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Some significant changes in the preliminary bill for the Personal Income Tax Law

Following the approval by the Cabinet of Ministers of several preliminary bills on June 20, 2014, this Labor and Employment Law Commentary summarizes some of the new personal income tax provisions that have an impact on employment relationships.

1. Anticipated entry into force

As a general rule, the preliminary bills are set to enter into force on January 1, 2015, save for certain exceptions noted below.

2. Severance pay

(i) The exemption for severance pay is restricted to €2,000 per year worked, which is computed to determine the amount of the mandatory severance pay.

This restriction will apply (i) to severance for dismissals or terminations that take place on or after June 20, 2014; however, where (ii) terminations arise from a collective layoff or collective dismissal procedure, the restriction will apply to those which were not approved or notified to the labor authority before that date.

This change would enter into force if approved on the proposed terms, on the day following that on which the law is published in the Official State Gazette.

(ii) As will be discussed below, the treatment of multi-year salary income is changed so that the reduction (which goes from 40% to 30%) for income that is generated over more than two years and is not periodic or recurring will only apply if the income is received in a single tax period.

As regards this change, and specifically for severance pay, the preliminary bill provides for a transitional regime whereby split severance payments arising from terminations of employment contracts that took place before June 20, 2014 still qualify for this reduction (subject to certain requirements). This transitional regime will also apply to dismissals that take place after that date where they result from an approved collective layoff procedure or a collective dismissal notified to the labor authority before that date.

3. Salary income

(i) Attribution for tax purposes of insurance contracts that cover both retirement and death or disability contingencies

It will be mandatory to attribute for tax purposes the portion of the premiums paid that relate to the sum at risk due to death or disability. For these purposes, "sum at risk" means the difference between the sum insured for death or disability and the mathematical provision.

(ii) Compensation in kind

- The case of non-taxability established for awards of shares by a company to its workers is eliminated.

- As regards compensation consisting of the right to use vehicles, the valuation is reduced by up to 30% for vehicles considered energy efficient. The specific rules in this regard will be established by regulations.

- As regards the valuation of income arising from the use of a dwelling owned by the payer, the preliminary bill specifies that the percentage of 5% will apply in the case of properties located in municipalities where cadastral values have been reviewed and have entered into force in the tax period or in the period of the preceding ten tax periods.

(iii) Multi-year income

- The 40% reduction for multi-year income is pushed down to 30%.

- This reduction will only apply to income that is recognized in a single tax period. The current legislation only imposes this requirement on income obtained in a notably multi-year manner over time but not on income generated over more than two years and obtained in a manner that is not periodic or recurring.

- In addition, the reduction will not apply to income that is generated over more than two years where, in the period of the five tax periods preceding the tax period in which it becomes claimable, the taxpayer obtained other income generated over more than two years to which the reduction was applied.

- The preliminary bill eliminates the references to the specific limits applicable to cases where the income arises from stock options exercised by workers but it keeps in place the general limits of €300,000 and the specific limits for severance pay for the termination of employment contracts or contracts for services.

- A transitional regime is established for salary income that arises from stock options exercised by workers. Where the stock options were granted before January 1, 2015 (given that from this date they will no longer be exempt) and they were exercised more than two years after they were granted, if, in addition, they were not granted annually, the reduction can be applied (subject to the relevant limits) even if in the period of the five tax periods preceding that in which they are exercised, the taxpayer obtained other income generated over more than two years to which the reduction was applied.

(iv) Deductible expenses

The preliminary bill includes a new case of deductible expenses in respect of "other expenses" in the amount of €2,000 per year, which will be increased in certain cases: e.g., where a change of residence takes place in cases where a job is accepted in another municipality or in the case of serving employees with a disability.

(v) Reduction for salary income

The general reduction for obtaining salary income now only applies to net salary income below €14,450 per year provided that the taxpayer does not obtain income, excluding exempt income, other than the salary income above €6,500. A scale is established whereby the further the income falls below €14,450, the larger the reduction is.

Taxpayers who would have been entitled to apply the reduction in 2014 because they accepted a job in another municipality, as worded until December 31, 2014, and continue to perform their job in the 2015 tax period, can apply the reduction as worded until December 31, 2014 in the 2015 tax period.

(vi) Personal and family allowances

The preliminary bill increases the taxpayer's allowances and the allowances for descendants and ascendants, as well as the allowance for the disability of the taxpayer and the allowance for the disability of ascendants and descendants as well as the allowance applicable to those who pay spousal and ascendant/descendant support by court decision (who are not entitled to apply the allowance for descendants).

A more detailed analysis of the main new provisions in the various preliminary bills is available in the Commentary prepared by our Tax Department.

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