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Newsflash

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Ministerial Decision regarding the audit procedure, infringements and fines related to the Beneficial Owner of legal entities and other legal forms

By virtue of the Decision 159477/1.11.2022 (Official Government Gazette Bulletin 5644/B/3.11.2022) of the Ministry of Finance special subjects are regulated regarding the audit procedure and infringements of the data of beneficial owners registered by the obliged persons in the Central Register for Beneficial Owners.

Audit Procedure

- The General Directorate for The Prosecution of Economic Crimes (SDOE) of the Ministry of Finance is set as the competent body for carrying out the above audit, which in its turn sets up audit teams, issuing a special form entitled "AUDIT ORDER", which is compulsorily shown to the auditee by the competent team at the commencement of the procedure.
- The audit is carried out EX OFFICIO or following a COMPLAINT, either electronically through access to the Register or on-site, in which case the auditees present to the competent teams the SPECIAL REGISTER of Beneficial Owners kept at their REGISTERED ADDRESS and all its respective legalization documents, that support, identify and evident the accuracy and adequacy of the registered data of their Beneficial Owners in the General and Special Register of Beneficial Owners.
- In the event that the audit bodies assess an infringement, they draw up an INFRINGEMENT ASSESSMENT REPORT, which constitutes the act of imposition of the sanction and sets out all the details of the audited entity, the time and place of infringement, a brief description of the infringement and the specific provision of law that was violated as well as the imposed administrative fine.
- For the determination the FINE, in the context of art. 20 par. 8 of Law 4557/2018 as in force, the following elements of the audited company/entity are taken into account:

- The net turnover during the previous year of the violation for profit-making legal entities or other legal forms.
- The number of personnel employed according to the List of Personnel registered in the Information System ERGANI, for non-profit legal entities or other legal forms.
- The auditee has the right to submit its opinion in the provided field on the form entitled "OPINIONS OF THE AUDITEE".
- The Infringement Assessment Report is signed by the auditors and the auditee. In the event of the auditee's refusal to sign, a respective reference is made by the auditors on the Report.
- The auditee may contest the Infringement Assessment Report within a period of 30 working days from its issuance, by filing an ADMINISTRATIVE APPEAL before the Head of the competent Directorate of SDOE. The decision on the appeal is issued within 30 working days of its submission.

Determination and Imposition of Fines

- On the occasion of the above, we remind the relevant fines per violation:
 - a) Non-submission of INITIAL or AMENDING DECLARATION of registration of details of Beneficial Owners.
 - b) OVERDUE initial or amending declaration of registration of details of Beneficial Owners.
 - c) INCOMPLETE or INACCURATE initial or amending declaration of the above information.
 - d) Non-maintenance in a SPECIAL Register of Beneficial AT THE REGISTERED SEAT or THE PERMANENT ESTABLISHMENT of the legal entity or other legal form of the details of the beneficial owners, as specified under par. 1 of art. 20 of L. 4557/2018.
- The fines for these violations are the following:
For each violation of paragraphs a', c' and d' a fine is imposed:
- For PROFIT- MAKING legal entities or other legal forms:

- EUR 5 000 if their net turnover is up to EUR 100 000 during the year before the infringement.
- EUR 10 000, if the turnover is over EUR 100 000 and up to EUR 700 000 during the year before the infringement.
- EUR 20 000 if the turnover is over EUR 700 000 and up to EUR 8 000 000 during the year before the infringement.
- EUR 40 000 if the turnover exceeds EUR 8 000 000 during the year before the infringement.
- For NON-PROFIT legal entities or other legal forms:
 - EUR 5 000 if no personnel is employed.
 - EUR 10 000 if up to 50 employees are employed.
 - EUR 20 000 if the personnel ranges between 51 and 250 employees, and
 - EUR 40 000 if the personnel exceed 250 employees.
- For each infringement of paragraph b above (OVERDUE SUBMISSION) the following fine is imposed:
 - EUR 100, if the overdue declaration is made within the period of 1 month from the date of expiry of the deadline.
 - EUR 500, if the overdue declaration is made beyond 1 month and up to 3 months from the date of expiry of the deadline.
 - In case of expiry of the 3 months registration deadline, the declaration is considered as non submitted and the fine of case a' above is imposed.

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This Newsletter aims to provide the reader with general information on the above-mentioned matters. No action should be taken without first obtaining professional advice specifically relating to the factual circumstances of each case.