

# **GREECE**

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# GREECE

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## INTRODUCTION

The republic of Greece is the 10<sup>th</sup> full member of EEC by virtue of the Treaty of Athens dated 28 May 1979, a treaty that has been ratified by the Greek Parliament on July 1979 by Law 945/97. Ever since the Greek legislation has been harmonised with EC Directives.

As far as taxation is concerned, the Greek government is restrained and limited by the Constitution that came in force on June 15, 1975. More precisely the article 78 of the Constitution prescribes that:

- a. a tax may be imposed only by a law passed in the Parliament;
- b. the Parliament may not delegate its legislative power to the Government or any other authority concerning the object and the rate of taxation as well as the tax exemptions;
- c. any tax or any other economic burden may not be imposed by retroactive legislation extending beyond the previous economic year.

## HIGH-TAX JURISDICTIONS

### **I. Attitude of Fiscal Authorities towards Transactions involving Low-Tax jurisdictions.**

Current Greek tax legislation does not distinguish at all, on whether a transaction involves a Greek Fiscal Resident or a Fiscal Resident of a low tax jurisdiction.

#### **General Tax Regime**

##### **A. Companies subject to taxation**

###### Greek Companies

Société Anonymes and Companies of Limited Liability incorporated in Greece in accordance with Greek Law and having their principal place of Business in Greece, at which the basic decisions on the operation of the company are taken, are subject to Greek taxation on the whole of their income, whether arising in Greece or abroad.

## Foreign Companies

Foreign companies are taxed on net income from sources in Greece as well as on net income derived from a permanent establishment in Greece. Unless the provisions of an applicable tax treaty provide otherwise, a foreign enterprise is considered to have a permanent establishment in Greece in the following cases:

1. Maintains in Greece an office, warehouse, factory, or other place of business
2. It is engaged to the manufacture or processing of raw materials or agricultural products, either in its own plant or by using the installations and facilities of other parties acting on the instructions and for the account of the foreign company
3. It carries on business in Greece through a representative who has the right to conclude agreements on behalf of the foreign entity. A foreign company is also considered to have a permanent establishment in Greece when its business or services, though performed without a representative, relate to the performance of research work or other studies or are of a technical or scientific nature
4. It maintains a stock of goods in Greece from which it fulfils orders for its own account
5. It participates in a Greek partnership or limited Liability company

Foreign Enterprises with a permanent establishment may claim a deduction from taxable income of a proportion of their head office expenses relating to their operations in Greece. The amount of such deduction may not exceed 2% of the gross revenue in Greece.

## **B. Income Subject to taxation**

### *General*

The taxable income of Corporations with permanent establishment in Greece is determined by aggregating gross income from all sources and deducting therefrom all allowable deductions

### *Classification of taxable income*

The taxable income of a company is classified according to its source as follows:

1. Operating profits.
2. Profits from the sale of real estate
3. Profits from the assignment of rights
4. Profits from the automatic appreciation of fixed rights
5. Profits from the transfer of quotas in personal and capital undertakings
6. Profits from the transfer of the business or a branch thereof.
7. Consequential profits.

### *Allowable Deductions*

Allowable deductions include, in principle all ordinary business expenses as well as the following items specifically mentioned in the tax laws, including the following:

1. Donations to approved organisations;
2. Interest, except interest and penalties on overdue payment of taxes;
3. Taxes, except income taxes, real estate taxes, and some other taxes;
4. Bad debts written off, as evidenced by entries made in the company's books. A bad debt write-off can be taken as a deduction only after all legal means of recovering the debt have been exhausted and cannot exceed 0.5% of the gross sales;
5. Initial establishment or preliminary expenses, to the extent that such expenses are considered to be reasonable in light of the nature of the business and the volume of its transactions. The deduction allowed to resident companies for expenses incurred for technical restructuring, administrative reorganisation, and managerial support provided by other group of companies is limited to 5% of the expenses. If the amount exceeds Dr.20million, approval of the committee is required;
6. Royalties and other similar payments to foreign companies and organisations for the use in Greece of technical assistance, know-how, patents, secret manufacturing processes, and copyrights. Such payments become allowable deductions either when they are remitted to the foreign beneficiary, or when they are deposited with a bank operating in Greece in a blocked account in the name of the foreign beneficiary. For fiscal years ending 31 december1996 and subsequent years, Rule Number 2459 of 18 February 1997 imposes a new restriction on the deductibility of royalties and administrative expenses in Greece.

Trading companies are allowed to deduct royalties payable to other members of the same group only if the approval of a committee established by the ministry of finance is obtained.

Non-trading companies are allowed to deduct such royalties only up to 4% of the income derived from the using of the rights. If the amount involved exceeds Dr100million, approval of the committee is required;

7. Further deductions that can be taken into account are for transfers made to tax-free reserves under the provisions of various incentive laws. Such reserves are taxed only when distributed.

Gains from disposition of fixed assets other than land, buildings, and ships that are used for the business purposes of the company are also treated as income from commercial companies and subject to income tax accordingly. The same rule applies to unrealised gains (e.g. as the result of an asset re-evaluation) to the extent they are reflected in the corporation's books.

Capital gains derived from the sale of machinery or equipment are nor subject to tax if such gains are recorded as additional depreciation of other machinery or equipment.

Capital gains derived from the sale of securities that keep books of the third category are exempt from tax provided that such gains are transferred to a special reserve, which may be used for writing off any future losses from the sale of

securities. Losses in excess of this reserve cannot be claimed as a deduction from the taxable income, but must be carried forward to offset against future gains from the sale of securities. The amount of this special reserve is taxed if distributed.

## **C. Rates of Taxation**

### ***Corporate Tax Rates***

#### ***Greek Companies***

According to law 2579/98 all profits of Greek Corporations which are not listed in the Athens Stock Exchange shall be subject to a taxation rate of 40%. Profits of Greek Corporations listed in the Athens Stock Exchange are subject to a taxation rate of 35%.

Limited Liability Companies are taxed at a rate of 35%. This tax covers also taxation obligation for dividends distributed to shareholders

#### ***Foreign Companies***

Foreign Companies are taxed on the net income from sources in Greece as well as on net income derived from permanent establishment in Greece. In this respect the Branch offices of foreign companies in Greece are taxed on the income generated from their activity in Greece at the Tax rate of 40% (this rate, does not apply at all on the Branch offices established under Law 89/67)

#### ***Other duties***

1. Supplementary tax at the flat rate of 3% if the company's taxable income includes profits from real estate. Profits deriving from the letting of buildings used as dwellings are exempted.
2. Stamp duty at the rate of 3% on income from the letting of buildings or land
3. A contribution to the State Agricultural Pension Fund of 20% is levied on the stamp duty mentioned on the above point 2.

### ***Other Tax Rates Applied***

#### ***Direct taxes***

##### ***1. Property tax***

Legal persons irrespective of their place of registration are taxed on real estate owned in Greece on the 1<sup>st</sup> January of each year if the aggregate value of the property exceeds DRS60million. The tax rate for the legal persons is 0.7% and the value of the real property is assessed on the basis of a special calculation set forth in the law.



## 2. *Taxation of ships and shipping Companies*

Under law 959/79 (on Maritime Corporations) special provisions are made for Shipping Companies whose main object must be the maritime trade.

Branches or offices of foreign companies dealing exclusively with the management, exploitation, chartering, insurance, average adjustments, brokerage of sale, shipbuilding, chartering or insurance of ships under Greek or foreign flag may be exempted from income taxation, despite having a permanent establishment in Greece, in exchange for their obligation to import foreign currency to finance their local operation (minimum of funds imported and spent on office expenses in Greece USD50.000,00) according to Law 89/67 and 378/1968 (see also section IV)

According to Law 27/75 ships under Greek flag are divided in two categories and are taxed mainly at a flat dollar rate on their tonnage

## 3. *Capital gains tax*

According to law 2459/1997 a 20% is imposed on any profit arising from the transfer of shares not listed on the Athens Stock Exchange. The profit should be declared within a very short deadline to the competent tax authority. It should be stressed out, that only the stocks listed in the Athens Stock Exchange are exempted from this tax burden. Thus capital gains on stocks listed on other Stock markets are not exempted.

## 4. *Revaluation tax*

Enacted by law 2065/1992 imposes to companies the regular revaluation of real estate every four years starting with 1992. The overvalue offsets, at the discretion of the company, any carried-forward losses; the excess is taxed at the rate of 1% and is capitalised.

## 5. *Taxes related to stock Market transactions*

According to Law 2579/98 a 0.3% tax on the value of the transaction is imposed on the seller of stocks listed in the Athens Stock Market.

## 6. *Other special tax rates*

According to law 1921/91 a 10% withholding tax is levied on interest on bank deposits.

A 7.5% tax is imposed on interest acquired by natural or legal persons, irrespective of their nationality or place of residency, which results from treasury bills and government bonds issued after 1<sup>st</sup> January 1997.

## ***Indirect taxation***

By law 1477/1984 all indirect taxes were brought in accordance with the European Community Tax Law.

### *Value added tax*

Value Added Tax of 6%, 18% and of 36% has been imposed since 1<sup>st</sup> January 1987 by Law 1676/86.

Since 1<sup>st</sup> January 1993, in the context of the EEC single market, movements of goods between Greece and other Member States are called “acquisitions-supplies” are not treated as imports or exports.

### *Stamp tax*

Transactions not covered by VAT, mainly: reports and applications to the Government, certified copies of documents, drafts and promissory notes as well as all contracts which are made within the jurisdiction of the Greek tax authorities are subject to stamp tax. The Stamp tax is either based on the on a percentage of the value of the transaction (2.4% or 3.6%) or on a fixed amount.

### *Banking tax and capital concentration tax*

Law 1676/1986 imposed a special 3% tax on bank loans.

The same law enacted a special law of 1% on capital concentration, mainly on: establishment, conversion or merger of a company, capital increase or capital contribution.

### *Sales tax*

Special Sales Tax that applies on sales in Greece of several kinds of goods (ranging from 10% to 40%)

### *Transfer tax*

Transfer of real property suffers a tax burden of 9% on the first DR\$4million, 11% on any excess and a surtax of 2% if the property is located in an area served by a fire station. The tax is calculated on the market value of the property. In major cities the market value is calculated pursuant to official tables on the basis of certain factors such as the location, the age, the floor, the joint ownership etc. New buildings are subject to VAT.

### ***Penal provisions-Enforcement of tax laws***

Failing to fill an income tax return, making a false declaration of income, not declaring assets of an estate and not paying certain taxes is a criminal offence, punishable with imprisonment.

Penalties may vary from 25% to 300% on the additional tax, depending upon the kind of the tax involved.

Article 20 of law 1914/90 prescribes that the Minister of Finance may provide information concerning taxation matters to EEC member states and he may also request such information from other EU states.

### ***Litigation-Administrative courts***

According to Law 1406/1983 administrative courts are competent to decide over disputes between authorities and tax bearer on matters of taxation. However, litigation can be avoided if a settlement is reached at the tax office. The possibility of a tax settlement should always been taken into account, as litigation requires a 20% down payment of the total amount of the tax and/or of the penalty and the

ambiguity of the outcome of the litigation is always hindering on a procedure that may last for several years.

## II. Tax Treaty Regime

Greece has entered into many bilateral treaties for the avoidance of Double Taxation. Once ratified these treaties constitute an integral part of the Greek legal system. Although, few of them are long dated, the rest mainly follow the OECD model.

COUNTRY	DATE	DIVIDENDS	INTEREST	ROYALTIES
<b>Austria</b>	22-9-1970	-	10/0	10/0
<b>Belgium</b>	24-5-1968	-	15	5
<b>Bulgaria</b>	15-2-1991	-	10	10/0
<b>Cyprus</b>	30-3-1968	-	10	0
<b>Denmark</b>	18-5-1989	-	8	5
<b>Finland</b>		-	10	10/0
<b>France</b>	21-8-1963	-	10	5
<b>Germany</b>	18-4-1966	-	10	0
<b>Hungary</b>	25-5-1983	-	10	0
<b>India</b>	1963	-	35	20
<b>Italy</b>	3-9-1987	-	10	5/0
<b>Luxembourg</b>	22-11-1991	-	8	7/5
<b>Netherlands</b>	16-7-1981	-	10/8	7/5
<b>Norway</b>	27-4-1988	-	10	10
<b>Poland</b>	20-11-1987	-	10	10
<b>Sweden</b>	6-10-1961	-	10	5
<b>Switzerland</b>	16-6-1983	-	10	5
<b>Tchecoslovakia</b>	23-10-1986	-	10	10/0
<b>United Kingdom</b>	25-6-1953	-	0	0
<b>United States</b>	20-2-1950	-	35/0	0

It should be noted that with U.S.A. exist two Treaties:

- a. Convention for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect on taxes on Income signed on 10<sup>th</sup> February 1953, ratified in Greece by Law Decree No 2548/1953.
- b. Convention for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect on the Estate of Deceased Persons signed on 20<sup>th</sup> February 1953, ratified in Greece by Law Decree No 2734/1953.

## III. Treatment of Offshore Transactions

### A. Foreign Exchange

The Presidential Decrees 96/1993 and 104/1994 harmonised the Greek legislation with the EC currency regulations. Ever since foreign exchange and foreign bank notes are purchased and sold freely. Bank deposits, of any kind, as well as withdrawals are not restricted either for Greek nationals or for foreign nationals. Exportation of both Greek securities, dividends, coupons is free. Exports and imports are under no currency restrictions.

It should be noted that for Greek residents, in order to transfer to other EC residents foreign currency of a value exceeding 1,000ECU they must produce their Tax Registration Number and if the value exceeds the equivalent of 10,000ECU they must produce a Tax Clearance Certificate.

## **B. Foreign Corporations**

### **1. Establishment by a foreign corporation of a branch office in Greece.**

Foreign Corporations may establish a branch in Greece. There is no distinction on whether the country of origin is a low or high tax jurisdiction. An application is filed at the Department of Commerce of the local Prefecture. Documents that must be submitted are:

- Articles of incorporation;
- Corporate resolution for the establishment of the branch of the company in Greece;
- Power of attorney to the person who is appointed director of the Branch in Greece;
- Certificate of Incorporation in the country of origin;
- Certificate of good standing from the country of origin;
- Certificate of fully paid-up capital (minimum amount of fully paid up capital DRS10.000.000 , or the equivalent in any other currency ) issued by a public authority in the Country of origin;

This kind of branch is liable to 40% corporate tax and has all tax deductions and obligations as normal Greek Société Anonyme.

It is advised that foreign companies under the Société Anonyme status are preferred, as they need no other special authorisation. Foreign companies seeking an establishment in Greece under the above mentioned procedure, equivalent to Greek Limited Liability Companies, need to obtain a special permission based on the existence of a mutual agreement between their country of origin and Greece.

Once the approval has been obtained, the registration is then published in the Government Gazette.

### **2. Participation of a foreign corporation in Greek corporation**

It has been widely used in the recent years, that corporations mainly from zero or low tax jurisdictions hold some interest on Greek corporations.

#### **2.a. Participation on Greek Société Anonymes**

The participation of the foreign legal entity has no implications provided it is the Equivalent of a Greek S.A..

#### **2.b. Participation on Greek Limited Liability Companies**

Regardless of its type the foreign legal entity shall have a permanent establishment in Greece.

#### **3. Ownership of real property**

Greeks and foreigners, often proceed to the acquisition of real estate in Greece through a foreign corporation. Panama and Liberian companies have been most commonly used, however certain tax structures have been elaborated in order to avoid future possible tax implications.

##### **3.a. Deemed income of the corporation**

Unless the real property is rented, the fact that its use is granted for free to a physical person or any other legal entity generates a deemed income. The tax rate for the legal persons is 40% on the rental income and the rental value of the real property is assessed on the basis of a special calculation set forth in the law.

### **C. Other Vehicles Facilitating Offshore Transactions**

#### **1. Ownership of Real Property in “Frontier Areas”**

Pursuant to the Royal Decrees of 1927,1928 and 1932, aliens were not allowed to conclude juridical acts in the frontier areas. Nevertheless, law 1892/ 1990 introduced some modifications and now determines the conditions for conclusion of juridical acts in such areas.

According to the provisions of this law, any inter vivos juridical act which constitutes real rights or contractual claims in favour of natural or legal persons on the frontier areas is prohibited. Furthermore, the assignment of shares or parts of any type of company, which owns real estate in this area, as well as any change in partners of such companies, is prohibited.

Legal and natural persons with Greek nationality, ethnic Greeks, including Cypriots, as well as EC nationals, may apply for an exemption.

A special committee, which is composed of the Prefect and representatives of the Ministry of Defence, the Ministry of Economy, the Ministry of Public Order, and the Ministry of Agriculture is competent to grant such an exemption.

Legal or natural persons originating from third countries can also, upon request, obtain the above-mentioned rights after decision of the Ministry of Defence that is scarcely the case.

In this respect, the suggested vehicles are either Greek companies with EC incorporated legal entities, as their holding companies, or EC incorporated (UK or Ireland) companies, or Cypriot Companies.

“Frontier areas” are considered to be: (a) the districts of Samos, Chios, the Dodecanese, Evros, Florina, Kastoria, Kilkis, Lesbos, Rodopi, Thesprotia and Xanthi; (b) the province of Nevrokopi of the district of Drama, the provinces of Konitsa and Pogonio of the district of Ioannina, the provinces of Almopia and Edessa of the district of Pella; and the province of Sintiki of the district of Serres and (c) the islands Santorini and Skyros , including such islets as fall with their administrative jurisdiction.

#### **IV. Permissible Devices for Utilising Low-Tax Jurisdictions**

##### **1. Establishment in Greece of foreign commercial and industrial companies under law 89/67**

Foreign Commercial and Industrial Companies of any type or form legally operating in the country of their registration and dealing exclusively with commercial business whose object lies outside Greece , may be established in Greece following special permit granted by the Minister of Coordination.

An application is submitted to the Private Investment Division and should mention :

- a.the company’s Nationality;
- b. the form under which the Company is operating in the country of its registration;
- c. the form under which it will operate in Greece (branch office,agency,or office of the parent company)
- d. the Company’s object;
- e. the name of the person who will be in charge in Greece;
- f. deposit of a bank guarantee from a Greek or a foreign bank of acknowledged standing which will be forfeited in favour of the Greek State in case of breach of the provisions of Law 89/67 by the company’ s personnel.

The application has to be submitted and signed by a Greek Attorney at Law.In case that the person in charge of the Company’ s office in Greece is not a Greek National , a Greek Attorney at Law should be appointed as such in order to receive all official correspondence.

Foreign and Industrial Companies which have obtained an establishment permit shall , without any formality , be entitled to the following facilities concerning residence permits, custom duties , taxation and other matters , provided they are exclusively engaged in commercial activities whose objects lie outside Greece:

- a. permission of employment and residence in Greece for the foreign personnel (the permits are without any formality issued for the period of two years and are renewable for the same period upon declaration from the Company that the persons in question are still employees of the company’ s branch) ;
- b. tax clearance certificates valid for one year , may be issued to the aforesaid personnel;
- c. total exemption of the Company from:
  - custom duties
  - import taxes

- stamp duties
- contributions
- turnover tax
- luxury tax

and any other taxes , duties or charges in favour of the State;

- d. total exemption from taxes , duties , or charges for any article necessary for equipping their office in Greece;
- e. exemption from income tax , as well as other tax , charge or contribution in favor of the State or any other third party for all persons of foreign nationality employed by the company, provided they hold a duly issued valid permit for employment and residence in Greece ;
- f. import and keep free of duty a car for the foreign personnel (every alien employee has the right to one duty free car, which will be provided with standard Greek plates);
- g. import free of duty of the household equipment for the foreign personnel;
- h. import and export without any formality of samples and advertising material of no commercial value.

**The branches or offices shall enjoy the above mentioned facilities and immunities , provided that they cover , by importing foreign exchange not necessarily assignable, their operation expenses in Greece by the equivalent of at least \$USD 50,000 and that all payments made in Greece should be made on their account or on the account of their parties.**

## **2. Foreign shipping companies establishing an office or a branch in Greece under the provisions of Law 27/75**

Branches or offices of foreign companies dealing exclusively with the management, exploitation, chartering, insurance, average adjustments, brokerage of sale, shipbuilding, chartering or insurance of ships under Greek or foreign flag may be exempted from income taxation, despite having a permanent establishment in Greece, in exchange for their obligation to import foreign currency to finance their local operation (minimum of funds imported and spent on office expenses in Greece USD50.000,00)

They enjoy the same facilities and immunities as the branches or offices established under the provisions of Law 89/67, except from the following:

- the import and keep free of duty of the car;
- the amount of the bank guarantee is \$USD 10,000 ;
- the fee of \$USD 2,000 is paid to the Greek Government upon the grant of the permit of establishment ;
- the fee of \$USD 2,000 is paid to the Greek Government every five years for the renewal of the above permit.

**The amount of \$USD 50,000 that should be spent in Greece justifies the presence of 4 aliens ( i. e. four principal residence permits ). If a fifth alien should be added as an employee of the office \$USD 12,000 more should be imported and**

spent ( i.e. for every additional employee the sum of \$USD 12,000 should be added )

## **APPENDIX 1**

### **SPECIMEN OF BANK GUARANTEE [Bank letterhead]**

To The Ministry of National Economy  
General Directorate for Private Investments  
Directorate for Foreign Capitals and  
Attraction for Foreign Capitals and  
Foreign Companies.



## Our Letter of Guarantee No

Gentlemen,

Waiving the benefit of division , we hereby , unreservedly , guarantee in favor of  
of  
which established an Office in Greece on the basis of E.L. 89/67 and 378/68 , as  
amended by L. 27/75 , 1262/82 and 1360/83 , and by virtue of Resolution No.  
IE/ of the Minister of National Economy up to the amount of:  
FIFTY THOUSAND U.S. DOLLARS (U.S. \$50.000) and/or the equivalent of thereof  
in Dracmas converted at official rate prevailing on the date of payment , for the  
faithfull observances of the articles of the above Ministerial Resolution and of the  
E.L. 89/67 and 378/68 , as amended by L. 1262/82 and 1360/83 , both by the Company  
and the Personnel of its office in Greece.

The above amount of \$50.000 will be kept at your disposal and we shall pay  
the same to you , without any objection , within three days of the date on which  
we shall be advised by the Minister of National Economy about the forfeiture of  
our present Letter of Guarantee and upon return of this Guarantee instrument  
to us.

Our present Letter of Guarantee shall remain in force during the entire period of  
operations of the Company's Office established in Greece , in whose favour  
this guarantee has been issued , and in any case until the Ministry of National  
Economy (General Directorate for Private Investments / Section for Foreign  
Capitals and Foreign Companies) issues a declaration discharging our Bank from  
every and all obligations deriving from the present letter of Guarantee.