

# Parliament Adopts Individual Income Tax Changes

**by Katerina Perrou**

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## Parliament Adopts Individual Income Tax Changes

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The Greek Parliament recently adopted Law 3522/2006 (of December 19, 2006), which introduces some significant changes affecting individual and corporate income taxation, VAT and other indirect taxes, and existing investment legislation. The changes are mainly in the form of amendments to the Greek income tax code (Codified Law 2238/1994).

Following is a brief description of the most important provisions of the new tax law affecting individual income taxation.

### Computation: Income Scale and Tax Rates

The individual income tax scale and corresponding tax rates have changed: The tax-free bracket will increase gradually over the next three years, and tax rates will gradually decrease over the same period, starting with income earned in 2007. In any case, the highest tax rate remains at 40 percent for income above €75,000. There are still two different tax scales — one that applies to employees and pensioners, and one that applies to nonemployees and free-lancers — but it has been clarified that the personal income tax scale for employees applies only if the employment income exceeds 50 percent of the total taxable income declared. That restriction does not apply to pensioners who have income from immovable property or farming enterprises; in those cases, the pensioner is always taxed according to the pensioners' tax scale, regardless of whether his pension is 50 percent or more of his total taxable income.

Therefore, the tax scale is modified as follows (amounts are in euros):

#### 2007 Income of Employees and Pensioners

Income bracket	Tax rate (%)	Tax in bracket	Aggregate	
			Income	Tax
12,000	0	0	12,000	0
18,000	29	5,220	30,000	5,220
45,000	39	17,550	75,000	22,770
75,000+	40			

#### 2007 Income of Nonemployees Free-lancers

Income bracket	Tax rate (%)	Tax in bracket	Aggregate	
			Income	Tax
10,500	0	0	10,500	0
15,000	15	225	12,000	225
18,000	29	5,220	30,000	5,445
45,000	39	17,550	75,000	22,995
75,000+	40			

In addition to lowering the general tax rates, a special flat tax rate applicable to the income of personnel employed by the commercial fleet has also been reduced.

A 1.5 percent reduction of the tax payable in cases in which the full tax is paid as a lump sum has been

### 2008 Income of Employees and Pensioners

Income bracket	Tax rate (%)	Tax in bracket	Aggregate	
			Income	Tax
12,000	0	0	12,000	0
18,000	27	4,860	30,000	4,860
45,000	37	16,650	75,000	21,510
75,000	+40			

### 2008 Income of Nonemployees Free-lancers

Income bracket	Tax rate (%)	Tax in bracket	Aggregate	
			Income	Tax
10,500	0	0	10,500	0
15,000	15	225	12,000	225
18,000	27	4,860	30,000	5,085
45,000	37	16,650	75,000	21,735
75,000	+40			

### 2009 Income of Employees and Pensioners

Income bracket	Tax rate (%)	Tax in bracket	Aggregate	
			Income	Tax
12,000	0	0	12,000	0
18,000	25	4,500	30,000	4,500
45,000	35	15,750	75,000	20,250
75,000+	40			

abolished. However, the reduction is still valid for income tax returns that are filed electronically.

### Deductions From Net Income

Three new cases of deductions from net income have been established:

- a deduction previously amounting to €1,900 for specific categories of disabled persons has been increased to €2,400;
- a deduction equal to 20 percent of the amount spent for the installation of natural

### 2009 Income of Nonemployees Free-lancers

Income bracket	Tax rate (%)	Tax in bracket	Aggregate	
			Income	Tax
10,500	0	0	10,500	0
15,000	15	225	12,000	225
18,000	25	4,500	30,000	4,725
45,000	35	15,750	75,000	20,475
75,000+	40			

gas systems has been extended to also cover the installation of teleheating systems and other similar renewable energy infrastructure; and

- a deduction has been established for some types of stock and mixed mutual funds connected with life insurance contracts.

### Transfer of Shares

The current legislation regarding taxation on the transfer of shares that are not traded in a stock exchange previously provided for a flat rate tax of 5 percent calculated on the real value of the stocks at the time of the transfer. The real value of the shares was calculated according to a procedure described in a ministerial decision that was issued in accordance with the law. However, the courts found that procedure to be illegal, because the tax base was not specified in the law itself, but was instead the subject of a ministerial decision, a situation that is not allowed by the constitution.

Therefore, the new law has amended the relevant provisions to incorporate into the text of the law the procedure established in the ministerial decision. The tax remains at 5 percent and is a final tax when the transferor is an individual. The same applies *mutatis mutandis* for the transfer of shares of a limited liability company.

### Income From Immovable Property

The calculation of net taxable rental income earned by individuals, partnerships (without limited liability), and foreign entities without a permanent establishment in Greece also has changed. In establishing net taxable rental income, the following items are deducted from the gross rental income:

- a fixed amount for depreciation purposes equal to 5 percent (previously 10 percent) of

gross income for real property used for housing purposes or for boarding houses, schools, cinemas, theaters, hotels, clinics, and sanitariums; or 3 percent (previously 5 percent) of gross income from renting real property used for shops, offices, shopping centers, and so on; and

- an amount up to 40 percent (previously 5 percent or 15 percent, depending on the use of the real property) of the gross income corresponding to expenses arising from insurance payments and other costs related to the maintenance and repair of any kind of real property, regardless of its use and regardless of whether the real property has been classified as preservable real property.

There are a few other minor changes regarding the revocation of some deductions from gross rental income, such as the deduction for construction expenses or expenses for improvements and extensions made on the real property by the lessee and not by the owner, and the deduction for income earned by renting real property to be used as advertising space.

At this point, it is important to refer to the gradual revocation of the stamp duty levied on rental income derived from real property used for housing purposes, as established by the provisions of Law 3522/2006. In particular, the stamp duty that previously amounted to 3 percent (plus an additional 20 percent of that amount added by the contribution for the farmers pension fund, bringing the final amount to 3.6 percent) has been reduced by half (to 1.8 percent) for rental income earned in 2007, and will be totally abolished for rental income earned in 2008 and beyond.

### **Business and Liberal Professions Income**

As of January 1, 2007, the expenses of individuals engaged in a liberal profession involving computers and software may be fully amortized within the year those items have been put into operation.

Any benefit arising from the waiver of debt by a creditor that is effected in the normal course of the cooperation of the involved enterprises is treated as business income at the level of the debtor and is not subject to donation tax.

The provisions for the taxation of businesses engaged in the construction and sale of buildings (either for housing or for business purposes), as well as provisions for the taxation of businesses engaged in public or private construction projects, have also changed with effect beginning January 1.

### **Nondeductible Expenses**

The new bill provides that the amount of any reward in cash or in kind, the provision or receipt of which constitutes a criminal offense (regardless of whether it is provided or received in Greece or abroad), is not recognized as an expense deductible from an enterprise's gross income. This provision is designed to align Greek legislation with the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which was ratified by Greece in Law 2656/1998. Previously, those amounts still were not deductible, as the expenses did not fulfill the other requirements established in the law for the deduction of expenses.

Any amount paid by virtue of a contractual penalty clause, as well as any other type of penalty or monetary fine paid for untimely performance of contractual or statutory obligations, is not deductible from the gross income of enterprises.

The deductibility of royalties and service and management fees realized in fiscal 2005-2008 is no longer subject to prior approval by the special committee of the Ministry of Finance. The deductibility of those expenses now is subject to subsequent approval by the competent tax audit centers within the framework of a regular or extraordinary audit.

### **Carryforward of Losses**

A company's right to carry forward tax losses is conditional on the declaration of the loss within the fiscal year it arose. That right is not waived because of the exclusion of the loss in the income tax returns of subsequent years that also presented tax losses. This provision was added to align the legislation with case law of the Supreme Administrative Court.

### **Interest (Deposits and Bonds)**

Interest income earned by Greek tax residents (individuals or legal entities) arising either from deposits maintained outside Greece or bond loans issued abroad (including notes of any type issued by foreign companies whose share capital is mostly owned by Greek credit institutions) previously was exempted from tax but now is subject to a 10 percent withholding tax. The withholding tax is final, except in the case of legal entities (other than banks and insurance companies) that are subject to corporate income tax in Greece and that are being taxed on that income in accordance with general tax principles, with a credit granted for the tax withheld.

Tax withheld on interest income arising from bond loans issued by Greek companies after December 20, 2006, will not be refunded even if the bonds are withheld by the initial holder throughout their life.

## Capital Gains From the Sale of Derivatives

Capital gains realized as of January 1, 2007, from transactions on derivatives either in the Athens Derivatives Exchange, in any foreign derivatives exchange market, or in any other internationally renowned trading institution are exempted from tax. In particular, those capital gains now are treated in the same way as capital gains derived from transactions on stocks in the Athens Stock Exchange or any other stock exchange.

### Procedural Provisions

Some provisions of the income tax code chapter regarding tax fiscal procedures also have been amended. Among the most important:

- The tax authorities may issue a final assessment without waiting for information that has been formally requested from the tax or customs authorities of other countries. If, after the receipt of that information at a later time, additional tax is to be levied, that can be done through a complementary assessment.

- The regular tax audit of a taxpayer now covers all unaudited and unprescribed fiscal years. (Previously, the provision provided for tax audits for the three most recent years, with the possibility of extending the audit to all previous unprescribed years if there was substantial evidence of noncompliance derived from the audit of the three most recent years.)
- The tax authorities are entitled to impose taxes within a period of 10 years (that is, even after the lapse of the five-year prescription period) if they acquire additional information revealing improper compliance by the taxpayer regarding its obligations under income tax legislation.

As can be seen from the new provisions, the goal of the new law is not to effect large-scale changes in the taxation of individuals, but to make small but significant amendments to improve the operations of the tax system. ◆

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