

TAX BULLETIN

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General Info

According to the provisions of the recently amended article 82 of the Greek Income Tax Code (Law 2238/1994), an “Annual Tax Certificate” has to be issued towards Societe Anonymes and Limited Liability Companies whose annual financial statements are subject to a statutory audit by Certified Auditors and audit firms.

The subject provisions are effective for fiscal periods ending on or after 30.06.2011.

The Annual Certificate in question is to be issued upon the completion of a tax audit based on a special audit program issued by the Ministry of Finance and performed by Certified Auditors and audit firms dully registered in the public registry of Law 3693/2008.

1) Content of Audit Reports

The specific tax areas which will be audited by the individual Certified Auditors and audit firms, if applicable to the audited company, are determined in the audit program. The audit program includes the following chapters:

- A. Conditions - Limitations of audit
- B. Information of the audited company
- C. Corporate Income Tax Audit
- D. Value Added Tax (VAT) Audit
- E. Code of Books and Records (KBS) Audit
- F. Real Estate Taxes Audit
- F1. Real Estate Tax (F.A.P.) Audit
- F2. Real Estate Declaration (E9) Audit
- F3. Real Estate Revaluation Tax (Law 2065/1992) Audit.
- G. Stamp duty Audit
- H. Withholding taxes
- I. Business Transformations
- J. Transfer pricing
- K. E-Commerce

Audit issues not covered by this decision and the audit program will be addressed in accordance with the framework prescribed by the International Standard on Assurance Engagements 3000.

2) Responsibility for the preparation of tax record

The management of the Company is responsible for the preparation of the tax records. Income tax adjustments for non tax deductible expenses should be derived from the Company's tax books.

3) Documentation of the tax audit by the Audit firms

- Audit firms issuing a Tax Compliance Report are required to maintain detailed documentation for each special tax audit performed.
- The Audit firms are required to retain detailed documentation of the tax audits for at least seven (7) years from the date of issuance of the Tax Compliance Report.
- The documentation of these tax audits should be finalized no later than sixty (60) days following the submission of the Tax Compliance Report to the Ministry of Finance.

4) Sample based audits by the tax authority

- At least 9% of the total number of companies audited by audit firms for their tax compliance will be selected for an audit by the tax authorities. The sample selection criteria are established by the Ministry of Finance in accordance with the provisions of Article 80 of Law 3842/2010 and are qualitative as well as quantitative.
- Other Criteria:
 - Receipt or issuance of false -fictitious tax records, transactions with non-existent companies, violations of Article 39 and 39 A of Law 2238/1994 (transfer pricing)
 - Prosecution of the members of the Board of Directors' in accordance with the provisions of anti-money laundering.
 - These audits to be carried out by the relevant tax audit authorities should be completed no later than eighteen (18) months following the deadline for submission by the Audit firms of the Tax Compliance Report.

5) Compliance Report

a) Unqualified Tax Compliance Report

Within eighteen (18) months from the issuance of the Unqualified Tax Compliance Report and provided that no tax violations have been identified through the sample based audits by the Ministry of Finance referred to above, the tax audit of this fiscal year is considered finalized.

b) Unqualified Tax Compliance Report with emphasis of matter

Where issues arise that result in a tax treatment that could be challenged, the responsible tax audit authority will issue a mandate to audit the matters of emphasis. This audit should be completed within eighteen (18) months from the issuance of the Tax Compliance Report.

c) Qualified Tax Compliance Report

In this case the audit authorities of the Ministry of Finance issue a tax audit mandate. If there are differences that can be assessed by the tax authorities only by auditing specific areas, then a tax audit mandate will be issued only for those areas.

d) Tax Compliance Report with adverse or disclaimer conclusion

In this case a tax audit mandate is issued by the responsible audit authorities of the Ministry of Finance.

6) Quality review – Penalties.

- Tax compliance audits conducted by the Audit firms are subject to quality review, which is independent of the audit conducted by the tax authority.
- The quality review for the tax certificate is carried out by members of ELTE in cooperation with the Ministry of Finance. The quality review process is subject to the provisions prescribed by Law 3693/2008.
- If in a subsequent audit the tax authorities identify additional taxes in areas included in the audit program, then, the Certified Auditor is subject to a penalty ranging from € 10.000 to €100.000 in accordance with the provisions of Article 4 of Law 2523/1997 paragraph 4, as introduced by Article 26 paragraph 3 of Law 3943/2011.

