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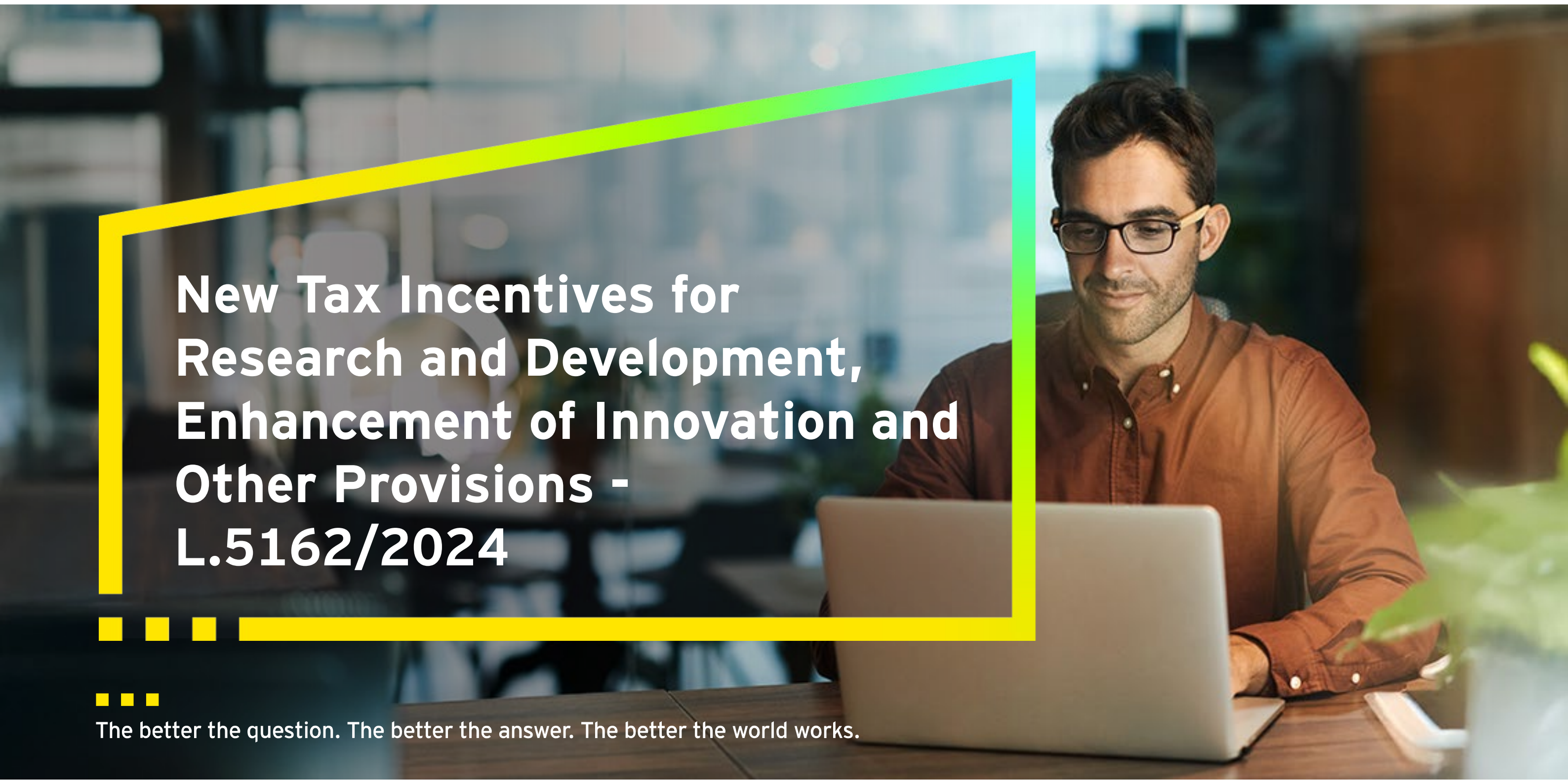
December 2024

Tax Alert

New Tax Incentives for Research and Development, Enhancement of Innovation and Other Provisions - L.5162/2024



Following the enactment of Law 5162/2024, a series of incentives and tax advantages have been introduced with a focus on development and innovation.

> The law explicitly mentions (Article 2) the introduction of new provisions, as well as the modification of existing ones, regarding "tax incentives for research, development, and enhancement of innovation and start-ups".

New Tax Incentives

Specific and expanded tax incentives are provided concerning the conduct of expenses associated with scientific and technological research ("R&D"), the exploitation of patents ("Patent Box"), and the extension of incentives for angel investors.

The implementation of these advantages applies as of the tax year 2025 and onwards.

R&D expenses

- The existing "super-deduction" incentive (100%) on R&D expenses (including depreciations), is extended as follows:
  - Expenses incurred by enterprises for projects or services provided to
    1. enterprises registered in the National Registry of Start-ups (Article 47 of Law 4712/2020) or
    2. research centers or technological institutes (Article 13A of Law 4310/2014) or
    3. University Research and Innovation Centers (PA.K.E.K.) or Joint Research Institutes (K.E.I.) or University Research Institutes (E.P.I.) (Articles 131 and 134 and Chapter ΚΘ' of Law 4957/2022),

    provided that these enterprises are not affiliated with the project or service recipient, are tax deductible from the gross income of these enterprises, at the time of their realization, increased by 150%.

New tax incentives *(cont'd)*

R&D expenses *(cont'd)*

- Additionally, for very small, small, and medium-sized enterprises ("SMEs", as defined in the Annex to the Commission Recommendation 2003/361/EC of May 6, 2003*), an increased deduction of 200% is provided on R&D (depreciation included) expenses. This incentive is granted on the condition that scientific and technological research expenses correspond to more than 20% of the total expenses incurred in the same fiscal year.

**As very small, small, and medium-sized enterprises (SMEs) qualify those that employ fewer than 250 employees and whose annual turnover does not exceed €50m or whose annual balance sheet total does not exceed €43m.*

Within the SME category, as small enterprise is defined an enterprise that employs fewer than 50 employees and whose annual turnover or annual balance sheet total does not exceed €10m.

As very small enterprise is defined an enterprise that employs fewer than 10 employees and whose annual turnover or annual balance sheet total does not exceed €2m.

- Provided that the above criteria for SMEs are met and, on the additional condition that the R&D expenses within a fiscal year exceed the average of the corresponding expenses of the previous 2 years (based on the company's accounting records), these expenses are deducted from the gross income of the SMEs at the time of their realization, further increased by 15%.

- It should be noted that if the conditions for various "super-deduction" cases are met, the most favorable one will apply.

Patent Box

- Business profits of an enterprise from the exploitation of a patent recognized internationally in its name, being developed by the enterprise itself, continue to be exempt from income tax for up to 3 consecutive tax years, starting from the year in which these profits are first realized.
- In addition, for the next 7 consecutive years, a 10% exemption from the payable income tax is provided on the business's profits derived from the exploitation of the patent, on the condition that there is a connection with the R&D expenses incurred by the business for the development of the patent.

Extension of Incentives for Angel Investors

- Existing tax incentive referring to the deduction from taxable income of up to 50% of the capital contribution to a start-up, is extended to capital contributions to Closed-End Mutual Funds ("A.K.E.S.") established domestically and managed by a domestic company for the purpose of making venture capital investments.

As per the comment of the Scientific Committee of the Greek Parliament, this provision should similarly apply on capital contributions to similar funds established in an EU or EEA member state, in light of the EU principle regarding free movement of capital (Article 63 et seq. TFEU).

A new taxation method for A.K.E.S. is also introduced, replacing the existing framework and establishing two alternative taxation methods (optional and subject to conditions)

Other Provisions

Extension regarding the suspension of Value Added Tax (VAT) on real estate

- The option for a taxable person (constructor) to apply for a VAT exemption regarding the sale of new buildings is extended up until December 31, 2025.

Extension regarding the suspension of Article 41 of the Income Tax Code for the imposition of capital gains tax on the transfer of real estate

- The suspension on application of Article 41 of the Income Tax Code, which imposes tax on income from capital gains deriving from the transfer of real estate, is extended until December 31, 2026.

The entry into force of Article 41 of the Income Tax Code has been successively suspended as of January 1, 2015, till December 31, 2024.

Tax deduction on donations to General Government Entities

- The new law provides explicitly as regards donations towards entities supervised by the Ministries of Health and Education, Religious Affairs, and Sports (such as public hospitals and other entities of the National Health System, public educational institutions of all levels, and public libraries).
- Donations towards the said entities qualify as deductible expenses for determining taxable profits of non-profit legal entities.

This provision aims to strengthen charitable actions in critical areas of governmental priority, such as education and health.

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