



Clarifications on tax treatment of forgiveness of debt under art. 62 of L. 4389/2016

Guidance **Circular**

E.2021/31.1.2019, issued by the Greek Ministry of Finance on 31 January 2019 provides clarifications regarding the application of a provision of a 2016 law (article 62 of Law 4389/2016) relating to the forgiveness of certain debts. Article 62 regulates the tax treatment of the benefit arising at the level of individuals or legal persons from the partial or total write-off of debt as a result of an out-of-court settlement or upon the enforcement of a court decision if the debt is held by: (i) credit and financial institutions; (ii) credit and financial institutions under liquidation proceedings; or (iii) legal entities incorporated under Law 4354/2015 (i.e. certain entities dealing with non-performing loans).

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Forgiveness of debt for legal entities and individuals engaged in business (trading) activities

The circular highlights that the benefit arising from a write-off of debt is not deemed to be a gift and is exempt from income taxation. Specifically:

The circular provides clarifications regarding the scope of article 62 and the persons falling within its ambit, among other things. It is clarified that the provision covers only debt held by the entities explicitly mentioned in the article (including credit or financial institutions). Write-offs of debts by other persons (e.g. suppliers) do not fall within the scope of the rule.

In addition, the circular provides guidance in respect of the tax compliance obligations relating to the forgiveness of debt, namely, the relevant fields in the annual income tax return of the beneficiary (the debtor) in which the corresponding amounts should be reported. For legal persons, the circular specifies that the benefit should be tracked in a special reserve account, since it will be subject to tax upon distribution to the shareholders.

Debt write-offs in the context of out-of-court settlements

It is clarified that any reference to Law 4469/2017 (which established a framework for certain out-of-court settlements) in the tax law will not be deemed as restricting, but instead as broadening, the scope of article 62, by covering all debts falling under the law.

Debt write-offs upon enforcement of a court decision

Clarifications are provided in relation to the timeframe for which article 62 is applicable and any potential restrictions on the scope of the provision as a result of a debt write-off following the enforcement of a court decision.

Forgiveness of debt for individuals not engaged in business (trading) activities

The circular provides further guidelines associated with the reporting of the corresponding amounts in the relevant fields in the annual income tax return of the beneficiaries (the debtors). Additional clarifications are provided in relation to the timeframe for which article 62 is applicable and any potential restrictions on the scope of the provision. It also is clarified that the amount of the benefit from the forgiveness of debt cannot be used for purposes of representing or

evidencing imputed income, on the grounds that no actual collection takes place (i.e. there is no inflow of cash).

The circular also clarifies that the benefit from the forgiveness of debt is not considered as income for the beneficiaries, and it is exempt from gift tax.



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