

Legal Flash

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Reform of the legislative framework regulating the Occupational Insurance Funds (IORPs) | Amendments in the tax framework applicable to IORPs and the group pension plans

Law 5078/2023, recently published in the Government Gazette (Bulletin A 211/20.12.2023) introduces, inter alia, an overall and significant reform of the legislative framework regulating the Occupational Insurance Funds (TEA) as well as amendments in the tax framework applicable to IORPs and the group pension plans.

The main provisions of the new law pertain, among others, to the following:

A. Regulatory framework for the establishment and operation of TEA

Supervision

Supervision over IORPs is upgraded with the transfer of all relevant responsibilities to the Bank of Greece as of January 1, 2025 and the abolition of the current tripartite supervision system (Ministry of Labor and Social Security, National Actuarial Authority and Capital Market Commission). The Bank of Greece is now the sole competent authority for the provision of authorization for the establishment and operation of a IORPs.

Establishment

The new Law simplifies the conditions for the establishment of IORPs, upgrades their operating rules, in line with the standards of European institutions of occupational retirement provision. The key changes introduced are the below:

1. the use of model articles of association (AoA), provided by the Bank of Greece, accompanied by a subsequent reduction of the approval time of the AoA by half (from 6 to 3 months),
2. the establishment of a IORP by multiple employers (multi-employer IORPs), without requiring sectoral/professional affiliation between them.

For the first time, however, the requirement to submit a detailed programme of activities describing the main elements related to the assessment of financial sustainability and solvency of the IORPs – especially the available assets and the nature of the risks and benefits - is introduced.

Entitlement for the receipt of pension benefit

The minimum conditions for receiving pension benefits from IORPs are as follows:

- a. retirement from the main insurance institution, irrespective of the period of participation in the IORPs,
- b. reaching the age of 62 years, irrespective of the period of participation in the IORPs (as this age limit is set each time for the receipt of a full pension from the main insurance institution);
- c. reaching the age of 55 with at least 20 years of participation in the IORPs, or irrespective of the years' of participation in case the employment relationship
- d. termination of employment without the employee's will.

IORPs may provide stricter conditions for the receipt of the pension benefit than those set out above.

In case of pension benefit plans whose members bear the investment risk, individuals of 62 years old or 55 years old with at least 20 years of insurance with an IORP, who continue to work, may, upon request, receive 50% of the value of their account at the time of application as an advance payment. The remaining amount of the pension benefit remains in their account, in which they continue to pay the relevant contributions.

Voluntary Exit

Any member may voluntarily exit from IORPs, or from a specific IORP programme, at any time. However, a minimum of one year from the date of enrolment is required to be entitled to receive any pension benefit. If a member chooses to exit before the minimum period of one year, he/she shall receive the lesser of the nominal value and the accumulated value of the investments of his/her paid contributions relating to the pension benefit.

Supervisory Board

For the first time, an explicit legislative provision is introduced, regarding the obligation of the IORPs to have a Supervisory Board. The said Board has a supervisory role, which is distinct from the management role of the Board of Directors, and its members are independent of the members of the Board of Directors. The Supervisory Board should prepare an annual report on the financial management of the Board of Directors, which is submitted to the Board of Directors and is available to all the members and beneficiaries of the IORP.

Good Governance

New requirements are incorporated beyond those already specified, including the obligation to have a whistleblowing and a conflict-of-interest policy, as well as the requirement to define the general principles for core functions of the IORPs, which are: the risk management, internal audit and the actuarial.

Reorganisation & Liquidation

For the first time, the conditions and criteria for the adoption of reorganisation measures, the consequences and the possibility of terminating the operation of a pension scheme are described in detail.

B. Tax and other provisions

With the new provisions, the tax framework of the collective pension saving products is amended. Particularly, uniform tax treatment is introduced for the contributions and benefits provided by the IORPs and the group pension plans with the ultimate goal, as stipulated in the said provisions and the explanatory report of the law, of avoiding distortions in competition arising from the existence of different tax treatments of the above products. In addition, a maximum amount of permissible contributions paid for the above collective pension schemes is introduced, in an effort to avoid circumvention of the law provisions and particularly as clarified in the explanatory report, to ensure that the said savings are not detrimental to the rest taxpayers.

The most important provisions of the new law, among others, are the following:

Maximum Amount of Contributions and Premiums

The maximum contributions and premiums paid to IORPs, Mutual Aid Funds and the contributions made by both the employee and the employer for the employee's participation in group pension plans are not allowed to exceed in total per year the following:

In case of employees: 20% of their gross employment income.

In case of freelancers' and self-employed individuals: EUR 20 000, adjusted each year according to the consumer price index as of December 31.

These maximum amounts of contributions do not apply to existing group pension schemes with defined benefit.

The above apply for contributions paid in the fiscal years starting from 01.01.2024 onwards.

Based on the final provision, it appears that the bonuses, which were initially excluded based on the draft law from the calculation of the maximum amount of contributions for IORPs and group pension plans, are now included.

However, further clarifications are required as to the calculation of gross employment income on which the maximum amount of contributions should be calculated.

Exemption from employment income

The contributions paid to IORPs including the employee's and employer contributions for IORPs as well as the employee's and employer's contributions to group pension plans are excluded from the employment income as long as they do not exceed 20% of the gross employment income, unless any excess amounts are required by the competent supervisory authority.

In addition, the contributions paid to IORPs for the medical and pharmaceutical insurance of the employee or the life risk or incapacity insurance up to EUR 1 500 annually and per employee are also exempt from employment income.

The above apply for income earned in the fiscal years starting from 01. 01.2024 onwards

Tax rates

The Law introduces uniform tax rates for premiums paid under group pension insurance policies and pension benefits paid under IORPs and mutual funds, which are taxed at source and are not included in the income tax scale. In particular, progressive taxation, according to the years of insurance in the respective pension plan is provided, as follows:

Years of insurance (contributions)	Lump-sum benefit	Periodic benefit (pension)
Up to 5 years	20%	10%
5-10 years	15%	7,5%
10-20 years	10%	5%
20+ years	5%	2,5%

Based on the new provisions, the increase of 50% of the rates of the above cases is still valid, in case of collection of the amount of early liquidation of the individual account by the beneficiary.

As clarified by the new Law, the said tax rates apply from 20 December 2023 onwards apart from the individuals who receive benefits for the first time in the context of an existing group pension plan defined benefit, where the said rates apply from 01.01.2024 onwards and regardless of the capacity in which the beneficiaries were insured (salaried employee / self-employed).

The accumulated amounts per individual in group pension plans as well as in IORPs up to 31 December 2023 are treated based on the previous tax framework whereas for the calculation of the tax due for the new amounts accumulated from 1 January 2024 onwards, the total time lapse in the group pension plan or the IORP is taken into consideration.

C. Retirement provisions

The same law regulates certain issues related to retirement pension. In particular, the main changes are summarised below:

Employment of Pensioners

From 1.1.2024, the 30% reduction of the main and supplementary pension is abolished. The pension will now be paid in full to all pensioners who choose to reintegrate into the labour market, either as employees or as freelancers. This scheme covers e-EFKA old-age pensioners, disability pensioners (from a common disease, work accident, accident outside work, occupational disease), as well as old-age pensioners due to disability

Non-contributory resource

In addition to the payment of insurance contributions, the employed pensioner should pay a non-contributory resource in favor of e-EFKA, the amount and basis of calculation of which is defined separately for each category of employee. The maximum annual amount (cap) of the non-contributory resource is set at 12 times the national pension, as applicable.

Let's talk

For a deeper discussion of how the Law 5078/2023 might affect your business, please contact:



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