



REAL ESTATE & TAX LAW NEWSLETTER

A Newsletter from Valmas Associates



OVERVIEW OF DEVELOPMENTS AFFECTING SHORT- TERM LEASES IN GREECE

BY IOANNIS VALMAS

Law 4472/2017 and Decision 1187-2017/11/23, of the Governor of the Independent Public Revenue Authority (AADE) set out the current legal framework for short-term leases affecting owners of real estate property in Greece.

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SHORT-TERM LEASES - 2

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1. Law 4472/2017

Law 4472/2017, published in the Government Gazette on May 2017, introduced provisions regulating short-term leases via digital platforms. It also granted powers to the Ministers of Economy and Tourism to set limitations, had this been deemed as necessary, to specific geographical areas and for reasons of protecting ordinary tenancies/leases. Such limitations refer to the number of properties per person and on the number of days the property can be leased per calendar year. Authorization has also been granted to the Governor of Independent Public Revenue Authority (AADE) to determine the procedural technicalities in connection to the operation of the Short Term Leases Register and the Short Term Leases Platform.

2. Decision 1187-2017/11/23

Decision 1187-2017/11/23 of the Governor of the Independent Public Revenue Authority is the first decision that applies to cases of income earned as of January 1st 2017 while the procedural technicalities set by the Governor's decision have come into effect from January 1st 2018 onward. The Decision has clarified issues and questions that had arisen following the enactment of Law 4472/2017.

3. Clarifications in the light of Law 4472/2017 and Decision 1187-2017/11/23

a. Properties falling within the scope of Law 4472/2017 & Maximum Duration of short-term leases
As property is defined the apartment, detached house, (with the exception of detached houses which have been characterized as such by the annulment of the establishment of horizontal property) any other form of dwelling with structural and functional autonomy, rooms within apartments or detached houses. A further clarification is that the property may be (i) a single space or (ii) leased in parts.
Duration shall be up to one year.

b. Property Manager
As manager of a short-term lease property is defined, any natural or legal person or any legal entity that undertakes the process of posting a property on digital platforms for the purpose of short-term leasing; and generally the one that makes any arrangements for the short-term leasing of the property.

The property manager may be either the owner of the property or a possessor or a holder of the usufruct right or a sub-tenant or a third party representing the owners by virtue of special legal arrangements (parent of minor, bankruptcy trustee, will executor etc).

In essence, the property manager is obliged to comply with the obligations set out by this special regime of short-term leases vis-a-vis the tax authorities. Only one property manager is allowed per property. Therefore, in cases of joint-ownership of a property, only one of the joint owners shall act as the property manager.

c. Beneficiary of short-term lease income
It can be an individual/private person or legal entity. The Property Manager and co-owners of a jointly owned property are taxed as income beneficiaries. Exceptionally, when the Property Manager is a third party, as defined above, she/he is not the income beneficiary.

d. Property Owner

The property owner is in most cases both the property manager and income beneficiary. However, it is not always so. For example, in the case where the owner of a property has leased the property

and allows sub-letting to his/her tenant, the sub-lessor will act as property manager and income beneficiary.

The owner of the property should thus merely report/declare the long term lease between himself/herself and the sub-lessor to the standard Electronic Platform of AADE for declaring/reporting real estate leases.

Then the sub-lessor shall subsequently undertake his duties as property manager and post the make the necessary declarations.

e. General conditions for the short-term lease of property through digital platforms

(i) the property manager must be registered in the "Short Term Residence Property Registry" of the Independent Authority for Public Revenue (AADE), unless he/she possesses an Authorized License. This registration must have been made separately for each leased property by entering the data (beneficiaries of income, share of ownership etc.) necessary for the determination of the annual income per beneficiary; (ii) the registration number in the above Registry must accompany the posting of the property on digital platforms, at a clearly visible space, as well as in every marketing action and material. In the event the property manager is under an Authorized License, the display of the number of the Authorized License is sufficient.

f. Procedure of submitting short-term leases

The procedure is effectuated online at the homepage of www.aade.gr by the Property Manager, using his/her personal TAXISnet credentials.

g. Minimum necessary content of the short-term lease statement

The minimum necessary short-term lease particulars are the following: a) the registration number in the Short Term Residence Property Registry, b) the total lease fee agreed or the total amount under the annulment policy, c) the name of the digital platform through which the lease was concluded, d) the particulars of the lessee, e) the commencement and expiration date of the lease, f) the method of payment of the lease fee.

h. Deadlines for submitting short-term leases

The declarations of short-term leases shall be filed by the 20th of the month following the departure date of the lessee from the property. Amendments can be made by the 28th of February of the year income tax declarations are due and before the finalizing of the Register for Short-Term Leases.

4. Obligations for Property Owners

Property owners or usufructuaries who delegate the management of the property within the context of the short-term leases to third party property managers need a. to file a declaration of lease data with the platform, maintained by the Ministry of Finance and b. to declare the identity of the Property Manager. The above declaration precedes the registration of the property with the Short-Term Leases Registry for short-term lease properties.

Failure to do so results in them being deemed as Property Managers by the tax authorities.

In the event of multiple owners, where one is the property manager, the other co-owners are not required to file a declaration of lease data.

5. Obligations for Property Managers

The main obligations for property managers are the following:

(i) Property managers list the property for lease on digital platforms. As aforementioned, the registration number of the property with the Short-Term Leases Registry must be included in the listing with the digital

platforms and any advertisements.

(ii) Property managers shall report all the necessary information for the calculation of the annual revenue per income beneficiary. The Short-Term Leases Registry is finalized each year before the beginning of the period of filing of the annual income tax returns for individuals. Had the necessary data for the calculation of the taxable income per income beneficiary not been filled by such date, so that 100% of the income is taxed, the income percentage that has not been attributed to an income beneficiary is taxed in the name of the property manager, unless he/she has deposited the corresponding amount with the Consignments and Loans Fund (he/she is obliged to deposit with the fund income attributable to unknown income beneficiaries).

(iii) Property Managers need to report a. properties no longer been offered for short-term leases and b. themselves ceasing to act as property managers.

In case any of the above violations is assessed by the authority, the property manager must comply with the requirements set out by law within 15 days. In case the same infringement occurs within a year from the date the relevant penalty is imposed, the penalty is doubled. Had the same infringement occurred again, the penalty is quadrupled.

6. Penalties

A penalty of 5,000 EUR is imposed on property managers who:

- (i) Fail to register with the registry
- (ii) Fail to indicate the registration number or special mark (where applicable) on digital platforms or through ads on the media

Also a penalty equal to double the lease amount is imposed in case a non-accurate declaration of short term lease is made.

A penalty of 100 EUR is imposed in the event of a late declaration of a short-term lease.

Established in 2008, Valmas Associates have built a stellar reputation on the Real Estate & Aviation Sectors offering services to almost exclusively overseas businesses, organizations & individuals.



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