



## **L. 3427/2005**

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### **CHAPTER 6**

Amendment, replacement and supplement of the provisions of Law 89/1967 "on the establishment in Greece of foreign commercial and industrial companies"

#### **Article 27**

Article 1 of Law 89/1967 is replaced as follows:

##### **"Article 1**

1. Foreign companies may be established in Greece pursuant to the provisions of this law in order to provide exclusively consulting services, centralization of accounting services, quality control of production, products, procedures and services, preparation of studies, designs and contracts, advertising and marketing services, data processing, receipt and supply of information and research and development services, to their associated enterprises (within the meaning of article 42e of Law 2190/1920) that are not established in Greece, and/or to their head-office.

The enterprises established are obliged a) to employ at least 4 employees at the end of the twelve-month period following the date the decision mentioned in the next paragraph is issued and b) that their annual operating expenses incurred in Greece will not be less than € 100.000 (one hundred thousand Euros).

The legal representative of the company in Greece is held jointly and in full liable with the latter for any infringement of the legislation on the entry and residence of foreigners in Greece, regardless of any criminal liability he may have.

2. A special license is required for the application of this law, which is granted by a decision of the Minister of Economy and Finance, published in the Government Gazette. The license is issued within fifty (50) days the latest from the filing of a relevant application to the Directorate of Foreign Investments in the Ministry of Economy and Finance.

3. The license granted may be revoked by a decision of the Minister of Economy and Finance, if infringements of the terms and conditions of this law are detected. Prior to any revocation, the Administration is obliged to call in writing the company to provide its views in writing for the alleged infringements within a fifteen (15) days deadline."

## **Article 28**

Article 2 of Law 89/1967 is replaced as follows:

### "Article 2

1. The gross income of the companies of article 1 deriving from the services they provide and which is compulsory collected through bank remittances, is reached with the application of a profit percentage on their total expenses and depreciations, excluding corporate income tax (cost plus method). The profit percentage is determined by the criteria of the Ministerial Decision mentioned in article 3 of this law and is set with the decision of the Minister of Economy and Finance mentioned in article 1 paragraph 2 further to the review of a Committee formed in the Ministry. The Committee consists of a counsel of the Legal State Council, serving in the Ministry of Economy and Finance, as Chairman, the Director of the Directorate of Income Taxation, the Director of the Directorate of Foreign Investments and a chartered accountant as members. The said profit percentage is reviewed every five years or even earlier if the market conditions alter significantly.
2. For the determination of the profit percentages, which cannot be less than 5% are taken into consideration, mainly, the nature of the services provided, the field of activities and the OECD

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3. For the determination of the mark up, all expenses on which the profit percentage applies shall be tax deductible for corporate income tax purposes, on the condition that they are supported by fiscal documents in compliance with the provisions of the Code of Books and Records.
4. In case where, for any reason whatsoever, the revenues of the company recorded in its accounting books are higher than the revenues determined according to the method described above, the revenues deriving by the books is taken into account."

## **Article 29**

1. Article 3 of Law 89/1967 is renumbered to 5 and replaced as follows:

### "Article 5

All public offices and authorities, as well as, private individuals owe to provide to the Directorate of Foreign Investments of the Ministry of Economy and Finance every information and assistance required for the unhindered application of this Law."

2. Article 3 is added as follows:

### "Article 3

1. With a decision of the Ministry of Economy and Finance: a) are determined the data that must be included in the applications and the necessary supporting documentation so as the companies may come under the application scope of the provisions of this Law, b) are specified the criteria mentioned in paragraph 2 of article 2, c) are determined the authorities and the procedures for the audit of the qualifying companies, as well as, the reasons for the revocation of their license d) is determined the procedure and the necessary supporting documentation for the release of the banks guarantees provided in the provisions of this law before their replacement, as well as any other necessary information required for the execution of this law.

2. It is possible, with a similar decision, to include other services of coordinative and auxiliary nature, to those mentioned in article 1 of this Law that are allowed to be provided by companies subject to the present law.

### **Article 30**

Article 4 of Law 89/1967 is renumbered to 6 and article 4 is added as follows:

"Article 4

Greek companies may also come under the scope of the provisions of the previous articles after filing the relevant application, provided that they render exclusively their services to their associated enterprises that are not established in Greece and/or to their branches abroad."

### **Article 31**

Foreign companies already established in Greece may come under the application scope of the amended L. 89/1967, as of January 1 2006, on the terms and conditions mentioned in article 27 of this Law, by filing an application with the Directorate of Foreign Investments of the Ministry of Economy and Finance by March 31, 2006. Until the license is issued these companies are governed by the provisions of this law. Residence and work permits of the foreign personnel working in companies already established under Law 89/1967 that will come under the application scope of this law, remain valid until their expiration date. After their expiration they fall under the scope of the provisions of article 17 of L 3386/2005 (Government Gazette 212 A').

### **Article 32**

1. Passenger cars, which have been imported in Greece under the provisions of Law 89/1967 should, within 6 months from the publication date of the present law, be re-exported or sent to another E.U. member state or destroyed or abandoned in favor of the Greek State or else the 20% of the

corresponding registration duty and the other duties have to be paid. The possibility of paying reduced registration duty concerns passenger cars that had been circulating without any registration duty being paid before the 31<sup>st</sup> of December 2004. For the remaining ones, the provisions of article 121 of L. 2960/2001 (Government Gazette 265 A') as currently in force apply.

2. It is prohibited the transfer of ownership or of the right to use the above cars prior to the lapse of a two year period from the publication date of this law. In case of an infringement of this prohibition the total amount of customs and tax duties relating these cars will be due.
3. Household items which have been imported in Greece under the provisions of L. 89/1967 and are still under the regime of temporary importation, if not re-exported, are considered settled provided that the beneficiaries file an application for their settlement to the competent customs authority within 6 months from the publication date of this law.

### **Article 33**

Subject to the provisions of the next article, wherever in the legislation there is a reference to the provisions of L. 89/1967, the latter is considered as amended by the provisions of this law.

### **Article 34**

Shipping enterprises already subject or to be subject to the provisions of article 25 of L. 27/1975 (Government Gazette 77 A'), are governed exclusively by its provisions and the provisions of Law 378/68 (Government Gazette 82 A') as they are in force, as well as, by the Regulatory Decisions issued under authorization of these laws, with any reference to Law 89/1967 to be considered as null and void.

### **Article 35**

As of January 1, 2006 all regulatory and individual administrative acts issued under Law 89/67, with the reservation of the provisions of article 34 are abolished.