

## CHANGES TO THE TAX AND SOCIAL SECURITY PROCEDURE CODE (IN FORCE AS OF 1 JANUARY 2016)

In State Gazette No. 94/04.12.2015 were promulgated certain changes to the Tax and Social Security Procedure Code (the "Code"), which enter into force on 01.01.2016.

Along with the new provisions on automatic exchange of financial information, some other amendments and supplements to the Code were introduced, a summary of which could be found below.

### Persons liable for outstanding tax liabilities and social security contributions

One of the important changes expands the range of persons liable for collecting outstanding tax and social security obligations. As of 1 January 2016 the procurist, the trade representative and the commercial proxy of a company shall be responsible for outstanding tax liabilities and social security contributions, if they have concealed any facts and circumstances relevant to the liabilities which makes impossible their collection. If the same persons have made payments or in any other way have disposed with the company's properties and as a consequence the property of the taxable person was reduced, and for that reason the tax liabilities and social security contributions have remained outstanding, these persons shall be also kept liable to the amount of the payments made or to the value of the transferred property.

### Electronically stored information

Accounting and commercial information, as well as any other documents relevant to the tax liabilities and social security contributions of the taxable persons, which are generated electronically, should be stored within the storage terms provided for the documents created on any other carriers (i.e. payroll information should be stored for a period of 50 years, accounting registers and financial statements should be stored for a period of 10 years, documents related to tax and social security audit procedures for a period of 10 years, and for a period of 5 years for any other data).

### Tax and social security information disclosure

The competent authorities who could request disclosure of information relevant to taxes and social security payments shall also include the Director of the Commission for Protection of Competition, the Director of the European Anti-fraud Office, the customs authorities, the Minister of Finance in his capacity of representative of the state in civil proceedings, etc.

### Complex administrative services

In order to improve its services to the taxpayers, the Bulgarian National Revenue Agency shall provide *ex officio* to other administrations a certificate for lack of outstanding tax liabilities of the taxable persons required in the course of various administrative procedures.

### Issuance of acts for establishment of tax and social security liabilities

The tax administration shall be entitled to issue *ex officio* acts for establishment of tax and social security obligations on the grounds of own data or data received by third persons, in case where the persons are not required by law to file a declaration for the respective liabilities, no tax audit proceedings have been conducted towards the liable person and the liability has not been paid.

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### **Deadline for execution of tax inspections by the tax authorities**

The tax authorities shall dispose of a 6-month period for execution of a tax inspection which could be prolonged with another 6-month period, if needed. Until 1st January 2016, the tax administration was obliged to observe the time period for execution of tax audit proceedings only.

### **Simplified procedure for refund of social security contributions**

Following this change to the Code provisions, the liable persons are allowed to file a request for effective refund or set-off of amounts of social security contributions. This should speed up the process of refund of the amounts given that the procedure should be completed by the tax administration within the 30-day term as of submission of the refund application.

### **Optimization of the limitation period for public liabilities collection**

The public liabilities shall be written off *ex officio* following the elapse of the 10-year period of limitation which starts as of January 1st of the year following the year in which the public liabilities should have been paid, unless as regards to deferred or rescheduled payments, or the payment has been seized upon request of the liable person. This rule shall be applicable to all public liabilities and not only to those administered by the NRA.

### **No statutory obligation of the tax authorities to hand-over a request for voluntary payment**

Before the changes to the Code, prior to the start up of execution proceedings, the competent authority at the NAR was obliged to send to the liable person an official formal invitation for voluntary payment of the obligations within a 7-day term as of its receipt. As of 1st January 2016, if the public liability has not been paid within the statutory terms, before starting the execution proceedings the competent tax authorities may notify the liable person in writing, via a telephone call, via e-mail or by making a visit at place, or in any other proper way, for the consequences of the non-payment.

Thus, without the obligation for handing over to the liable persons an official invitation for voluntary payment, the time period in which they could react and pay the outstanding amounts before the start up of the execution proceedings, is practically shortened.

### **Optimization of the procedure for imposition of a distraint on company shares**

The distraint on company shares shall be effectuated by sending a distraint notice to the Registry Agency. The distraint shall be registered according to the requirements for registration of a pledge on company shares and shall come into effect as of the date of registration with the Trade Register at the Registry Agency. Prior to the changes, the distraint notice was sent to the company and came into effect as of the date of its receipt.

### **Suspension of execution proceedings in specific cases**

A suspension of the execution proceedings would be possible if, until the date of the public sale of the respective movables or immovable property, or until the deadline for submission of bids in case of sealed bid auction, the debtor makes a deposit of 20% of the liabilities and is obliged in writing to make monthly payments to the competent administrative authority amounting to 20% of the liabilities. This new possibility is aiming to allow the debtor to keep his property subject to execution.

### **Optimization of the execution proceedings rules**

Upon sale of immovables separately or as a group, transfer of real estate rights, motor vehicles, vessels or aircrafts, as well as upon sale of movables with initial price over BGN 5000, a tender should be conducted for the purposes of the sale, etc.

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