

Commercial - Corporate

Amendment of the provisions of L.4469/2017 on "Extrajudicial Debt Settlement Procedure":

By an amendment in the aforementioned Law enacted in late December 2018 some key provisions have been modified in order to facilitate the process and make it available to a higher number of debtors. Among them:

- a) the quantitative limits in excess of which a creditor was outside the scope of the Law have been reduced to the amount of 500.000 EUR representing claims of a single creditor (from the originally applicable limit of 2.000.000 EUR), and cumulatively to the amount of 5.000.000 EUR representing the aggregate number of claims of creditors against the debtor concerned (from the originally applicable aggregate limit of 20.000.000 EUR).
- b) the debtor may now apply for the initiation of an extrajudicial debt settlement procedure until the 31st of December 2019.
- c) any ongoing enforcement proceedings against the debtor is automatically suspended, provided the extrajudicial debt settlement procedure is still pending following the legislated extensions in the application of L.4469/2017.
- d) the criminal prosecution initiated by the State or the Social Security Services under the provisions of L.1882/1990 and L.86/1967 against the debtor is suspended throughout the active procedure for the settlement of debts.

e) the minimum threshold of the total amount of debts eligible for the process is raised from 50.000 EUR to 300.000 EUR, in order for a simplified procedure for the settlement of these debts to be adopted.

Current Developments in the new legislative framework on SAs (L.4548/2018), entered into force on the 1st of January 2019

Significant amendments in the provisions of L.4548/2018 enacted by L.4587/24-12-2018 (Art. 49)

The share premium cannot be used for the payment of dividends or shares, however: (a) it can be capitalized or (b) offset against the absorption of company's losses, unless there are reserves or other funds, that can be used to offset the aforementioned losses (art. 35 par. 3);

In case of **listed** companies **exclusively, contracts between the company and its subsidiaries or securities or guarantees in favor of a subsidiary can be duly concluded provided** they are in the company's best interests, in the interests of its subsidiaries and their shareholders, which are not affiliated parties. A risk assessment report is drafted by an independent audit firm or another independent third party and is subsequently approved by the BoD or/and the General Assembly of the company,

which decide on the conclusion/closing of the relevant contract/transaction (art. 99 par. 3 lit. f and art. 100 par.5 new last period);

Remuneration or other benefit granted to a member of the BoD without being stipulated in the law or the company's statutes, is borne by the company, only if approved by a special resolution of the General Assembly (art. 109 par.1 last period and art. 110-112 about the content of the Company's Remuneration Policy in compliance with the provisions of the EU Dir.2017/828, to be applied compulsorily in case of listed companies);

A natural person holding shares in a listed company and serving at the same time as a member of the BoD of the relevant company, cannot vote at the meeting of the General Assembly and is not calculated for the establishment of a quorum when the General Assembly decides on the appointment of the statutory auditors. This paragraph is not applicable when the majority of the independent members of the BoD expressly grants its consent to the assignment of the auditing to the proposed persons (art. 124 par.8);

The resolutions of the General Assembly taken in violation of the provisions regulating the official procedure and the rights of the shareholders to information in the period of time commencing from the publication of the invitation to the meeting and ending on the date of performance of the meeting, or the provisions about the representation of the shareholder in the meeting or the election/appointment of the President of the Meeting (art. 122 par.4, 123 par.3-5, 128 and 129), cannot be

annulled according to art. 137 par.5 lit. e of the new law on SAs.

Circular issued on 28.12.2018 regarding the review of the legality of documentation (deeds and records) executed by the SAs during the transition from L.2190/1920 to L.4548/2018 (in force as of 01.01.2019)

Valuation reports on contributions in kind, at the time of establishment of the company, or at any share capital increase, prepared by the members of the Committee of art.9 par.2 of L.2190/1920 and filed in the G.C.R. until 31.12.2018, are reviewed according to the relevant provisions of the previously applicable L.2190/1920. As of 01.01.2019 the Committee of the art.9 par.2 of L.2190/1920 ceases to exist and the evaluation of the contributions in kind shall be performed by the organs provided for in the art.175 of L.4548/2018; their relevant valuation report shall be now filed and registered in the G.C.R. following a standard completeness check.

Upcoming Reforms towards the Modernization of the Greek Corporate Law

- A draft law on corporate transformations - following an open consultation on the relevant provisions of the draft law, which ended on 25.10.2018 - will be submitted to a vote in the Greek Parliament possibly by the end of January 2019: The provisions of this draft law shall apply on any legal form of undertakings, envisaging a full codification of all possible types

of business transformations and aiming at the elimination of deficiencies and vagueness in previously applicable relevant legal provisions.

- **A draft law for the reformation and modernization of the General Commercial Register is currently in preparation and will reportedly be submitted to a vote in the Greek Parliament by March 2019:** the provisions of this law will aim at the provision of faster and better quality services to various business undertakings. Regarding the matter of supervision of companies the provisions of this draft law focus on the adoption of preventive steps to eliminate corporate malfunctions and fast communication of notices/warnings to the market with sufficient information. Sanctions in the event of lack of publicity will be provided in the new law. Further a special register of companies which fail to comply with their legal obligations will be set-up.

Capital Markets

The Hellenic Capital Market Commission has announced on 07.01.2019 that the MiFID II guidelines on certain aspects of the suitability requirements published by ESMA (Greek Official Translation copy uploaded in the website of the HCMC under the link “Legal Framework”/“European Union Law”) have been incorporated in the Commission’s supervisory practice.

The guidelines **will apply from 7 March 2019** and will supersede the existing guidelines on suitability which were published in July 2012. Further analysis of the guidelines will be provided in due time.

Investments and Financing

On 28.12.2018 the open consultation of the draft law “on the attraction of strategic investments” was completed: Main purpose of the provisions of the draft law is the establishment of a more attractive and effective framework for the prospective investors offering a wide range of benefits pursued through a safe, transparent and fast-track procedure. At the same time, the upcoming investment framework focuses on the upgrading of all sectors of the Greek economy and on a rise of the employment following the implementation of the investments. This draft law will reportedly be submitted to a vote in the Greek parliament in February 2019.

Upcoming open public consultation (possibly in January 2019) of the draft law “on micro-credits”: The Ministry of Finance in cooperation with the Ministry of Development have completed the preparation and drafting of a new draft law on micro-credits aiming at providing liquidity to SMEs and medium sized entrepreneurs excluded from the banking system. The government intends to transpose in the Greek law the EU code of good practice for the granting of micro-credits, which includes a number of common standards in the micro-credit sector in the European Union in relation to the management, governance, risk management, reporting and relations with the customers

and the investors. The European code for the granting of micro-credits primarily aims at covering non-bank micro-credits amounting up to 25.000 EUR and granted by non-bank institutions to SMEs. The Bank of Greece is intended to act as a supervisory body of the aforementioned institutions.

Upcoming open public consultation (possibly in January 2019) of the draft law “on the establishment of a Development Bank”.

Reform of the legislative framework of the “Public Investment Program” dated from 1953 through the preparation and submission to a vote of two (2) draft laws: (i) the first draft law on the establishment of a National Development Program (NDP) contains provisions in line with the respective provisions of the National Strategic Reference Framework. This draft law is expected to be uploaded for open public consultation in January 2019; (ii) a second draft umbrella law providing for the modernization of the implementation procedures of the entire NDP - National and Co-Funded will follow and its preparation is expected to be completed in March 2019.

Tax & Social Security Law Updates

The application for the e-filing of asset declarations by the liable taxpayers for the fiscal year 2018 is available as of the 3d of January 2018. The certified users of these services (applications) are obliged to fill in the relevant statements until the 25th of January 2019.

The reduced (by 30%) VAT rate applied in the islands of Leros, Lesvos, Kos, Samos and Chios shall continue to be valid until 30.06.2019. In the relevant ministerial decision published in the Gov.Gaz. on 31.12.2018 a respective prolongation clause is also provided.

The corporate income tax rate for revenues earned in 2019 shall be reduced from 29% to 28% (L.4579/2018 and Circular 1228/2018); for revenues earned in 2020 the corporate income tax rate shall be 27%; for revenues earned in 2021 the corporate income tax rate shall be 26%; and for revenues earned in 2022 and afterwards the corporate income tax rate shall be 25%. The advance tax payment shall continue to be 100% for all enterprises, whereas for the legal entities is reduced to 50% for the first three years after their establishment.

The married couples shall be entitled to file separate income tax returns as of 2019 according to the provisions of L.4583/2018. In order to exercise this right each spouse should file a relevant application in the competent Tax Office until 28.02.2019.

A 30% reduction in the Unified Property Ownership Tax is provided for the year 2019, when the objective value of the immovable property owned by the taxpayer does not exceed the amount of 60.000 EUR. In case the value of the property exceeds the amount of 60.000 EUR, the 30% tax reduction continues to apply, but at the same time a reduction of 0,70 EUR per each 1.000 EUR property value is applicable. Furthermore the UPOT reduction cannot be more

than 100 EUR. Thus, it is assumed that only the taxpayers owning immovable property of up to a total value of 202.000 EUR shall enjoy a reduction of their UPOT due as of the year 2019.

The social security contributions for 250.000 professionals, self-employed and farmers are reduced up to a 33,3% on the total amount of due contributions. For the year 2019: (i) base for the calculation of the social security contributions is the 100% of the net taxable income plus the already paid contributions of the previous year. The 15% discount in the calculation base applicable for 2018 is repealed; (ii) self-employed professionals shall pay for principal pension the 13,33%, instead of 20%, on their income. This means that the annual benefit ranges from 200 up to 4.690 EUR for those who declare revenues higher than 7.500 EUR; (iii) the general minimum social security contribution continues to be 20% on the lowest wage for self-employed professionals with over 5 years working experience, and 20% on the 70% of the lowest wage for farmers; (iv) new scientists with up to a 5-year scientific activity, shall pay a premium of 13,33%, however the “sub-lowest” calculation base continues to be applied for them, that is the minimum imputed revenue on the 70% of the lowest wage; (v) the calculation rate of the health contribution continues to be 6,95% as applicable for all individuals; (vi) the discounts 5%-50% continue to apply for the insured individuals of the former social security fund for self-employed professionals up to 2021, however on the aggregate amount of the contribution for principal pension and health insurance; (vii) the new reduced assistance contributions for 200.000 self-employed individuals-

scientists are applicable ex tunc, The contribution for an assistance allowance (pension) is calculated on the 7% of the new basic wage for everybody. On the basis of the current lowest way the contribution is equal to 41,02 €. Accordingly the contribution for social assistance (one-off) is fixed at 4% on the new lowest wage for everybody. This is currently equal to 23,44€. The 200.000 self-employed individuals shall be charged ex tunc as of 1/1/2017. The payment will be made in 36 monthly installments.

EU Tax Legislation and Tax Transparency

Greece should transpose into domestic legislation the rules of the Anti-Tax Avoidance Directive (EU) 2016/1164, as modified by Council Directive (EU) 2017/952 (“ATAD”): ATAD introduces five anti-abuse measures against corporate tax avoidance. A separate deadline applies for the implementation of each of the five rules: (a) General anti avoidance rule (“GAAR”) to disregard non-genuine arrangements, if the main purpose or one of the main purposes is obtaining a tax benefit (“principal purpose test”) => A Revision of the domestic GAAR (art. 38 Law 4174/2013) to adopt principal purpose test was required by 31.12.2018; (b) Controlled foreign corporations rule (“CFC”) to reattribute certain non-distributed income of a low-taxed controlled subsidiary or permanent establishment to the parent company or head office => Revision of scope and conditions for application of domestic CFC rule (art. 66 ITC) required by 31.12.2018; (c) Interest barrier rules to limit the amount of tax deductible net interest based on a fixed interest/EBITDA ratio => Domes-

tic interest barrier rule (art. 49 ITC) has been assessed equally effective to the ATAD rule and may remain unchanged until 01.01.2024; (d) Exit taxation rule to impose tax on assets moving out, including through corporate relocation => Introduction of new rule to be adopted by 31.12.2019; (e) Rules on hybrid mismatches to neutralize mismatches resulting in a double deduction or a deduction without inclusion by ensuring that a payment is subject to tax at least once. [Covers also hybrid mismatches between EU member states and third countries] => Introduction of new rule [in addition to the existing rule for payments between EU parent and subsidiary companies] to be adopted by 31.12.2019 or by 31.12.2021 for reverse hybrid mismatches.

EU Transparency: Mandatory tax disclosure for taxpayers and intermediaries: Greece shall implement measures for intermediaries pursuant to EU Directive 2018/822 (indicatively advisors, lawyers, accountants) who inter alia design, organize or make available for implementation a reportable cross-border arrangement. Such persons will be required to report certain cross-border arrangements to the tax authorities. First reporting will take place on 31.08.2020 and will refer to cross-border arrangements the first step of which was implemented on or after 25.06.2018. EU Member States' tax authorities will exchange reported information automatically with the EU on a quarterly basis through a centralized database. The first exchange of reports will take place on 31.10.2020.

Anti-Money-Laundering Developments

Positive Findings in the interim FATF Evaluation Report on the implementation and effectiveness of the Anti-Money Laundering and Terrorist Financing Greek National Policy monitored by the relevant Greek authorities, following the on-site visit of the FATF in Greece (31.10.2018-16.11.2018) for the performance of the 4th round of mutual evaluation to be completed in June 2019.

According to a press release communicated by the Ministry of Finance, the FATF officials after their on-site visit and related meetings in Greece praised "the high quality of cooperation with the Greek authorities, the structure and organization, and the high quality of the qualified personnel working on the anti-money laundering national projects", and further commented that "the Greek State has proceeded to a number of legislative and organizational interventions adopting the FATF Recommendations and using a full range of legal tools as well as enforcing relevant measures after discussions with other states confronted with serious money laundering and terrorist financing cases. Greece has succeeded in detecting illegal money laundering activities in Greece and abroad and in providing specific relevant legal information to competent officials of foreign states fighting against money laundering and terrorist financing".