

Greece broadens incentives for the creation of shared services centers in Greece

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Executive summary

Greece's recently published document No. E.2076/14 May 2019, sets forth the provisions of article 38 of Law 4605/2019 (Official Gazette Issue A' 52/ 1 April 2019) amending the provisions of Law 89/1967, to **broaden** the relevant framework and incentivize the creation of shared services centers in Greece. Furthermore, the existing framework is supplemented by **incentivizing** companies subject to the provisions of the aforementioned law.

Detailed discussion

Background

Law 89/1967 refers to enterprises whose purpose is to exclusively offer certain support services to their head office/affiliated entities (both in Greece and abroad), based on the fulfillment of certain prerequisites.

The innovative feature of the regime, in scope, relates to the way the taxable base - that is subject to income tax - is calculated, which offers stability and certainty. Specifically:

- ▶ The gross income of the enterprises under scope, which is subject to income tax, is determined based on the cost-plus method, with the application of a predetermined mark-up on total expenses and depreciation, excluding corporate income tax.

- ▶ The said mark-up would differ on a case by case basis and would be determined by virtue of a Ministerial Decision, issued further to a proposal of a Committee of experts in the Ministry of Economy and Finance. The mark-up will be reassessed every five years at the latest, and cannot be less than 5%.
- ▶ All expenses on which the said mark-up applies, shall be tax deductible for income tax purposes, on the condition that they are supported by the lawful requisite fiscal documents.

The necessary prerequisites are the following:

- ▶ They have to employ at least four employees (one may be a part-time employee)
- ▶ Their annual operating expenses incurred should amount to at least €100.000.

Amendments introduced by Law 4605/2019

Broadened scope of services provided

The permissible services prior to Law 4605/2019 were:

- ▶ Advisory services
- ▶ Central accounting support
- ▶ Quality control of production, product process and services
- ▶ Design of studies, projects and contracts
- ▶ Advertising and marketing services
- ▶ Data processing
- ▶ Supply of information
- ▶ Research and development

Further to the existing allowed services, additional categories of services are added with the new law as follows:

- ▶ **Software development, computer programming and IT support**
- ▶ **Storage and management of records and data**
- ▶ **Management of suppliers, customers and supply chain, excluding transportation by own means**
- ▶ **HR management and training of employees**
- ▶ **Computer-based call center and telephone information services**

Provision of the above services **does not constitute a place of effective management** in Greece¹ by the foreign company established in Greece or its affiliates.

However, given that the new regulation does not refer generally to the development of business activity in Greece, but rather to the specific services for which an operation permit has been granted, if apart from the provision of such services, the conditions of article 4 par. 4 of Law 4172/2013 are met, i.e., clear violation of the operation permit, Article 4 (4) of Law 4172/2002 shall apply, resulting in these companies (or their affiliated companies) being considered tax residents in Greece, based on the recent clarifications of the Independent Authority for Public Revenue (E.2076/14 May 2019).

Granting of incentives

Substantial incentives are granted to enterprises subject to the provisions of Law 89/1967, that set up large shared services centers, and meet the following conditions:

- i. They develop a **new activity** either in terms of the *services provided* or in terms of the *companies, to which services are rendered*, to the extent that such services have not been provided in Greece during the past two years from the application's submission date by the same or other group entities.²
- ii. The new activity creates a **minimum number of new jobs**, which are maintained **for at least a specific time period**, to be defined by a ministerial decision.

The incentives granted vary in nature. They include:

- a. Incentive for first-year salary costs for the recruitment of disadvantaged employees (long-term unemployed, etc.) and persons with disabilities³
- b. Incentive for research and development projects⁴
- c. Incentive for professional training programs⁵
- d. Incentive for salary costs and IT and telecommunications installation costs⁶

The above incentive categories are provided in the form of a **subsidy**, which constitutes the provision of an amount destined to cover part of the aided expenditure and is determined as a percentage thereof.

The subsidy shall be granted for the first five-year period expenditures as of its granting and up to a maximum amount, to be determined by a ministerial decision. In addition, the individual subsidy percentages shall be specified within the limits set by the relevant Regulations, as well as the procedural issues, any sanctions if the conditions for granting the subsidy are not met, and any other relevant detail which remains to be determined.

Granting of incentives to enterprises not subject to the Law 89/1967 regime

Finally, the granting of the above-mentioned incentives is also extended to sizeable, in terms of personnel number, shared services centers established in Greece as branches of foreign companies as well as to domestic companies exclusively providing L. 89/1967 services to companies that do not necessarily belong to the same group, upon the condition that the new activity will generate at least 150 new full-time jobs for the first year after the granting of the incentive.

Law 89/1967 as a driver for investment attraction

Law 89/1967 is a valuable program for attracting foreign investment to Greece by allowing foreign and domestic groups to set up a shared services center in the context of increased legal certainty through the advance pricing arrangement regime (which resembles the APA⁷) effectively provided under the provisions of the new law in scope, namely the process of a predetermined mark-up in accordance with the OECD⁸ Guidelines, for the application of the arm's-length principle in relation to specific transactions over a certain period of time, prior to their implementation.

The new provisions place Greece on the list of countries that multinational companies should consider when setting up such centers, along with various emerging economies worldwide.

It is important to note that the prior list of allowed services did not follow global developments, by not including, within the framework, Call Center or Software Development services. The abovementioned amendments entering into force with the new L. 4605/2019 (expanded list of services and incentives provided), aim to fill this gap and address new market trends, according to which businesses establish shared services centers within their business structure to increase their operational efficiency and at the same time reduce the cost of providing such services.

Therefore, together with the incentives offered, the Greek regime is now more competitive compared to similar foreign shared services centers and we anticipate an increase in investment by multinational companies establishing shared service centers under the new law in Greece, considering the high level of talent combined with competitive salary costs in Greece.

Endnotes

1. In accordance with the meaning of Article 4 par. 4 of Law 4172/2013.
2. Exceptionally, companies submitting an application by 28 June 2019, may have developed the new activity before submitting the application for the granting of incentives, but not before 1 January 2019, on which date the last two years are counted.
3. Articles 32 and 33 of Commission Regulation (EU) 651/2014.
4. Article 25 of Commission Regulation (EU) 651/2014.
5. Article 31 of Commission Regulation (EU) 651/2014.
6. Commission Regulation (EU) 1407/2013.
7. Advanced Pricing Agreement.
8. Organisation for Economic Co-operation and Development.

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