

Amendments to the Assessment and Collection of Taxes Law – Impact on Individuals and Companies

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On 20 of August 2020, several important amendments in the Assessment and Collection of Taxes Law were published in the official Gazette of the Republic.

The amendments introduced provisions geared towards tax compliance and granting the Commissioner of Taxation increased powers in relation to tax collection.

Impact on Individuals:

Submission of a personal Income Tax

Return: As per the amended Article 5(1) of the Assessment and Collection of Taxes Law, ALL Individuals (employees and self-employed without the obligation to prepare Audited Financial Statements) with gross income, which is subject to Income Tax, should submit an Income Tax Return not later than the 31st of July of the year following the year of assessment (applies from the tax year 2020 onwards).

For the tax years up to 2019 (inclusive), the above obligation does not apply for Individuals with gross annual income below the tax free threshold of €19,500.

A decree is expected to be issued by the Council of Ministers that will define certain categories of individuals and the conditions under which such individuals will be exempted from the obligation to submit an income tax return (applicable as of the tax year 2020 onwards).

In addition, the Council of Ministers, through a decree, can provide for an extension to the submission deadline of the income tax returns.

Changes in Taxpayer's Data: As per the amended Article 5(3) every Individual, whose personal data have changed, must notify the Commissioner of Taxation within 60 days from the day of the relevant change.

Capital Statement: As per the amended Article 5(5) the Commissioner of Taxation may request from any individual, through a written notice, to submit a detailed statement of the private and business assets and liabilities of such an individual, of its dependants as well as of her husband or his wife. The written notice can cover up to 6 years and may be extended up to 12 years in case of fraud or wilful default.

Article 6 - Employer's Return (Form TD7): New Submission Deadline (applicable from 2020 onwards)

As per the amended Article 6(1)(a), the new electronic filing deadline of the Employer's Return (Form TD7) is no later than the 31st of May of the year following the year of assessment (previously due on 31st of July).

For the purposes of completing Form TD7, the term "remuneration" includes, inter alia, money paid or payable by way of salary, wages, overtime, bonus, allowance, share of profits, fee, commission or pension etc.

As per the amended Article 6(3), the term "remuneration" includes also any deemed benefit as per the provisions of Article 5(1)(g) and 5(2)(g) of the Income Tax Law.

Article 35 - Tax Refund: The provisions of Article 35(1), which provided that employees are entitled to receive any income tax refund within 2 months from the end of the month that their tax return was submitted, have been removed.

Article 38 - Deadline for payment of taxes: As per the provisions of the amended Article 38(1)(a), in the case where the filing deadline for the personal income tax return of an individual is the 31st of July of the year following the year of assessment, the same day should be considered as the deadline for the settlement of any income tax due. This amendment applies from the tax year 2020 onwards and relates to all individuals who do not have an obligation to prepare Audited Financial Statements.

Impact on Companies:

Submission of a Corporate Income Tax Return: As per the provisions of the updated Article 5(2), every company which is incorporated and registered in Cyprus but is considered to be a non-tax resident company in Cyprus for Corporate Income Tax ("CIT") purposes has the obligation to submit a Corporate Income Tax Return ("CITR") by the 31st of March of the year following the year after the year of assessment. **It is mandatory to submit income tax returns for all Cyprus Registered Companies including non-tax resident Companies**

It is important to note that the Cypriot Tax Authorities are **not responsible** to inform or remind the taxpayers of their obligation to submit an Income Tax Return (TD4) by the due date.

Maintaining of information/documents: Every company registered with the Tax Register must be able to provide the Tax Authorities (upon request) all the relevant requested documents for 6 years from the end of the year of the assessment which relate to the Corporate Income Tax Return and preparation of the Financial Statements.

Company's Tax Registration: As per the provisions of the amended Article 5(A), every company which is incorporated and registered in Cyprus but is considered to be a non-tax resident company in Cyprus for Income Tax purposes has the obligation to inform the Tax Authorities in relation to the status of the company *within 60 days* from the date of the company's incorporation via a form approved by the Commissioner of tax.

Article 5(B)- Submission of a Revised Tax Return: As per the provisions of this new article, taxpayers have the right to submit a revised tax return within 3 years from the submission due date of the tax return for the relevant tax year. For example, the 2020 income tax return can be revised up until 31 March 2025 (assuming filing deadline is 31 March, 2022).

In case of submission of a revised tax return, the taxpayer should pay any additional tax due within 30 days from the date of its submission. The law provides that a Revised Tax Return can be submitted in cases of:

- Claim for a deduction, credit, allowance or relief as provided for in a Law, **or**
- Correction of error or mistake, **or**
- Compliance with the provisions of the tax laws.

A revised Tax Return cannot be submitted during a tax examination or tax audit. Revised Tax Returns relating to a tax year for which the deadline for filing a revised tax return has elapsed, would be considered appropriately submitted if they are submitted within 6 months from the date that the amended law enters into force (i.e. six months as of 20 August 2020). For example, the 2015 income tax return which was due by 31 March 2017, can be revised by 20 February 2021.

Article 13 - Payment of Tax Liability: A company has the obligation to submit its Income Tax Return by 31st of March of the year following the year after the year of assessment. Any due tax shall be paid by 1st of August of the year following the year of assessment. Also, the Council of Ministers can extend the submission and payment deadlines through the issuance of a decree, which must be published in the Official Gazette of the Republic.

Article 30 - Books and records to be kept: Currently, as per the Article 30(1) of the Assessment and collection Law, **every person** (including individuals) deriving income from the sources specified in paragraphs (a), (c), (e) and (f) of subsection (1) of section 5 or of the Income Tax Laws shall for each year of assessment:

(b) **Maintain books and records on the basis of which accounts are prepared in accordance with acceptable accounting standards**, which are **audited according to acceptable auditing standards** by a person which has a license to act as auditor of a company according to the Company Law.

In addition, a new paragraph has been added that upon **the discretion** of the Tax Authorities, certain Companies and individuals **can be exempted from the above obligation on the basis of submission by tax payers of other specific information for the purpose of examining their tax affairs**.

The following changes have been applied in the amended Article 30(4) of the Assessment and collection Law:

For the purposes of exercising any powers provided under this Law, the Commissioner, without a prior notice, may enter and inspect any professional premises used for business operations (plant, building, site, location), including any goods and documents located within these premises, during its normal working hours.

The Director **does not have the obligation to give to the relevant person reasonable notice for such inspections**.

Article 35 changes -Suspension of tax refund if not in compliance with VAT obligations: As per the provisions of the amended **Article 35(6)**, if a taxpayer is not complaint its vat returns filing obligation the Tax Authorities may suspend a tax refund payment until the taxpayer will be in compliance with its obligations.

Article 38 changes - Deadline of payment of tax: As per the provisions of the updated Article 38(1)(a)(ii), the date of payment of the tax for the companies whose Tax Return (form TD.4) submission deadline is the **31st of March** of the year following the year after the year of assessment (i.e. 2020 Tax Return to be filled by 31st of March 2022), is deemed to be the **1st of August** of the year following the year of assessment (i.e. the tax liability for the year 2020 should be paid by 1st of August 2021).

Please refer to the following table which summarizes the important dates/ deadlines for your reference

Summary of important Dates/ Deadlines		
Categories	Due date for filing of the 2020 Income tax return (TD 1/ TD4)	Due date for tax payment for the tax year 2020
Employees	31 July 2021	31 July 2021
Individuals - <i>without the obligation to prepare audited FS</i>	31 July 2021	31 July 2021
Individuals - <i>with obligation to prepare audited FS</i>	31 March 2022	01 August 2021
Companies	31 March 2022	01 August 2021

Article 30(A)- Payment via a Card: A new article has been included in the Assessment and Collection of Taxes Law that relates to the acceptance of payments via card. This new article provides that the beneficiaries of a payment, in the context of their transaction with consumers, are obliged to accept payment via a card. This depends on the beneficiary's activity code number as this will be set in a Decree to be issued by the Council of Ministers. For this purpose, the payment beneficiaries should come into an agreement with legally licensed payment service providers as defined in the Provision and Use of Payment Services and Access to payment Systems Law.

Article 50(F)- Administrative Penalty for non-compliance with article 30A (Acceptance of payment method by card): A new article has been included in the Assessment and Collection of Taxes Law that relates to the administrative penalties in case of non-compliance. It is noted that these provisions are effective 6 months after the relevant law has been enacted i.e. 6 months as of 20 August 2020.

In case of non-compliance with the provisions of the Law regarding the obligations of payment beneficiaries to accept payment via a card, (30A (3)), an administrative penalty not exceeding EUR 2.000 can be imposed.

The administrative penalty is imposed further to a decision of the Commissioner of Tax, after the submission of the relevant non-compliance report by a tax officer. The Tax officer has 5 working days to submit to the Commissioner of Tax the non-compliance report. The decision for the imposition of the administrative penalty is issued within 15 working days from the date of the submission of the non-compliance report. In case of non-payment of the administrative penalty, the Commissioner of Taxation can take legal measures and collect the due amount, as a civil debt due to the Republic.

In case of imposition of the administrative penalty, the taxpayer has the right to file an objection within 30 days from the date of notification of the decision of the Tax Commissioner. The decision on the objection is issued within 30 days from the date of the filing of the objection. In case the objection is accepted, the administrative penalty is refunded to the taxpayer. The taxpayer has the right to appeal before the Administrative Court in case the objection is not accepted. In case the appeal is accepted, the administrative penalty is refunded to the taxpayer.

The amount of the administrative penalty imposed in paragraph 1 of this Article shall be reduced by half if:

- The taxpayer proceeds with the payment of the administrative penalty within 30 days from the date of the notification of the decision of the Commissioner of Tax for the administrative penalty (before filing an objection). Payment implies that the taxpayer will not have the right to file an objection.
- The taxpayer within 30 days from the date of filing a complaint or tax audit submits to the Tax Commissioner an invoice evidencing the purchase of a terminal for accepting payments via a card.

A taxpayer is discharged from the administrative penalty, in cases where it is not feasible to obtain a card acceptance terminal. The law provides that,

- The administrative penalty is not imposed in cases where the taxpayer provides a document to the tax inspector during the tax audit, certifying the rejection of his request, for the acquisition of a card acceptance terminal, by a licensed payment service provider.
- The administrative penalty is not imposed in cases where a request for a terminal for accepting payment via a card has been made before the deadline provided in the Law, and the terminal is not yet made available to the taxpayer for reasons related to the credit institution (confirmed in writing).

Article 30B- Public Lottery program: A new article has been included in the Assessment and Collection of Taxes Law that provides for a public lottery program, the details of which, including inter alia, its duration, procedure, criteria, frequency and prizes will be determined by a Decree to be issued by the Council of Ministers.

The lottery program relates to transactions made using cards or other electronic means of payment for the purchase of goods or the collection of payments, whereby the winners will be rewarded with cash or in-kind prizes. The total cost of the prizes will be suffered by the State.

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