



Latest developments in income tax issues

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Tax Alert



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01

Tax treatment of extraordinary income from the benefit of 25% discount applied to VAT liabilities paid on time in the context of the measures adopted and addressing the COVID-19 pandemic

Pursuant to the provisions of the newly issued Circular with no. E.2207/2020, although the benefit of the 25% discount adopted in the context of measures aiming to tackle the adverse effects of the COVID-19 constitutes an extraordinary income, it is not subject to income tax whatsoever, even upon distribution or capitalization.

02

Guidance on application of depreciation rules

According to the recent Circular with no. E.2206/2020, the Independent Authority for Public Revenue provides guidance on the application of certain rules on depreciation. In particular:

A. Leasing:

- In the case of financial leasing, (under Greek GAAP or IFRS), depreciation expense is deducted by the lessee – instead of the lessor - even though the former does not own the asset. To this end, the lessee shall recognize the leased property as their own asset, while the former shall credit an equal liability to the lessor. Further, the lessor shall report a receivable from the lessee; that receivable shall be equal to the market value of the asset.
- The aforementioned apply to leasing agreements concluded as of 01.01.2020 onwards. It shall be noted that any amendments made after 01.01.2020 to existing contracts (in case the latter have been concluded before 01.01.2020) will be treated in accordance to the provisions of article 24 of the Greek Income Tax Code (“GITC”), as they were in force when the original contract was concluded.

B. Depreciation rates for the enhancement of electromobility

- The above Circular also provides clarifications on the depreciation rates that apply to certain incentives for the enhancement of electromobility, as regulated under article 24(4) of the GITC. In more detail, it is provided that the depreciation rate that applies to means of transportation of individuals is 16%, excluding vehicles of zero or low emissions up to 50 gr CO₂/km (according to the relative vehicle registration certificate) that benefit from higher depreciation rates, at 50% and 25% respectively. It is further clarified that 12% depreciation rate applies to means of transportation of goods, excluding vehicles of zero or low emissions up to 50 gr CO₂/km that benefit from higher depreciation rates, at 50% and 25% respectively. On another note, airplanes, trains and ships are depreciated at a rate of 5%, excluding public means of transportation of individuals of zero or low emissions up to 50gr CO₂/km that benefit from higher depreciation rates, at 50% and 25% respectively.

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C. Super depreciation for company passenger vehicles of zero or low emissions up to 50gr CO2/km

- It is important to note that increased depreciation rates apply to company passenger vehicles of zero or low emissions up to 50 gr CO2/km. In particular, in the case of the depreciation expenses related to the purchase of company vehicles of zero or low emissions up to 50 gr CO2/km, the said expenses that correspond to the amount of Retail Price Before Taxes up to € 40.000 are deducted from the gross income of legal entities, increased by 50% in case of zero emissions vehicles or by 25% in case of low emission vehicles. For the amount of Retail Price Before Taxes that exceed € 40.000, the corresponding depreciation expenses shall be increased by 25% and 15% respectively.
- It is to be noted that all individuals that earn business income may benefit from the above increased depreciation, provided that the respective vehicle is accounted for as fixed asset of their business. Moreover, all legal entities may also benefit from the above in case they perform depreciation expenses related to company passenger vehicle of zero or low emissions up to 50 gr CO2/km, regardless of whether they apply double or single entry bookkeeping method.
- It is clarified that the additional discount of 50% and 25% (or even 30% and 15%, if applicable) on the said depreciation charge shall be performed outside the accounts, that is to say it shall be reported in their annual income tax return that will be filed during the years of depreciation of the said company cars.
- All the information included in the relative vehicle registration certificates are taken into consideration in order to be found whether the company vehicles are of zero or low emissions up to 50 gr CO2/km, while the Retail Price Before Taxes per vehicle make and model, vehicle type, variant and version is the one depicted in the price lists which are submitted to the competent customs authorities by the authorized representatives/ car distributors.
- The aforementioned provisions are applicable as of 01.01.2020 onwards in case the assets are considered as of zero or low emissions, irrespective of the acquisition time of those assets.

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D. Super depreciation for company passenger vehicles of zero or low emissions up to 50 gr CO₂/km for legal entities that carry out their business activity on island roads

- Special provisions apply to businesses carrying out their activity in island municipalities of the Greek territory with respect to the depreciation expenses related to company passenger vehicles of zero or low emissions up to 50 gr CO₂/km, with maximum Retail Price before Taxes up to EUR 40.0000. In particular, in that case, the business may deduct from its gross revenue depreciation expenses related to company passenger vehicles of zero emissions increased by 75% for maximum Retail Price Before Taxes up to EUR 40.0000, while for the exceeding amount the depreciation expenses may be deducted increased by 35%. The respective depreciation rates are 35% for low emission vehicles up to 50 gr CO₂/km are 35% and 20% respectively.
- A Joint Ministerial Decision is expected to define any other specific issue for the applications of the said incentive.
- The above measures are of limited applicability as they apply only to fixed assets that are acquired in FY 2020 and 2021. With regards to depreciation rates for company vehicles of zero or low emissions up to 50 gr/km that will apply as of FY 2022 onwards, one should refer to the clarifications provided under B and C above.

03

Clarifications on the tax treatment of bad debts

A newly issued Circular provides clarification on the tax treatment of bad debts, in accordance to the relative provisions of the GITC. In light of the amendments and the inclusion of additional provisions in article 26 of the GITC, the low-value claims write-off (applicable as of 01.01.2020 onwards, regardless of the time when the claim has been generated), as well as the debt waivers in the context of mutual agreement or court settlement (the relevant provision applies as of 12.12.2019) are explicitly provided in the GITC.

More specifically, with respect to the final write-off of low-value claims, businesses may proceed with the write-off of claims of low value regardless of the formation of a provision for bad debts. Moreover, the possibility to write-off is not affected by whether or not the appropriate actions have been taken for ensuring the collection, provided that an amount equal to the claim has been reported as income, it has subsequently been written off from the taxpayer's statutory books and it can be established that the debtors have been aware of the write-off, where applicable. The taxpayer shall bear the burden on demonstrating the notification of the debtor regarding the write-off, where possible.

The above Circular clarifies that in case the proof of the notification is not possible, despite the fact that the taxpayer made an attempt to notify the debtor regarding the write-off (for instance, the updated information about the client are not at the disposal of the business), the amount of the loss from the write-off of the claim is tax deductible.

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Clarifications on the tax treatment of bad debts

In addition to the above, clarifications are also provided on the amount of EUR 300, which may be finally written off, in accordance to the relevant legislative provisions.

Moreover, assuming that a provision of bad debt has already been established, the amount of the provision may be written off, provided that an amount equal to the claim has been reported as income and the debtors have been notified for the write-off - where possible - irrespective of whether or not the appropriate actions have been taken for ensuring the collection of the debt. It is also provided that in case a provision has been established only for part of the claim, the exceeding amount of the receivable may be written off.

Following the above, the write-off of debts in the context of mutual agreement or court settlement (the new provisions of art. 26 (4c) of the GITC) is possible regardless the existence of a provision, while the provisions regulating the appropriate actions for ensuring the collection of the debts are not applicable.

As a last remark, it is provided that in case and to the extent that no provision has been made, the relative amount of the write-off shall be deducted in accordance to the provisions of article 22 of the GITC. It shall be pointed out that the said provisions have the meaning that the write-off is possible (that is to say, it is performed on the basis of the provisions of article 22 of the GITC), even if a provision has not been formed; that is because the above is regarded as ordinary business operation without implying the examination of the conditions of deductibility under article 22 of the GITC.

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