

Ministerial Decision 11970/B0012/POL.1203/10 (GG 2147 B'/31.12.2010)

Ministerial Decision No. 11970/B0012/POL.1203/10 (GG 2147 B'/31.12.2010) Determination of terms, prerequisites and procedures regarding the implementation of the provisions of article 71 "Patent tax incentives" of Law No. 3842/2010 (GG A'/58/23.4.2010)

THE MINISTERS OF ECONOMY - EDUCATION, LIFELONG LEARNING & RELIGIOUS AFFAIRS

With regard to:

1. The provisions:

a) Of article 52 "Establishment of general secretariats" and b) of article 90 "Examination of the expenses incurred by the regulative administrative acts" of the "Legislative Code on Government and Government Bodies" as ratified by the first article of P.D. No. 63/05 "Codification of the legislation on the Government and Government Bodies" (G.G. A/98/22.4.2005).

2. The provisions of the article 71 "Patent tax incentives" of Law No. 3842/2010 (G.G. A/58/23.4.2010).

3. Law No. 1733/87 "Transfer of Technology, inventions, technological innovations and establishment of the Greek Atomic Energy Commission" (G.G. A/171/22.9.1987) through which a private law legal entity is established operating under the name "Industrial Property Organization (OBI)", as amended, complemented and in force.

4. P.D. No. 77/88 "Provisions of the implementation of the Convention on Grant of European Patents as ratified by Law No. 1607/1986" (G.G. A/33/25.2.1988).

5. P.D. No. 248/89 "Organization of the General Secretariat for Research and Technology" (G.G. A/116/10.5.1989) as amended by P.D. No. 179/92 (G.G. A/81/26.5.1992), P.D. No. 147/94 (G.G. A/99/4.7.1994) and P.D. No. 128/97 (G.G. A/115/9.6.1997).

6. P.D. No 185/09 "Re-establishment of the Ministry of Economy, merger of the Ministry of Economy and Finance with the Ministry of

Development and the Ministry of Mercantile Marine, Aegean and Island Policy and its renaming to "Ministry of Economy, Competitiveness and Shipping", conversion of the Ministry of Macedonia-Thrace to the General Secretariat of Macedonia-Thrace under the administration of the Ministry of Interior of the General Secretariat –Thrace and the General Secretariat of Aegean and Island Policy" (G.G. A/213/7.10.2009)

7. P.D. No. 187/09 "Appointment of Ministers and Deputy Ministers" (G.G. A/214/7.10.2009)

8. P.D. No. 189/09 "Determination and reallocation of competencies of the Ministries" (G.G. A/221/5.11.2009) as amended by P.D. No. 24/10 "Redetermination of the competencies of the Ministries and amendments of P.D. No. 189/2009" (G.G. A 56/15.4.2010).

9. Mutual Decision No. D6A1142500 EX2010/26-10-2010 (G.G. B/1725/3-11-2010) by the Prime Minister and Minister of Economy regarding the reallocation of competencies to the Deputy Minister of Economy, Dimitrios Kouselas, we decide:

APPROVAL OF ENTERPRISE FALLING UNDER ARTICLE 71 OF THE LAW
NO. 3842/2010.

1. For the needs of the article 71 of Law No. 3842/2010, an "internationally recognized patent" is defined as one which has been granted and falls under at least one of the following cases:

a) European Patent that is granted by the European Patent Office (EPO) and has been consolidated in Greece.

b) Patent Certificate consolidated by the Industrial Property Organization (OBI) (excluded the Utility Model Certificates), which has also been consolidated in one more countries, a) that has acceded to the European Patent Convention (EPC) or collaborates in framework, or b) that is a member of the OECD or an accession candidate country or an enhanced engagement country. Patent Certificates must be valid at least until the last usage date for which the income tax exemption has been requested.

2. The Industrial Property Organization (OBI), which was founded with the article 1 of Law No. 1733/87, shall be the certification body of the internationally recognized and valid patents.

3. The provisions of the article 71 of Law No. 3842/2010 also concern newly-established or subordinate enterprises to which the founder, shareholder or partner (natural or legal entity) contribute an internationally recognized patent, during their establishment or increase of their share or company capital, pursuant to the provisions herein. The valuation of the contribution shall be conducted by the commission of the article 9 of Legislative Law No. 2190/1920.

4. When the internationally recognized patent concerns a part or component of the manufactured product, this patent must contribute to the cost that represents the product's manufacturing materials, at a rate of thirty per cent (30%) and more.

5. The application for compliance is submitted by the interested enterprise to the General Secretariat of Research and Technology of the Ministry of Education, Lifelong Learning and Religious Affairs, which forwards it onto OBI. After thoroughly examining the adduced supporting documentation, OBI ascertains that for the manufacture of the product or the rendering of a service, the internationally recognized patent has been used during the year that the enterprise presented income for the first time due to the sale of products or the rendering of services. It also ascertains that the internationally recognized patent has been developed by the enterprise, pursuant to the provisions herein and it issues a justified positive or negative pronouncement, which it forwards to the General Secretariat of Research and Technology for an approbated or rejected decision to be issued by the Minister of Education, Lifelong Learning and Religious Affairs. For this process, OBI may also use external experts.

The adduced supporting documentation, which must be legally attested, includes a copy of the Patent Certificate as well as its validity certification or a receipt of paid fees to the competent patent office for the uses that the tax exemption is requested. Documents pertaining from a foreign country must bear the Apostille stamp (Hague Convention, 5 October 1961), according to the provisions of Law No. 1497/1984 (A 188) or a confirmation by the Greek Consular or Diplomatic Authority.

The examination process concerning the prerequisites for compliance to article 71 of Law No. 3842/2010, incurs a fee which is levied by OBI and is determined by the decision of OBI's Board of Directors. No application will be accepted if it is not accompanied by a fee payment slip. In case of rejection of the application, the fee is not refunded.

The applicant enterprise must present all necessary evidence to prove that all preconditions of the law and the present decision are met.

6. The decision granted by the Ministry of Education, Lifelong Learning and Religious Affairs will include the name of the enterprise that shall fall under the provisions of article 71 of Law No. 3842/2010; the product or service that is manufactured or rendered, respectively; as well as the uses for which the above mentioned regulation is valid.

Furthermore, the decision will be notified to the Public Economy Service that the enterprise belongs. This decision to be published in the Government Gazette.