

## Tax incentives for attracting foreign professionals to Greece - application process & eligibility requirements

Following Article 40 of law 4758/2020, with which Article 5C was introduced into the Income Tax Code L. 4172/2013, Decision A.1087 (Government Gazette B '1691 / 26-04-2021) of the Governor of the Independent Authority of the Public Revenue and the Ministry of Finance determine the procedure and conditions for inclusion in the provisions of said article on the special tax regime for private employment and business activity income arising in Greece, for natural persons who transfer their tax residence to Greece, ie with an exemption from income tax and special solidarity tax of 50% of the income arising in Greece from private employment or from business activity.

### Private Employees

The essential conditions for inclusion in the scheme are cumulative that the natural person:

- a) was not a tax resident of Greece in the previous 5 of the 6 years before the transfer of their tax residence in Greece,
- b) they transfer their tax residence **from an EU, EEA country or** from a state with which Greece has in force an administrative cooperation agreement in the field of taxation,

c) provides employment services to a domestic legal entity or legal entity or to a permanent establishment of a foreign company in Greece.

d) provides a personal declaration that they will remain in Greece for at least two years from the beginning of the year i.e January 1<sup>st</sup> of the year of their inclusion in said regime.

- ▶ In order to prove the existence of an employment relationship, it is necessary to present supporting documents, as indicative as the case may be: fixed-term or indefinite employment contract, a contract by which the natural person acquires a dependent employment relationship with another person who has the right to appoint and to control the manner, the time and the place of execution of the services, the recruitment announcement form, publication in GEMI of the act by which the person is appointed as a director, member of the Board of Directors of a company or any other legal entity or legal entity, contract for legal services against a fixed fee.
- ▶ For the proof that the job is "new" as this is a prerequisite to be indicted into the special regime, it is enough to submit a statement of the local employer which confirms that the applicant is covering a new job.
- ▶ *Again, the criteria taken into account by the employer to consider a job as "new" remain unspecified.*
- ▶ *It seems that it should be clarified whether the above condition is met and when the natural person is hired by an employer - a foreign company without a permanent establishment that has received VAT in Greece exclusively for the purposes of payroll agent.*
- ▶ The special tax regime may be maintained under certain conditions even if the natural person ceases to provide services in the context of an employment relationship (e.g if the employment contract expires or is terminated by termination or resignation, etc.) provided that within twelve (12) months the individual will conclude a new employment contract for a "new job" according to the above or will start a sole proprietorship and will inform the competent Tax Office of this change in status. Otherwise, their subordination to the provisions of the above special tax regime of article 5c of law 4172/2013 is revoked from the tax year of termination of employment or cessation of individual business activity and henceforth they are taxed for their entire income based on the general provisions.

### **Personal Business activity**

- ▶ Natural persons who transfer their tax residence in Greece in order to undertake personal business activity may also be included into said tax regime.

### **Procedurals**

- ▶ The application is filed at the foreign tax resident's office- department of alternate taxation for local residents.
- ▶ The natural person, in order to transfer his tax residence in Greece and to be subject to the

alternate method of taxation, submits an application within the year of commencement of work and applications must be filed by July 31<sup>st</sup> of that first year of employment. Specifically, for the 2021 year, applications can be filed up to September 30<sup>th</sup>, 2021 and the decision of the tax office must have been issued by 30/11/2021 the latest. Applications filed after this date, will be considered for the following year.

- ▶ Individuals who have already transferred their tax residence in Greece and have signed employment contracts or have started business activity within the tax year 2020, may submit an application for inclusion in the special tax regime by 30.09.2021 provided that they were not Greek tax residents for the years 2015 to 2019. For said persons, if they have undertaken employment or have started business activity before 4.12.2020, the employment contract is not required to be accompanied by the statement of the employer that the job is new.
- ▶ Provided that the application is successful, the individual will be exempt from income tax and special solidarity tax for 50% of his income from employment arising in Greece during the tax year and / or (as the case may be) for - 50% of the income from individual business activity arising in Greece.

*It is not specified in which part the 50% tax break will be applied in practice, ie if the exemption will concern the first half of the income from employment or from individual business activity, which, if confirmed, will mean that the rest will be subject to income tax with the maximum tax rate per case (for example: for annual net taxable employment income of € 80,000, it will be considered that a) the first part is exempt from income tax (0- € 40,000) and b) income tax is due only for the second section (exceeding € 40,000) in which the maximum rate will be imposed - today 44%).*

*No instructions have been provided regarding the withholding method and the part of the employment income on which the employer will withhold income tax. It remains to be confirmed by the Tax Administration whether it will be provided that a) the employer will withhold income tax and social security contributions based on the general provisions (ie the total employment income for services arising in Greece) and b) The employee will receive in the form of a tax refund - most likely interest-free - the amount of income tax that will be (unduly) withheld on the exempt income or if new instructions will be issued regarding the income tax withholding on individuals covered by said special scheme.*

Regarding the obligation that the person subject to 5C will have to make expenses with electronic means of payment at a rate of 30% of the real employment income (and up to € 20,000 expenses) according to the provisions of article 15 of law 4172/2013: it is not specified whether this will be calculated in the total employment income and / or income from business activity or only on 50% of it.

Regarding the other incomes of Greek sources, as well as all the incomes of foreign sources, the individual is obliged to declare them in the annual income tax return and to be taxed for them according to the general provisions.

- ▶ The inclusion into said scheme is starting from the tax year during which the application is submitted and has a duration of 7 years without the possibility of extension. If in a tax year one of the conditions mentioned above does not apply anymore, then the individual ceases to be subject to said scheme and is taxed going forward for all their employment arising in Greece.
- ▶ Individuals subject to this favourable regime are exempted from the annual objective expenses, which arise on the basis of residence or private car, etc.
- ▶ The above special tax regime may be applied at the same time with the alternative way of taxation of article 5A of the Income Tax Code (which applies to individuals who transfer their tax residence in Greece and make investments of € 500,000), or article 5B on alternate taxation (income of individuals, beneficiaries of income from foreign pensions) provided that the conditions of both provisions are met and the inclusion is made at the same time.
- ▶ In order to prove the existence of an employment relationship, it is necessary to present supporting documents, as indicative as the case may be: fixed-term or indefinite employment contract, a contract by which the natural person acquires a dependent employment relationship with another person who has the right to appoint and to control the manner, the time and the place of execution of the services, the recruitment announcement form, publication in GEMI of the act by which the person is appointed as a director, member of the Board of Directors of a company or any other legal entity or legal entity, contract for legal services against a fixed fee.
- ▶ For the proof that the job is "new" as this is a prerequisite to be indicted into the special regime, it is enough to submit a statement of the local employer which confirms that the applicant is covering a new job.
- ▶ *Again, the criteria taken into account by the employer to consider a job as "new" remain unspecified.*

- ▶ *It seems that it should be clarified whether the above condition is met and when the natural person is hired by an employer - a foreign company without a permanent establishment that has received VAT in Greece exclusively for the purposes of payroll agent.*
- ▶ The special tax regime may be maintained under certain conditions even if the natural person ceases to provide services in the context of an employment relationship (e.g if the employment contract expires or is terminated by termination or resignation, etc.) provided that within twelve (12) months the individual will conclude a new employment contract for a "new job" according to the above or will start a sole proprietorship and will inform the competent Tax Office of this change in status. Otherwise, their subordination to the provisions of the above special tax regime of article 5c of law 4172/2013 is revoked from the tax year of termination of employment or cessation of individual business activity and henceforth they are taxed for their entire income based on the general provisions.
- ▶ The practical tax advantage of the parallel application of the two regimes is that it will ensure favourable taxation of the individual both for the income from employment services or private business activity arising in Greece (under the regime of article 5C of the Greek Income Tax Code), and for foreign incomes (which will be subject to taxation on a case-by-case basis under the regime of Article 5A or Article 5B of the Greek Income Tax Code).

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