

CAPITAL REPATRIATION

In an effort to establish a new financial environment in Greece by creating more incentives for investment, a new and ambitious measure has been taken by the Greek Ministry of Finance.

Pursuant to article 38 of Law Number 3259/2004, individuals and legal entities that are tax liable in Greece, may transfer capital they dispose in any form of bank accounts abroad to bank accounts in Greece within a timeframe of six months from the date that the relevant law came into effect, namely after August 4th, 2004, by paying an one off tax of 3% on the value of the capital at the time of transfer.

The payment of the above tax not only legitimates such capital from a taxation point of view, but it also exhausts all other existing tax obligations of the aforementioned individuals and legal entities, and actually provides those with tax "amnesty", in the sense that they are acquitted from any past tax offenses provided by Greek law (in some cases past offenses have actually been the factors that had led to the "expatriation" of such capital). Furthermore, it exempts such parties from the obligation to reveal the source of such income, which is another tempting incentive for such capital transfer. This favorable regime, however, will not apply in case of transfers following repatriation (i.e. inheritance etc.) and same may entail a further review of the tax legislation.

Attention should be drawn to the fact that the new legislation explicitly provides that the above exemptions are without prejudice to any sanctions related to offenses of non-tax nature. Therefore, Law 3034/2002, which ratified the International Convention on the Suppression of the Financing of Terrorism, all sanctions on money laundering cases relating to any financial crimes of any kind as provided for in Law 2331/1995 (i.e. fraud, robbery, trading of drugs or ammunition, embezzlement, usury etc.) and other legislative texts of such nature, do apply. However, further legislation is expected to be enacted, in

order to set legal safety valves for the clarification and proper enforcement of the above measure, as well as for the avoidance of any deplorable incidents.

Capital repatriation will be carried out via banks or other financial institutions operating in Greece following a relevant statement – authorization given by the individual or legal entity, the actual content of which will be specified by future ministerial decisions. The banks or the financial institutions involved shall deduct the 3% tax at the time the capital is imported and forward same to the competent Greek Tax Authority on the last working day of each month together with a special statement. During the above procedure the tax and bank secrecy on the identity of the parties concerned shall be protected. Again, the procedural details of all the above shall be regulated by ministerial future decisions.

According to the Preamble of the new legislation the capital repatriation shall increase the banks' liquidity and turnover, as well as the liquidity and improvement of the stock market, shall strongly enforce investment and shall lead to a significant increase of tax revenues and creation of new jobs. Some reservations on the actual performance of the measure have also been expressed from the experience of the Italian example, which has not been as successful as expected, as well as from the thought that the aforementioned tax exemptions may deprive the Greek State from important revenues.

Independently of the eventual figures, it is common appreciation of all factors involved that the capital repatriation, no matter how thorny an issue it is, offers major cash inflow which is expected to attract investment, vitalize the banking, stock and real estate markets and offer the Greek economy a considerable boost.