

# Tax Memo 6

## Tax Legislation – Recent amendments

### Introduction

On 14 December 2011 the House of Representatives voted a number of amendments to different Tax Laws in an effort for financial reorganization of the State.

The amended laws passed are:

- *The Income Tax Law*
- *The Special Contribution for the Defence Law*
- *The Special Contributions by the Employees, Self-Employed and Pensioners of the private sector Law*
- *The Value Added Tax Law*
- *The Establishment and Operation of Independent Financial Stability Fund Law of 2011*

### **1. The Income Tax Law**

- i. Effects from shareholders' or directors' debit balances: Article 39 (Loans to directors) which was pronounced imposition of 9% interest on loans or any financial facility provided by company to its shareholders or directors or relatives up to second degree or relative, the following are imposed:

In the case of provision of loan or any financial facility from a Company to its shareholders or directors or relatives up to second degree or relative, then:

- that person is deemed to have obtained a monthly benefit in kind equal to 9% p.a. on the above facility. This amount will be included in the individual's income subject to Income Tax in accordance with Income Tax Law.
- The amount of tax on the monthly benefit in kind must be withheld from the individual's monthly salary and paid to the Inland Revenue on a monthly basis under the PAYE system.

- ii. Unpaid contributions in respect of remuneration for employees: Any wages and salaries relating to services offered within the tax year on which social contributions (Social Insurance Fund, Social Cohesion Fund, Redundancy Fund, Human Resource Development Fund, Pension Fund and Provident Fund) have not been paid in the year in which they were due will not be tax deductible for the calculation of taxable income.

In case the above contributions (including any penalties and interest) are paid in full within two years after the last due date, such wages and salaries will be tax deductible in the tax year during which they were paid.

**Effective date: 1 January 2012.**

## **2. The Special Contribution for the Defence of the Republic Law**

- i. The rate of special defence contribution on interest received or credited by Cypriot tax residents (both individuals and corporations) for the years 2012 and 2013 is increased by 3% and the new applicable rate will be 20% (previously 17%).

***Effective date: 1 January 2012 (applicable until 31 December 2013)***

- ii. Special Defence contribution will be imposed on dividends paid by a company resident in the Republic, to another company, resident in the Republic, after four years from the end of the year in which the profits which were distributed as dividends were made.
- iii. Any dividends derived directly or indirectly from dividends on which Special Defence Contribution has already been paid are exempt from Special Defence Contribution.

***Effective date: 1 January 2012.***

## **3. Special Contributions by the Employees, Self-Employed and Pensioners of the private sector Law**

Each employee, self-employed, or person operating in the private sector receiving a pension, shall pay a special contribution to the Republic in order to strengthen public finances. The contribution is a percentage levied on the gross earnings as shown in the table below.

<b>Gross monthly salary</b>	<b>Special Contribution</b>
Up to €2.500	0%
€2.501 - €3.500	2,5%
	(minimum contribution € 10)
€3.501 – €4.500	3%
€4.501 and over	3,5%

The above special contribution is calculated on the total gross earnings with no restriction or maximum limit on the amount of the levy.

For the employees of the private sector, the following are exempt from the special levy:

- Retirement bonus
- Amount paid by provident funds
- Remuneration of a foreigner who is employed by a foreign government or by an international organization
- Remuneration of foreign diplomats and consular representatives who are not citizens of the Republic
- Remuneration of Cypriot ship's crew
- Allowances paid to employees covering business expenses on behalf of an employer

Employees or pensioners, who pay the Special Contribution under the Officers, Employees and Pensioners of the State and Public Sector Law on their salaries or pensions, are exempt from the above payment.

In the case of an employee, the payment of the special contribution is shared equally by the employer and the employee. (I.e. 50% of the special contribution is paid by the employee and 50% is paid by the employer).

The special contribution paid is deductible from the taxable income of the employee/employer that it relates to.

#### **Imposition and payment of special contribution**

The imposition and payment of the special contribution will be as follows:

- In the case of an employee of the private sector and/or person receiving a pension from the private sector the amount of special contribution will be withheld from the wage or pension and will be paid to the Inland Revenue on a monthly basis.
- In the case of a self-employed, the amount of the special contribution will be declared on a form approved by the Director of Inland Revenue and paid in three installments following the same procedure and dates provided for the provisional income tax (i.e. August 1, September 30 and December 31).

***Effective date: 1 January 2012 (applicable until 31 December 2013)***

#### **4. The Value Added Tax Law**

From 1 March 2012, the basic VAT rate will be increased from 15% to 17%. The reduced rates of 5% and 8% would not be affected by this amendment.

By charging Schedule 10 of the Law, all taxable persons making taxable supplies of goods or services to non-taxable persons are obliged to issue and deliver "legal receipts".

Any person failing to comply with this regulation will be subject to a penalty equal to 20% of the value of the transaction for which the legal receipt relates to.

Any person failing to issue and deliver a legal receipt at the time of the transaction shall be deemed guilty of an offense and be subject to a fine not exceeding € 1.700 or imprisonment up to 3 years or both.

The legal receipts must contain the following information:

- i. Issue Date
- ii. ID number
- iii. Name, address and registration number of the taxable person
- iv. Adequate description of the goods and services offered
- v. Total amount payable, including VAT
- vi. For each rate of VAT, the total amount payable (including VAT) and the applicable VAT rate.

- vii. Indication of whether the transaction involves deposit payment, part consideration, cash payment or otherwise.

It should be noted that when an invoice is paid in cash, the issue of a legal receipt is not required as the cash invoice may also be used as a receipt.

## **5. The Establishment and Operation of Independent Financial Stability Fund Law of 2011**

The purpose of the Law is to establish a Financial Stability Fund with the view to improve the existing framework for managing and resolving financial crises, ensuring financial stability and recovery of affected financial institutions.

The basic levy is payable by all credits institutions incorporated in the Republic, including their branches operating outside the Republic and institutions established under legislation in a country other than the Republic and operating in the Republic through a branch.

The basic levy contribution is equal to 0.03% of the relevant liabilities of the institution affected by the law.

It should be noted that the special contribution currently paid by financial institutions equal to 0.095% of their deposits will be abolished.

***Effective date: 1 January 2013***

**January 2012**