the Greek tax authorities of taxpayers' applications for the change of their status into non-tax resident.

Specifically, as from the date of promulgation of this law on the Government's Gazette, the First Instance Administrative Court of the place of the tax office which denied the application for change of the tax residency status shall be the competent court to rule on the validation or annulment of the tax office's decision. Furthermore, provided the hearing of the case has not yet taken place, the competence to rule on any relevant pending dispute is transferred from the Conseil d' Etat to the relevant for this dispute First Instance Administrative Court; hence the files of such cases are expected to be transferred from the Conseil d' Etat to the each time relevant First Instance Administrative Court.

In terms of applicable proceedings, the First Instance Administrative Courts shall apply same proceedings which, pursuant to Presidential Decree 18/1989, govern the annulment related dispute proceedings before the Conseil d' Etat. This includes also the deadline for disputing the decision of the tax office, which remains the same (i.e. contrary to tax assessment related disputes, the deadline is set to 60 days from its notification, not 30 days).

Implications

The Conseil d' Etat has developed a consistent case law on tax residence related disputes. This case law provides to the lower administrative courts with the necessary guidance to rule on these cases going forward. Besides, the same courts have been dealing so far incidentally with this matter when they have been asked to rule on the validity of tax assessments which were driven by the status of the appellant as tax resident Vs. non-tax resident.

That being said, thorough preparation and presentation of the supporting arguments of the application

for annulment against the tax office decision remain key for the effective representation of the taxpayer's interests at court.

About KARAKITIS TAX & LAW

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