



SPECIAL REPORT

Taxation of non-residents: issues of determination and change of tax residence

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SUMMARY

On the occasion of a large number of citizens' complaints concerning this issue, the Ombudsman has prepared a Special Report on taxation of non-residents.

The complaints investigation has given evidence that the legislative changes of recent years on the taxation of non-residents have worsened the already complex and unclear regulatory framework. Moreover, the investigation highlighted organizational, functional, interpretative and other issues that the tax authorities have attempted to address fragmentally, under pressure of existing deadlines, without taking account of either the particularities of each case or the broader changes in taxation or taxation system in general.

The report lists the basic principles governing the taxation of non-residents, particularly on the issue of tax residence, such as those resulting from the relevant legislative framework. Moreover, the specific issues faced by the Ombudsman are presented, from which the consequences of the improper management of these issues by the tax administration are made evident and recommendations are made to address them.

To address the problems identified, the Ombudsman recommends:

- Abolish immediately the provisions of article 61 par. 2 of the Income Tax Code, pursuant to which in the case of married persons the responsible one for submitting the tax return is the husband and make each taxpayer, married or not, legally responsible for the submission and the content of its tax return.
- That every taxpayer be taxed on the basis of appropriate rules, defined among other things by the actual fact of residence.
- That the spouses be free to declare their residence, for the determination of which they should bear the burden of proof as provided for and then be taxed according to the corresponding provisions, regardless of the obligation to submit a joint tax return.

- That the presumption of joint residence of the spouses be rebuttable, so that the spouses should be able to prove by all appropriate means their separate residence, when this happens.
- That the common family residence be sought case by case based on the statement of spouses, not being indisputably that of the husband.

As to the taxpayers' lack of information for their obligations and rights, the Authority proposes:

- Elaborate a comprehensive, detailed and updated tax guide for individuals, non-residents - at least in Greek and English or in another language, too, common in the Diaspora (e.g. German) - which includes the changes made in recent years. Post a guide on the website of the General Secretariat for Information Systems, enrich it with useful information and continuously update with any subsequent changes to ensure direct access for all interested persons to useful and organized information.
- Post on the website of the General Secretariat for Information Systems records of frequently asked questions (FAQs) with the most common questions for non-resident taxation issues and individual administrative solutions that could provide useful information both to regional tax services and stakeholders, accountants, lawyers, etc.
- Put into operation - at least over the period of submission of tax returns – a non-resident help desk and call center providing specialized information on tax issues relating to this class of taxpayers.

As regards the retroactive change of tax residence, the following is proposed:

- That the tax authority take initiative to send individual call to all natural persons, registered in the Tax Administration Registers as non-residents in the country, in order to update the evidence attesting to their tax residence. Individual calls could be emailed and where this is not feasible or convenient, be mailed to the residential address of the non-resident abroad or the service address.
- Use the network of consulates, Diaspora organizations, Diaspora press etc. to immediately inform the non-residents concerned, who have not declared the change of residence, to take the necessary steps.

Finally, especially on the issue of tax representative of non-residents in the country, it is proposed that this is not mandatory but optional.

The Ombudsman, with this special report, proposes solutions which will help in the correct application of the complex and constantly changing legislative framework, but also will help to correct the problems that have arisen because of this change.