

LEGAL INFORMATION DATA BASE (INTRASOFT INTERNATIONAL)

Ministerial Decision A.1/2020 (YA 1026 G.G. B 624 2020): Income Tax Code-regarding alternative income taxation abroad for natural persons who transfer their tax residence in Greece (763575)

Article : 0

Number A.1036 (G.G. B' 624/26.02.2020)

Procedure and requirements of inclusion in the provisions of article 5A of L. 4172/2013 regarding the alternative income taxation which emerges abroad for natural persons who transfer their tax residence in Greece.

THE UNDERSECRETARY

AND THE CHIEF

OF THE INDEPENDENT AUTHORITY FOR PUBLIC REVENUE

Having into consideration :

1. The provisions of article 90 of the “ legislation Code for the Government and the Government bodies” which was sanctioned by article first of the presidential decree 63/2005 (A' 98).
2. The provisions of the p.d. 142/2017 (A' 181) “ Ministry of Finance Organization”
3. The provisions of the p.d. 83/2019 (A' 121) “ Appointment of Government Vice President, Ministers, Deputy Ministers and Undersecretaries”
4. The Y2/2019 decision of the Prime Minister “ Establishment of seat for Minister and Undersecretaries”
5. The 339/2019 decision of the Prime Minister and the Minister of Finance regarding the Assignment of responsibilities to the Undersecretary Apostolos Vesiropoulos (B' 3051)
6. The no. 1 of 20.01.2016 (G.G. 18/Y.O.Δ.Δ./ 20.1.2016) Deed by the Cabinet “ Selection and appointment of General Secretary of the General Secretariat for Public Revenue of the Ministry of Finance” in combination with the provisions of paragraph 10 article 41 of L. 4389/2016 as they are in force and no. 52. 5294 ΕΞ 2020/17.1.2020 (G.G. 27/Y.O.Δ.Δ./17.1.2020) decision of the Minister of Finance regarding the renewal of the service of the Chief of the Independent Authority for Public Revenue
7. The provisions of Chapter A' “ Establishment of Independent Authority for Public Revenue” First Part of L. 4389/2016 “ Emergency provisions for the implementation of the Agreement financial scopes and amending reforms

and other provisions” (A’94) and especially of articles 1,2,7,13,14,17 and 41 as they are currently in force.

8. The provisions of the subparagraph E2 , paragraph E of the first article of L. 4093/2012 (A’ 222) as it is currently I force, regarding the establishment of Public Revenue General Secretary position in combination with the provisiohn of paragraph 1, article 13 and paragraph ,10 article 41 under L. 4389/2016 as they are currently in force.

9. The No. Δ.ΟΠΓ.Α 1036960 ΕΞ 2017/10.3.2017 (968/ Β'/22.3.2017) decision of the Chief of the Independent Authority for Public Revenue “Independent Authority for Public Revenue Organization” as it was amended and it is currently in force.

10. The provisions of article 5Α L. 4172/2013 as they were added to the provisiond of par. 1 of article 2 under L. 4646/2019 (Α’ 201)

11. The provisions of L. 1497/1984(Α’188) “ Sanction of Agreement which annuls the obligation for the certification of foreign public doicuments”

12. The provisions of L. 2690/1999 (Α’ 45) “ Sanction of the Administrative Procedure Code and other provisions”

13. The No. αριθμ. Δ.ΟΠΓ.Α 1115805 ΕΞ 2017/31.07.2017 decision of the Chief of the Independent Authority for Public Revenue “Independent Authority for Public Revenue Organization” as it was amended and it is currently in force.

14. The fact that with the decision hereof no expenditure is caused against the State Budget, we decide:

Article : 1

Article 1

Scope

The present decision is issued as per the implementation of the provisions of par. 10 of art. 5Α undr L. 4172/2013 ,as they were added with the provisions of apr. 1 article 2 under L. 4646/2019 (Α’ 201) , regarding the determination of the inclusion procedure in the provisions of article 5Α under L. 4172/2013 including the transport of the tax residence, the competent authority for the submission, examination and approval of the application, the documentation which accompany the application, its revocation, the submission of tax income declaration, the tax payment as well as any other necessary issue or details for the implementation of the article hereof.

Article:2

Article 2

Competent Service for the submission, examination, approval, revocation of the application relevant to its inclusion in the provisions of article 5A under L. 4172/2013 regarding alternative income taxation which emerges abroad for natural persons who transfer their tax residence in Greece, for the submission of revocation application, for the submission and examination of the relevant documentation regarding the completion of the required by these provisions investment as well as for the completion of the relevant electronic application, is appointed the Tax Office for Residents Abroad and for Alternative Taxation for Tax Residents in the domestic State.

Article:3

Article 3

Requirements for the inclusion in the provisions of article 5A under L. 4172/2013 and required documentation

1. The taxpayer, natural person, who transfers his tax residence in Greece can appertain to an alternative taxation type for the income which emerges abroad provided that overall:

a) He was not not a tax resident in Greece during the seven years (7) out of eight (8) prior to the transfer of his tax residence in Greece and b) he proves that He proves that he invests himself or his relative person , according to the meaning of case 6 (in Greek στ') of article 2 b) He can prove that he invests, himself or his relative, as per the concept of case 6 (στ') or via the legal person or the legal entity to whom or which, correspondingly, he has the majority of equities or shares relevant to properties or enterprises or securities or equities or shares of legal persons or legal entities seated in Greece. The amount of the specific investment cannot be less than five hundred thousand euro (500.000). The investment must be completed within three (3) days from the submission date of the relevant application according to paragraph 3.

As "relative person" is perceived the spouse and the ascending and descending relatives in straight line. The natural persons who have signed a civil partnership agreement have the same treatment with the married persons.

It is not required the prerequisite of case b' to assist , provided that it regards a natural person who has acquired and maintains a residence permit for investment activity in Greece according to the provisions of article 16 under L. 4251/2014, as it is currently in force, regarding the granting and renewal of residence permit for investment activity.

2. In order for the examination of case a' of paragraph 1 of the article hereof, viz. the tax residence of the natural person abroad, the seven (7) years out of

the previous eight (8) prior to the transfer of the tax residence in Greece, this is conducted based on the files which are kept in the Tax Administration.

Especially, if the taxpayer applies for the first time for the issuance of Tax Registration Number or if he appears in the Records of the Tax Administration as a tax resident abroad for the seven (7) years out of eight (8) prior to the application for the transfer of his tax residence, the presentation of the relevant documentation is not required.

In case upon which the tax residence of the natural person abroad the seven (7) years out of eight (8) prior to the application for the transfer of his tax residence does not emerge from the files of the Tax Administration, the natural person is required to present for each of those years for which there are no available details the following :

a) Certificate of tax residence issued by the competent tax authority of the State which he declares to be tax resident. If was taxpayer was resident of a State where an Agreement for the Avoidance of Double Income Taxation exists (hereafter in Greek : ΣΑΔΦΕ) , he can present, instead of the aforementioned certificate, the predicted Application for the implementation of ΣΑΔΦΕ where it is attached the certificate of tax residence (bilingual documents), completed, signed and sealed by the competent tax authority abroad or

(b) In case upon which the issuance of the aforementioned documents is not predicted by the competent tax authority, a copy of the clearance of the income tax declaration or in lack of the clearance, a copy of his relevant income tax declaration which he submitted in other State as tax resident of that State.

c) In case upon which the presentation of some of the aforementioned documentation is not possible (under a' or b;) due to the fact that provably the foreign tax authority doe not issue them, then a certification by any other public or municipal or other acknowledged authority is required according to which the permanent and stable residence of the specific person to the other state will be proved for the time period which is mentioned in article 3 par. 1 (a) hereof.

3. Especially regarding the proof of the capacity of the “relative person” provided that it does not emerge from the files of the Tax Administration, the presentation of a certificate or affirmation or any other document issued by a public authority of abroad or of the domestic State is required.

4. The aforementioned foreign documents, as they are defined in the provisions of article 1 under L. 1497/1984 (A'uthority of abroad or of the domestic State is required.

4. The aforementioned foreign documents, as they are defined in the provisions of article 1 under L. 1497/1984 (A'188) shall be presented in compliance with the international legislation (Regulation EU 2016/1191), apostille seal, consular Visa, Visa issued by the Greek Consulate, as per those stipulated by international agreements which have been sanctioned by Law from Greece according to the occasion) and there will be admissible clear photocopies from copies of those which are sanctioned by attorneys, as per those defined in the provisions of the fourth chapter of case b, par 2 , article 11 under L. 2690/1999 (A'45) as it is currently in force or copies by the original documents sanctioned by Notaries according to the provisions in force or by a person, authority or service which has this power by the Law.

Regarding the persons, the Authorities and the carriers which conduct translations according to the current legislation, those stated in No. Δ.ΟΠΓ.Δ.1002838 ΕΞ 2020/10.01.2020 document of the Organization Directorate apply.

From the procedure of certification and translation are excluded the APPLICATIONS FOR THE IMPLEMENTATION OF ΣΑΔΦΕ, as they are in force for States by which Greece has conclude Agreements for the Avoidance of Double Taxation. Special provisions govern the APPLICATIONS FOR THE IMPLEMENTATION OF ΣΑΔΦΕ with USA, TURKEY and MOLDOVA as they are described in the Ministerial Decisions ΠΟΛ.1107/1999, ΠΟΛ.1092/2005, ΠΟΛ.1210/2015 respectively for each State.

5. Regarding the examination of the requirement b'par.1 of the article hereof, those stipulated by the joint Ministerial decision by the Ministers of Finance and Development and Investments are implemented, upon which the selected investment categories are determined, their duration time in Greece, the procedure of proof of the investment, the observation of the maintenance of the investment and any other necessary detail.

Provided that it concerns a natural person who has acquired and maintains a residence permit for investment activity in Greece, according to the provisions of article 16 under L. 4251/2014 , as it is in force, the presentation of the specific residence permit is sufficient.

Article : 4

Article 4

Inclusion procedure in the provisions of article 5A under L. 4172/2013

1. The natural person who intends to transfer his tax residence in Greece and to appertain to the alternative income taxation type which emerges for natural

persons abroad according to the provisions of article 5A under L. 4172/2013 is obligated to submit an application ,the latest until the 31st of the month of March of the current fiscal year, at the Department Γ1'- Implementation for Alternative Taxation for Tax residents in the Domestic State by the Tax Office of Residents Abroad and Alternative Taxation for tax residents in the Domestic State.

By the aforementioned application the applicant co-submits the relevant documentation as per case, according to those predicted in paragraphs 2 and 3 of article 3 hereof. Within the same deadline natural persons who fulfill the requirements of paragraph 1 , article 3 hereof, and they have transfer their tax residence Greece within the previous fiscal year can submit an application as well.

The application for the current year is received even if it is not accompanied by the predicted relevant documentation during the time of its submission. The taxpayer can present the relevant predicted documentation for the completion of the file within the deadline of sixty (60) days which is predicted by the law regarding the issuance of the decision.

At all cases and granted that for each year the dead of Administrative Determination is required to be issued the latest until the 30th of June of the familiar fiscal year, in order for the tax to be paid until the last working day of the month of July, it is admissible that documentation can be received until the last working day of the month of May of the current year.

Applications which are submitted after the 31st of March and documentation which are submitted after the 31st of May they are admissible and examined for the inclusion of the taxpayer in the alternative income tax type which emerges abroad for the next fiscal year.

2. The natural person , upon his application, can request the extension of the implementation of the specific article to his relative person, as pert the meaning of case 6 (στ') article 2 under L. 4172/2013 , within the same deadline under the condition of a written consent either via the relative's in person attendance during the submission of his application or by a verified signature of the relative person by any administrative authority or Citizen's Service Center (CSC) (article 11 par. 1 under L. 2690/1999 as it is in force). In this case the assistance of the requirements of case b par. 1 article 3 hereof, for each of the relative persons it is not examined.

Regarding minors, unmarried children of the taxpayer, provided that they live with the natural persons the request for the extension of the implementation of the provisions of article 5A under L. 4172/2013 it is not required and to be submitted a relevant application, since it is inferred, that they have the same tax residence with the natural person. The extension of the implementation of

the above provisions regarding these children can be requested with a simple application of theirs, during the year upon the eighteenth(18) year of age is completed. In case a marriage or a civil partnership with the taxpayer who requested the inclusion of his relative persons in the provisions of article 5A under L. 4172/2013 is interrupted the inclusion of the relative persons into the relevant provisions ceases as well.

3. The Tax Administration, since it receives the aforementioned application and documentation is obligated to complete the relevant electronic application following the directives of the Directorate of Development of Tax Applications by the General Directorate of Electronic Governing by the Independent Authority for Public Revenue. The relevant electronic application is completed at all stages of the inclusion procedure of the taxpayers in the provisions of article 5A under L. 4172/2013.

4. The Tax Administration examines the application within sixty (60) days and issues a decision regarding its approval or its rejection, In case the documentation for the application are submitted by the applicant until the 31st of May, the decision of the Tax Administration is issued the latest until the last working day of the month of June of the familiar year. Upon the approval of the application the natural person is considered a tax resident of Greece according to the provisions of article 4 under L. 4172/2013 for the fiscal year for which his application is submitted and for fifteen (15) fiscal years. The Tax Administration in its explicit decision of approval for the inclusion of the taxpayer in the provisions of article 5A under L.4172/2013 informs him that this inclusion is cancelled ipso jure following the expiration of fifteen (15) fiscal years and it cannot extent any further.

5. The Tax Administration informs the tax authorities of the State in which the natural person has his last tax residence until the submission of his application, regarding its transfer according to the provisions of the international administrative cooperation as they are in force.

6. The provisions of article 5A under L. 4172/2013 are implemented under the condition that the investments of case b paragraph 1 , article 3 hereof are materialized upo aforementioned provisions come into force, viz. from the 12th of Decekmber 2019 and henceforth. Inclusion applications in these provisions can be submitted either with the beginning of the investments or the latest until three (30 years following their completion.

7. The inclusion of a taxpayer and his relatives in the provisions of article 5A under L. 4172/2013 does not result to the ipso jure alteration of the tax residence of other persons who are related to them except for the persons who are appertain to these provisions.

Article: 5

Article 5

Issuance of Deed of Administrative Determination and Tax payment

1. Provided that it is admissible, according to the procedure which is predicted in article 4 hereof, the inclusion of the taxpayer to an alternative taxation type for the income which emerges abroad the natural person pays each fiscal year , a flat tax, independently of the income height which was acquired abroad and it is estimated at the amount of (100.000) euro. Regarding each relative person for which the inclusion to the alternative taxation type was requested and approved, at tax amount equal with twenty thousand euro (20.000) is paid and the provisions relevant to donations, inheritances and parental grants are not implemented.

2. Upon the approval of the taxpayer's application and the latest until the last working day of June of the familiar year a Deed of Administrative Determination for the tax is issued regarding the first year of inclusion in the provisions of article 5A under L. 4172/2013, according to article 32 par.2 under L.4174/2013 regarding the taxpayer and each relative person of his for which the implementation of the article hereof is extended. Regarding this year, the aforementioned natural person is obligated to attribute the flat tax amount within thirty (30) days upon the approval of his application.

3. For each one of the years following the implementation of the above provisions and under the condition that the taxpayer and his relative persons continue to appertain to the above provisions a Deed of Administrative Tax Determination is issued the latest until the last working day of the month of June of each current year according to article 32, paragraph 2 of L. 4174/2013.

The Deed of Administrative Tax Determination is issued for the total tax obligation in the name of the taxpayer with the names of the relative persons written in it who appertain in the provisions of article 5A under L. 4172/2013 and the flat tax amount corresponding to each one of them.

4. Especially, for the children of the taxpayer for whom, according to par.2 article 4 hereof an inclusion application to the provisions of article 5A under L. 4172/2013 is not required and the flat tax amount of twenty thousand euro (20.000) is not owed.

5. The tax of the article hereof is paid each fiscal year in one (1) installment until the last working day of the month of July and it is not offset with other fiscal obligations or any credit balances of the persons which appertain to the alternative taxation type. Any tax which may have been paid by the same aforementioned persons abroad for the incomes which are covered by the

alternative taxation type is not offset with any other tax obligation of theirs in Greece. Regarding the due payment of this tax the provisions of L. 4174/2013 are implemented as they are in force.

6. The natural person which appertains to the provisions of article 54A under L. 4172/2013, provided that in some fiscal year and the latest until the 31st of December of this year does not pay the the entire flat tax amount which is defined in par. 1, ceases to appertain to the provisions of the aforementioned article upon the familiar fiscal year and henceforth he is taxed for his global income based on the provisions of L. 4172/2013.

7. By the payment of the aforementioned flat tax amount any tax obligation of the natural person who appertains to the provisions of the alternative taxation expires regarding the income which emerges abroad and the natural person is releases from inheritances tax, or donation of assets which is located abroad.

Article : 6

Article 6

Application for revocation

1. The natural person, at any fiscal year during the period of the predicted period in par. 4 , article 4 of the present inclusion period to the alternative income taxation type abroad, can submit an application for the revocation of his inclusion in the above provisions.

The revocation application is submitted by the taxpayer until the 31st of the month of March of the fiscal year for which a revocation of the inclusion in the alternative income taxation type abroad is requested and the relevant electronic application of par. 3 article 4 hereof is informed by the Tax Administration.

2. In case of revocation the natural person appertains to taxation according to the general provisions for the fiscal year within which he submits the revocation application and henceforth he is not obligated to pay the defined flat tax amount for this year. Following the submission of the revocation application a new application of inclusion in the alternative taxation type fro incomes abroad cab be admissible according to the following terms and conditions:

a) If the investment is completed, a new inclusion application can be submitted anytime within the time period of par. 4 , article 5A L. 4172/2013 without a new investment to be requested and provided that it is admissible, it shall be valid for the remaining years which are necessary for the completion of the aforementioned time period viz, until the completion of fifteen years from the initial inclusion in the provisions of article 5A under L, 4172/2013.

b) If the revocation takes place within the three year deadline which is predicted for the completion of the investment and the investment is not yet completed, under the condition that the taxpayer remains a tax resident in Greece he can submit a new application and provided that it is admissible the taxpayer shall appertain anew to the alternative taxation type for as many years are missing in order for the time period of par. 4 article 5A under L. 4172/2013 to be completed and under the condition that the investment is completed within the time which is missing from the initial three year period.

c) If the revocation takes place within the three year deadline which is predicted for the completion of the investment without the investment being completed and the taxpayer in the meanwhile is established as a tax resident abroad, he can submit anew an application only following the completion of the initial investment and provided that the application is admissible , the taxpayer shall appertain anew to the alternative taxation type for the years which are remaining until the completion of the fifteen year period and under the condition that he will proceed to a new investment based on case b' parr. 1, article 5A under L. 4172/2013.

3. A revocation application of the natural person automatically results to the revocation of the inclusion in the provisions of article 5A under L. 4172/2013 regarding his relative persons. The relatives of the natural person can submit a revocation application in their name without this application to affecting the rest of the appertaining persons to the provisions of article 5A under L. 4172/2013. A revocation application be submitted by the natural person on behalf of his relative natural persons for whom he requested the extension of the implementation of the relevant provisions, following a relevant authorization.

Article :7

Article 7

Income Tax Declarations

1. The income tax declarations for the taxable income of the person who appertains to the provisions of article 5A under L. 4172/2013 which may merge in the domestic State , as per the meaning of par. 1 5A under L. 4172/2013 is submitted and the tax payment is conducted according to those stipulated by article 67 under L. 4172/2013 whereas for the incomes which emerge abroad according to article 5 under L. 4172/2013 and which are included in the alternative taxation there is no obligation to be declared.

2. The Tax Administration during the determination of the difference which emerges between the imputed income and the total income of the taxpayer , as per paragraph 1 of article 30 under L. 4172/2013, it is obligated to take into

consideration the written in the declaration amounts of money which are proved by legal receipts. The taxpayer who appertains to the provisions of article 5A under L. 4172/2013 bears the burden of the receipt regarding the amounts which, amongst others, are the introduction of foreign currency which is not declared necessarily in the Bank of Greece provided that its acquisition abroad is justified. According to those stipulated in the subcase δδ' , case δ' , par. 2 of article 34 under L 4172/2013 the justification regarding the acquisition of the aforementioned exchange is not required for persons who appertain to the provisions of article 5A undr L. 4172/2013.

3. Those stipulated by the No. Δ.ΟΠΓ.Α 1115805 ΕΞ 2017/ 31.07.2017 decision by the Chief of the Independent Authority for Public Revenue “ Transfer of competences and authorization for signing “ By Chief’s order” to bodies of the Tax Administration” as it was amended, completed and in forced towards the Competent Tax Office for the receipt of tax declaration of natural persons, are in force for the persons who have appertained to the provisions of article 5A under L.4172/2013.

Article: Article 8

Article 8

Investment completion.

1. Following the end of three (3) years upon the date of the application submission to the provisions of article 5a undr L. 4172/2013 the taxpayer is obligated to appear to the Tax Office for Residents Abroad and Alternative Taxation for Tax Residence in the Domestic State, with the necessary documentation which prove the completion of the investment in order for the aforementioned lin par. 3, article 4 electronic application to be informed and to continue his inclusion his inclusion to the regime of alternative taxation under article 5A , L, 4172/2013. The taxpayer is obligated to present to the Tax Office for Residents Abroad and Alternative Taxation for Tax Residence in the Domestic State the relevant documentation regarding the completion of the investment within a deadline of six (6) months upon the expiration of the three (3) year deadline. Provided that the completion of the investment emerges from the data which are available to the Tax Authority , the taxpayer is not obligated to present relevant documentation for these investments,

2. Under the reservation of those stipulated in article 6 hereof, for the cases regarding the submission of the revocation application, in case where the investment of case b par. 1, art. 3 hereof, is not completed, the inclusion of the taxpayer in the regime of the alternative taxation for the income of abroad origin is annulled and he appertains to taxation according to the general

provisions of L. 4172/2013 from the first year of his inclusion at the above regime. The flat tax amount which have been paid are non refundable.

Article :9

Article 9

1. The aforementioned apply for the inclusion application to the provisions of article 5a undr L. 4172/2013 which are submitted within the year 2020 and the following and they concern the transfer of the tax residence for the years 2020 and henceforth. The investments which are required for the inclusion in the provisions of article 5A under L. 4172/2013 shall be materialized upon the entry into force of the above provisions (viz. from 12-12-2019, publication date of L. 4646/2019) and henceforth.

2, The provisions of the decision hereof are in force upon its publication date into the Government Gazette.

This decision is to be published in the Government Gazette.

Athens, 24 February 220

The Undersecretary of Finance

APOSTOLOS VESYROPOULOS

The Chief of the Independent Authority for Public Revenue

GEORGIOS PITSILIS

