

Social Security Law Alert

Law 4387/2016 Unified Social Security System - Reform of Social Security System

On 12.05.2016, law 4387/2016 was published in the Government Gazette (hereinafter "the Law") introducing, among others, important provisions on the reformation of the social security system.

In particular, the public law legal entity "Unified Social Security Institution (E.F.K.A.) is established and as of 01.01.2017 it incorporates all existing main social security institutions.

In addition, the Unified Auxiliary Social Security Fund (E.T.E.A) is renamed to Unified Auxiliary Social Security and Lump Sum Benefits Fund (E.T.E.A.E.P.), which consists of the auxiliary social security branch and the lump sum benefits branch.

The most important aspects of the reform, which are expected to be further clarified by virtue of the relevant decisions of the Minister of Labour, Social Security and Social Solidarity and shall regulate all necessary details for the actual implementation of the Law, are noted below.

► Pension provisions

As of 12.05.2016, subject to more specific provisions of the Law, the main pension is calculated as a sum of the National pension and the Retributive Pension.

National Pension: The National Pension is provided by E.F.K.A. to those who establish a direct or disability pension entitlement or pension entitlement through transfer in accordance with the relevant provisions. Especially, in the cases of direct pension entitlement, the National Pension is paid to beneficiaries on condition that they permanently and lawfully reside in Greece for at least fifteen (15) years, between the age of 15th and the year at which they reach the pensionable age provided by law. The sum of the National Pension, for the first implementation of the Law, amounts to € 384 and is wholly paid if the insured person has completed at least 20 insurance years.

Retributive Pension: The retributive part of the main pension (Retributive Pension) is determined on the basis of the pensionable earnings, the insurance period and the replacement rates as these are provided by the Law.



► Provisions on social security contributions

► Main pension contributions

► Employees and Employers:

Contribution rate and calculation basis: As of the publication of the Law the overall main pension contribution rate of the employee and employer, subject to any special provision of the Law, is set at 20% on employees' remuneration of any kind, with the exception of special social nature exceptional benefits for marriage, child birth, death and severe disability. Said contribution burdens the insured person by 6,67% and the employer by 13,33%.

Maximum amount subject to social security contributions: The maximum amount subject to social security contributions is set to the tenfold of the minimum basic wage of an unmarried employee over 25 years old, as provided by law. Thus, it is calculated as per provisions currently in force to € 5.860,80. This limit is also applicable in cases of multiple employment positions as regards the contribution of the insured person.

Categories subject to the above contribution: In particular, the following categories are also subject to the above main pension contribution:

- Persons who, as of the date the Law enters into force, were subject to the Unified Insurance Social Security Fund of Independent Professionals (E.T.A.A.) and provide dependent work, regardless of the time of entry into the social security system.
- The director, general director, appointed managing or joint directors, administrators of companies or partnerships, provided that they are connected on a dependent employment relationship basis for the received remuneration. The relevant contribution rates are calculated on the total remuneration.
- The persons appointed as members of the Board of Directors of Societes Anonymes and receive remuneration. The relevant contribution rates are calculated on their lump sum remuneration.
- Lawyers working under fixed paid mandate, and other persons subject to social security due to their status, regardless of the time of entry in the social security system, for the income received by virtue of the ongoing relationship of provision of services.

Transitional provisions: Any higher or lower main pension contribution rates provided until the publication of the Law are annually adjusted equally and gradually from 01.01.2017 onwards, so that as of 01.01.2020 to be aligned with the respective rates set out by the Law.

Obligations of the employers: The contributions shall be declared by the employer at the Detailed Periodic Statement, according to the existing legislation of the Social Insurance Institute - Unified Social Security Fund of Employees (IKA-ETAM), as it will accordingly apply.

Moreover, while awaiting the issuance of the relevant Ministerial Decision which shall regulate all the necessary details, as of 01.07.2016, the payments to private sector employees will be simultaneously deposited by employers together with the social security contributions and employment income tax through a bank account.

► Self-employed professionals and freelancers:

Contribution rate: As of 01.01.2017, the monthly main pension contribution rate is set at 20% for those, old and newly insured, who are subject or would be subject under legislation previously in force, to the social security of the Social Security Organization of Freelance Professionals (O.A.E.E.).

Especially for those, old and newly insured, who are subject or would be subject under legislation previously in force to E.T.A.A. as well as the self-employed graduates of higher education who are registered in scientific associations or chambers in the form of public law legal entities, monthly main pension contribution rate is set to 14% for the first two years from their first entry in the social security system, to 17% for the next three years and to 20% after the 5th year of their entry in the social security system. However, the total amount below the rate of 20% during the first five insurance years, constitutes a social security liability calculated on the monthly income incremented by the annual wage change rate, as defined by the Hellenic Statistical Authority, and must be repaid by the liable person at a later stage as provided by the Law.

Basis for the calculation of the contribution: The above rates are calculated on the monthly income, as it defined on the basis of the net taxable income from the performed activity during the previous financial year.

Especially, for the members of partnerships, the annual income is defined as the product of the total company's profits multiplied by the participation rate of each member. . In the event of losses or zero dividends, the members of personal companies pay contributions on the minimum calculation basis and according to the maximum amount subject to social security contributions as defined above.

Minimum and maximum amounts subject to social security contributions: The minimum basis for calculating the contribution rate is set as per current minimum wage provisions to € 586,08. In particular, for those who are subject or would be subject under legislation previously in force to the E.T.A.A. social security as well as self-employed graduates of higher education who are registered in scientific associations or chambers in the form of public law legal entities, the minimum basis is set to 70% on the respective minimum basic wage of an unmarried employee over 25 years old as provided by law.

The maximum limit of insurable monthly income is set as per current provisions on minimum wage to € 5.860,80 (tenfold of the amount which corresponds to the minimum basic wage of an unmarried employee over 25 years old as provided by law).

Categories subject to the social security contributions stated above: In particular, the following categories are also subject to the above main pension contribution:

- ▶ The members or the shareholders of Organizations, Joint Ventures or any other type of companies, except for the Societes Anonymes and Private Capital Companies, whose purpose constitutes an activity for which the acting persons were subject to the social security of O.A.E.E. (professional, craft or commercial activity).
- ▶ The members of the Board of Directors of societies anonymes with professional, craft or commercial business activity throughout Greece, on condition that they are shareholders by a minimum of 3%.
- ▶ The administrators of a private capital company (IKE) who were appointed by the articles of association or a partners' decision.
- ▶ The sole partner of single-member private capital company (IKE).

Self-employed professionals and freelancers with income arising from one or two natural or legal persons: For those who are remunerated through invoicing of services and whose income derives from their provision of services to one or two persons (natural or legal), the employees and employers provisions as regards the rate, calculation method, and liable person for the contributions, are also applicable.

Transitional provisions:

- ▶ Any higher or lower main pension contribution rates provided until the publication of the law, are as of 01.01.2017 onwards annually & equally adjusted, so that as of 01.01.2020 to be aligned with the respective rates set out by the Law.
- ▶ The fixed monthly contribution, the social security contribution sum, as well as the social security categories or classes or earnings, on the basis of which the monthly contribution rate is calculated, for those subject to E.T.A.A. social security [Engineers' and Public Contractors' Pension Sector (T.S.M.E.D.E.), Medical Personnel Social Security and Pension Sector (T.S.A.Y.), Lawyers' Social Security Sector (T.A.N.)], as provided by law until 31.12.2015, remain the same until 31.12.2016, except for the contribution for the special increment of T.S.M.E.D.E, as well as the contribution for the single pensioners sector of T.S.A.Y. which are abolished as of 01.01.2016.

▶ Health care contribution

▶ Employees and Employers:

As of 01.01.2017 the overall health care contribution is set to 7,10% on employees' remuneration of any kind which burdens the insured person by 2, 55% and the employer by 4,55 %.

► **Self-employed professionals and freelancers:**

As of 01.01.2017 the health care contribution for self-employed professionals and freelancers is set to 6,95% on the insurable income and burdens in whole the insured person.

Especially for those subject to E.T.A.A. social security and for self-employed graduates of higher education who are registered in scientific associations or chambers in the form of public law legal entities:

► The minimum social security contribution calculation basis is set to 70% on the respective minimum basic wage of an unmarried employee over 25 years old as provided by law.

► As of 01.01.2017 the health care contribution for the first two years as of the day ntry into the social security system\)) is set to 4,87% and for the next three years to 5,91% on the insurable income.

Transitional provisions: In cases where the health care contribution rate is higher or lower than the one provided above, it is equally adjusted yearly until 31.12.2019, so that as of 01.01.2020 to be aligned with the respective rates set out by the Law.

► **Auxiliary social security contributions**

► **Employees and Employers:**

From 01.06.2016 until 31.05.2019, the monthly contribution to E.T.E.A. for all employees, insured before or after 01.01.1993, is set to 3,5% for the insured person and to 3,5% for the employer calculated on the insurable earnings of the employee. From 01.06.2019 to 31.05.2022 said contribution, is set to 3,25% for the insured person and to 3,25% for the employer calculated on the insurable earnings of the employee. After the lapse of six years he monthly contribution returns to the rate applicable on 31.12.2015.

► **Self-employed professionals and freelancers:**

From 01.06.2016 until 31.05.2019, the monthly contribution for all self-employed professionals and freelancers, insured before or after 01.01.1993, is set to 7% on the income, from 01.06.2019 to 31.05.2022 is set to 6,5% of the insurable income. After the lapse of six years the monthly contribution returns to the rate applicable on 31.12.2015.

► **E.T.E.A.E.P. Lump sum benefits sector contributions**

As of 01.01.2017 persons who had been subject to the social security of funds, sectors, branches and accounts of welfare that are incorporated into E.T.E.A.E.P. as well as those who for the first time after the afore-mentioned incorporation are employed or become subject to the social security system under the general or special provisions of the above welfare funds, are mandatorily subject to the lump sum benefits sector of E.T.E.A.E.P.

As of 01.01.2017 the resources of E.T.E.A.E.P. are:

a. Revenues deriving from the contributions to funds, sectors, branches and accounts of welfare that are incorporated into E.T.E.A.E.P, property revenues and return on capital and reserves thereof as well as any revenues or resources provided by applicable legislation.

β. Revenues deriving from social security contributions. For the relevant rates and calculation method as regards insured persons before 31.12.1992, the relevant institutional provisions of the incorporated social security funds, sectors, branches and accounts of welfare are applicable as currently in force.

For those insured as of 01.01.1993 and onwards, the contribution rate is set to 4% and is calculated on the insurable earnings for employees and the insurable income for self-employed professionals and freelancers as defined above.

► **Transitional provision for persons insured with etaa for over 5 years**

Especially for the timeframe from 01.01.2017 until 31.12.2020 (inclusive), the amounts of monthly social security contributions paid to the relevant main and auxiliary insurance institutions, lump sum benefits and for health care, by freelancers of ETAA, as shaped onwards, are reduced as per the respective provisions of the Law.

► Provisions for the rights of the counter party to a civil partnership agreement

The partners of a civil partnership agreement are considered equal to spouses, with respect to the recognition of rights, benefits or constraints, as per the provisions of the law or in general the social security or benefits legislation.

► Provisions for a common registry for contributions - income tax

The Law provides the establishment of a common registry of the persons or entities who are obliged to pay social security contributions and income tax through the decision of the Ministers of Finance and Labour, Social Security and Social Solidarity. Said registry will include and harmonize the processes for registration, re-turns, payment and certification of payment of income tax and social security contributions.

► Provisions for an objective system for imputed calculation of contributions

The Law provides the option of a Presidential Decree, further to a proposal by the Minister of Employment and Social Security, which shall establish an objective system for imputed calculation of the minimum number of wages and contributions' amount for each business activity as per month of operation of the business or other timeframe and based on the work performed. The cost calculated as per said system shall constitute the minimum due amount for social security contributions by rebuttable presumption.

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