



**GLG**

Global Legal Group

# The International Comparative Legal Guide to: Corporate Tax 2012

A practical cross-border  
insight to corporate tax work

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# Greece

Elisabeth Eleftheriades



Panagiotis Pothos



## KGDI Law Firm

### 1 General: Treaties

#### 1.1 How many income tax treaties are currently in force in Greece?

As of January 1 2011, there are 54 bilateral income tax treaties in force to which Greece is a party. Following the exchange of the necessary notifications in 1995, the treaty signed in 1986 with Czechoslovakia applies to both the Czech Republic and Slovakia. Greece's income tax treaty network covers all of the EU Member States, as well as the following countries: Albania; Armenia; China; Croatia; Egypt; Georgia; Iceland; India; Israel; Korea (Rep. of); Kuwait; Mexico; Moldova; Norway; Russia; South Africa; Switzerland; Turkey; Ukraine; the USA; and Uzbekistan. In addition, the most recent bilateral income tax treaties signed are with Azerbaijan, Canada, Morocco, Qatar, Saudi Arabia, Serbia & Montenegro and Tunisia.

#### 1.2 Do they generally follow the OECD or another model?

Almost all income tax treaties that Greece has entered into have been drafted alongside the OECD Model Tax Convention on Income and Capital. However, each tax treaty must be examined separately, since variations do exist as a result of negotiations between contracting states. By exception, the treaties with the USA and the UK deviate from the Model as they were concluded before the adoption of its first draft in 1963.

#### 1.3 Do treaties have to be incorporated into domestic law before they take effect?

Treaties signed by Greece are not automatically incorporated into Greek law. According to Article 36.2 of the Greek Constitution 1975/1986/2001/2008, treaties are domestically enacted upon ratification by virtue of a statute voted by the Greek parliament, promulgated by the President of the Greek Republic and published in the Official Government Gazette. Of course, treaties specify the dates upon which they enter into force, as well as upon which their provisions take (even retroactive) effect.

#### 1.4 Do they generally incorporate anti-treaty shopping rules (or "limitation of benefits" articles)?

Most treaties signed by Greece do not incorporate anti-treaty shopping rules or limitation of benefits articles. An exemption to the above rule is the treaty signed with Luxembourg, which

provides that its provisions do not apply to the so-called Luxembourgian holding companies. However, recent treaties to which Greece is a party (such as those in force with Belgium, Ireland, Malta, Mexico, Portugal, Spain and Ukraine) include provisions denying the granting of treaty benefits concerning interest and royalties if related payments are effected mainly for the purpose of taking advantage of treaty provisions and not for *bona fide* commercial reasons.

#### 1.5 Are treaties overridden by any rules of domestic law (whether existing when the treaty takes effect or introduced subsequently)?

According to Article 28 of the Constitution, international treaties ratified by Greece prevail over any contrary statutory provision and therefore may not be overridden by any, other than constitutional, existing or subsequently introduced rules of domestic law.

### 2 Transaction Taxes

#### 2.1 Are there any documentary taxes in Greece?

In the past, stamp duties had been the main documentary Greek tax. However, the field of application of stamp duty taxation has been significantly reduced, mainly due to its substitution by VAT since 1987. Pursuant to the applicable legislation, analogous stamp duties are applicable at varying rates (1% to 3%, which are increased by a supplementary charge, equal to 20% of each rate, levied in favour of the Agricultural Insurance Organisation) to certain transactions exempted from VAT, such as third party (non-entrepreneurs) fees, rental payments from the letting of properties used for business purposes, loan contracts (loans granted by banks are exempt), payment of directors' fees, sale of movable goods by an individual to any party, etc. On the other hand, fixed stamp duties are payable only in relation to projects, budgets, studies and reports drawn up by engineers and architects submitted to public authorities responsible for issuing building permits or approving public works projects, as well as in relation to various permits issued or renewed by public authorities.

#### 2.2 Do you have Value Added Tax (or a similar tax)? If so, at what rate or rates?

Greek VAT legislation is in line with the provisions of the Sixth European Council Directive (Greece has partially adjusted the Greek VAT Code to the provisions of the recast VAT Directive

2006/112/EC). The standard VAT rate is set at 23%, whereas the reduced rates are set at 13% and 6.5%. Furthermore, upon fulfilment of specific conditions, the above VAT rates are reduced by 30% (i.e. to 6.9% 3.9% and 1.95% respectively), as regards the islands in the prefectures of Lesvos, Chios, Samos, the Dodecanese, the Cyclades, and the Aegean islands of Thasos, Samothrace, the northern Sporades and Skyros.

### 2.3 Is VAT (or any similar tax) charged on all transactions or are there any relevant exclusions?

On the condition that the place of supply is within the Greek territory, VAT is imposed at every stage of the manufacturing and distribution process and more specifically on the following categories of transactions:

- i) supply of goods or services for consideration within the Greek territory by a taxable person;
- ii) importation of goods into Greece;
- iii) intra-community acquisition of goods, other than new means of transport, effected in Greece for consideration by a taxable person or by a legal entity (not being a taxable person), which acquires goods from another Member State above the threshold of €35,000;
- iv) intra-community acquisition of new means of transport effected in Greece for consideration; and
- v) goods or services used by the entrepreneur for his personal purposes or the purposes of his personnel.

On the other hand, Greek VAT law provides for two categories of exemptions:

- i) those with retention of the right to deduct input VAT (e.g. exports, intra-community supplies, importation/supply/chartering of certain ships and aircrafts, services connected with the transport of persons), which are therefore treated as zero-rated supplies; and
- ii) those without retention of the right to deduct input VAT (e.g. services of hospitals, medical and paramedical professions, supply of goods and services closely related to social welfare and insurance, services of general education and vocational training, most banking services, most financial transactions, letting and leasing of immovable property).

### 2.4 Is it always fully recoverable by all businesses? If not, what are the relevant restrictions?

Taxable persons are entitled to fully deduct the tax charged on goods and services supplied to them (input VAT) from the tax collected by them (output VAT), provided that they use those goods and services in connection with transactions subject to VAT or in connection with transactions exempted from VAT but with retention of the right to deduct input VAT (see above under question 2.3). On the other hand, input tax relating to goods and services wholly used in the course of exempted (without retention of the right to deduct input VAT) or non-business supplies, is not recoverable.

If taxable persons are involved in both taxable and exempt supplies, VAT on expenditure, which may not be directly attributable to either supply, is apportioned using the ratio of taxable output (excluding VAT) to the total output (excluding certain revenues).

With regard to capital goods, input VAT recovery is subject to a 5-year settlement commencing in the year of acquisition.

At the end of the financial year, excess output tax is paid to the tax authorities, whereas excess input tax is either carried forward or, if such carry-over is impossible, refunded.

There is no entitlement to recovery in the following cases:

- i) purchase or importation of tobacco industry products;
- ii) purchase or importation of alcoholic beverages not to be used in taxable activities;
- iii) receptions, recreation and hospitality generally;
- iv) provision of accommodation, food, drinks, transport and recreation for the personnel or representatives of a company;
- v) purchase or importation of passenger vehicles with up to nine seats intended for private use, motorcycles, motorised pedal cycles, water-borne crafts and aircrafts for pleasure or sporting purposes and the costs of fuel and maintenance for such conveyances; and
- vi) purchase and importation of types of packaging covered by delivery guarantee.

### 2.5 Are there any other transaction taxes?

The transfer for consideration of the title of real estate located in Greece is subject to real estate transfer tax. The tax, being assessed on the higher between the objective value of the real estate and the consideration provided in the contract, is borne by the buyer. The objective value system covers almost all Greek urban areas and has been introduced in order to eliminate disputes between the tax authorities and taxpayers, concerning the basis of assessment of real estate transfer tax. The rates are 8% for the first €20,000 and 10% for any excess. An additional tax in favour of the municipality is also levied at a rate of 3% of the real estate transfer tax calculated above. VAT is imposed with regard to the first transfer by constructors of ownership and other rights on buildings, for which the building licence is issued on or after 1 January 2006.

Furthermore, the sale of shares in corporations not listed on the Athens Stock Exchange are subject to a special transaction tax at the rate of 5%, calculated on the higher amount between the contractual sale price and the imputed sale price, which is assessed on the basis of a specific formula. However, if a gain is realised from the sale of non-listed shares, the 5% tax does not extinguish the income tax liability and the gain is added to the taxable income, with a credit being given for the 5% tax paid. The above special tax does not apply if the seller of shares is resident in a tax treaty country and does not have a permanent establishment in Greece.

Finally, the proceeds from the sale of shares in corporations listed on the Athens Stock Exchange are subject to tax at the rate of 0.2 % if acquired before December 31 2011. Said tax shall be substituted by a capital gains tax for shares acquired as of January 1 2012 (see question 5.1).

### 2.6 Are there any other indirect taxes of which we should be aware?

In the case of imports from non-EU countries, the Common External Customs Tariff of the EU is applicable. The rates of import duties vary on the basis of the classification of the imported goods.

In addition, private and public passenger vehicles, vehicles for transport of goods and motorcycles (either imported or locally produced) are subject to classification duties, which are assessed on the basis of the vehicles' engine size and, in case of used vehicles, their age.

Furthermore, various consumption duties are levied on special commodities such as alcohol, tobacco, petroleum products, etc.

Besides the above, a turnover tax is imposed on insurance companies. Such tax is payable on insurance premiums and all charges accruing from insurance contracts, and its rate varies

according to the sector of insurance (e.g. 20% for fire insurance premiums, 4% for life insurance premiums and 10% for premiums for other sectors).

Finally, an annual contribution of 0.6% is imposed on the average outstanding monthly balance of each loan granted by a bank to a Greek resident. The rate is reduced to 0.12% with respect to housing loans. Loans between banks, loans to the Greek State, loans funded by the EIB and loans granted to persons residing in small islands are exempted from said contribution.

### 3 Cross-border Payments

#### 3.1 Is any withholding tax imposed on dividends paid by a locally resident company to a non-resident?

A withholding tax at the rate of 25% is imposed on profits distributed by Greek locally resident companies (SA's and Ltd's) as dividends or interim dividends to their shareholders, whether physical persons or legal entities, resident or non-resident within FY 2012 onwards. Such withholding tax exhausts the tax liability of the beneficiaries. This withholding exhausts any further tax liability for resident individuals. Especially for individuals taxed at a rate lower than 25%, the difference is recovered.

The above withholding tax does not apply to dividends paid between associated companies, falling within the scope of the EU Parent-Subsidiary Directive, as incorporated into Greek law.

If the recipient of the dividend income is a resident of a State with which Greece has concluded an income tax treaty for the avoidance of double taxation, the withholding tax rate provided by said treaty, if more beneficial to the recipient, will apply.

#### 3.2 Would there be any withholding tax on royalties paid by a local company to a non-resident?

In principle, royalties paid by a local company to a non-resident company without a permanent establishment in Greece or a non-resident individual, who does not exercise any profession or business in Greece, are subject to withholding tax at a rate of 25%. The local company paying the royalties deducts the amount of withholding tax at source. Once the tax has been thus withheld, the income tax liability of the non-resident in respect of the royalty income concerned is exhausted.

It should be noted that, with respect to the EC Interest and Royalties Directive, Greece enjoys a transitional regime, according to which it shall levy a withholding tax on royalty payments effected between associated EU companies at a rate of 5% for a four-year period commencing on July 1 2009, at the end of which (i.e. on June 30 2013) it shall abolish any taxation on such payments.

If the recipient of the royalty income is a resident of a State with which Greece has concluded an income tax treaty for the avoidance of double taxation, the withholding tax rate provided by said treaty, if more beneficial to the recipient, will apply.

#### 3.3 Would there be any withholding tax on interest paid by a local company to a non-resident?

Interest paid by a local company to a non-resident company without a permanent establishment in Greece is subject to a withholding tax at a rate of 40%. The tax thus withheld is final and terminates the income tax liability for the interest income concerned. On the other hand, interest paid by a local company to a non-resident individual, who does not exercise any profession or business in Greece, is

subject to a withholding tax at the rate of 20%, extinguishing any tax liability of the recipient related to the interest earned. The local company paying the interest deducts the amount of withholding tax at source. Once the tax has been thus withheld, the income tax liability of the non-resident in respect of the interest income concerned is exhausted. On the other hand, interest derived directly by non-residents from bonds and other interest-bearing securities, including zero-coupon bonds, issued by resident companies, is exempted from Greek tax.

With respect to the EC Interest and Royalties Directive, Greece enjoys a transitional regime, according to which it shall levy a withholding tax on interest payments effected between associated EU companies at a rate of 5% for a period of four years commencing on July 1 2009, at the end of which (i.e. on 30 June 2013) it shall abolish any taxation on such payments.

If the recipient of the interest income is a resident of a State with which Greece has concluded an income tax treaty for the avoidance of double taxation, the withholding tax rate provided by said treaty, if more beneficial to the recipient, will apply.

#### 3.4 Would relief for interest so paid be restricted by reference to "thin capitalisation" rules?

For the first time, but in a rather simplified form, thin capitalisation provisions have been introduced into the Greek tax system, pursuant to which accrued interest of loans or credits, which are paid or credited to related enterprises on the basis of agreements concluded on or after July 22 2009, are deducted, on the condition that the relation of these loans or credits to the net assets of the enterprise does not exceed the ratio of 3:1 on average per fiscal year, whereas accrued interest on loans and credits exceeding this ratio are not deductible.

#### 3.5 If so, is there a "safe harbour" by reference to which tax relief is assured?

There is no safe harbour by reference to which tax relief for interest is assured. However, leasing and factoring companies, special securitisation vehicles registered in Greece, financial institutions, stock brokers, and asset management companies are exempted from the scope of application of the above "thin capitalisation" provisions.

#### 3.6 Would any such "thin capitalisation" rules extend to debt advanced by a third party but guaranteed by a parent company?

Interest from loans granted by non-related enterprises and guaranteed by a parent company is deductible, although these loans are added to the total amount of loans received by the company in order for the abovementioned ratio (under question 3.4) to be calculated.

#### 3.7 Are there any other restrictions on tax relief for interest payments by a local company to a non-resident?

Interest payments deriving from loans received for the acquisition of shares or parts of domestic or foreign companies or even for the acquisition of an enterprise are not deductible when the acquired shares are transferred within 2 years from their acquisition.

Interest payments to entities established in black-listed countries (i.e. non-EU countries which have not executed a Treaty of Mutual Administrative Assistance with Greece and other 12 countries in tax

issues) as well as to entities located in beneficial tax regimes (i.e. countries where the income tax rate is equal or lower than 60% of the corresponding Greek tax rate) are not deductible. In order to escape the anti-avoidance rules, the taxpayer can evidence the *bona fide* nature of the transactions falling within the abovementioned scope.

### 3.8 Does Greece have transfer pricing rules?

The principal transfer pricing provision of Greek tax law incorporates the arm's length principle (Article 39 of Law 2238/1994, Greek Income Tax Code, and ITC). The main provisions were replaced with a new Article 39 and the introduction of a new Article 39A.

The law provides for the following:

- Where domestic affiliated enterprises are involved in transactions for the sale of goods or for the provision of services, and the price or the fee is unjustifiably higher or lower than that which would have been agreed in transactions carried out with another enterprise under the market circumstances prevailing at the time the transaction took place, the difference (in the price or fee) is assumed to be business profit. This difference increases the net business profits of the enterprise without jeopardising the validity of its books and records.
- Where the sale of goods or provision of services takes place between domestic and foreign affiliated enterprises under financial terms different from those that would have been agreed between unrelated enterprises, profits which would have been earned by the Greek enterprise, if such terms did not apply, but which the Greek enterprise did not realise because of the said terms, are treated as business profit. This profit increases the net business profits of the enterprise without jeopardising the validity of its books and records.
- With respect to inter-corporate transactions carried out between foreign and Greek enterprises, the latter are obliged to maintain transfer pricing documentation; if differences are noted during the audit, the case is referred by the competent audit authority to a specific Committee.
- The new provision applies to enterprises related to each other in a relationship of direct or indirect substantial administrative or financial dependence or control.
- In case of non-compliance with the provisions of Article 39 of the ITC, a fine of 20% is imposed on the additional net profits arising, irrespective of the imposition of additional taxes, if any, surcharges and other penalties currently provided for under the law.
- The new regime applies to income or expenses arising during financial years for which the obligation to file an income tax return arises with effect from January 1 2011 and onwards.

According to the new Article 39A of the ITC, all domestic enterprises operating under any legal form in Greece (including permanent establishments) and qualifying as an enterprise affiliated to a foreign enterprise are obliged to provide data and information required for the documentation of transactions between them.

Domestic enterprises which are members of multinational groups can fulfil their transfer pricing documentation obligation through the maintenance of a "documentation file" consisting of:

- The "*basic documentation file*" is common for all the enterprises of the group and contains common uniform information for all the affiliated companies and branches of the group. The "basic file" includes the data in the basic file of the Ministry of Development, as well as certain additional data, such as: (i) a general description of the affiliated companies of the group participating in the transactions being audited, and of the transactions themselves, but not

only of the transactions which relate to the Greek companies in the group; (ii) a list of cost allocation agreements; and of court decisions concerning the members of the group, related to the determination of the transactions' prices; and (iii) written declarations from each enterprise-member of the group for the provision of supplementary information.

- The "*Greek documentation file*", which supplements the "basic file" and contains additional information related to the Greek enterprises of the group (this information appears also to be included in the Greek file prepared for the purposes of the Ministry of Development). By virtue of a decision of the Minister of Finance, the particular issues that are necessary for the application of the above will be determined as well as the language in which the above information, methods, manners and procedures for the determination of the prices for such transactions, whereas the content of the file provided for in Article 26 of Law 3728/2008 will be taken into account in the course of the issuance of the above decision.

Enterprises whose gross annual income does not exceed EUR 1.5 million must maintain simpler and limited documentation which will be determined by virtue of a decision of the Minister of Finance. Further, transactions between the same enterprises which concern the same subject matter and do not exceed an annual limit of €200,000 are also exempted.

The documentation maintained by domestic enterprises must be delivered to the competent tax authority in the course of an audit, upon the auditor's request within a 30 days deadline.

The above will apply to transactions effected in fiscal years for which the obligation to file an income tax return arises from January 1 2011 onwards.

Article 105 (4) of the ITC provides that the arm's length principle set out in Article 39 of the ITC will apply to the commercial or economic cooperation between the foreign head office and the Greek branch of a foreign entity.

All treaties concluded by Greece for the avoidance of double taxation include a transfer pricing article identical or substantially similar to Article 9 of the OECD Model Convention. In addition, Greece has implemented the EC Arbitration Convention (Convention 90/436/EEC of July 23 1990 on the Elimination of Double Taxation in connection with the Adjustment of Profits of Associated Enterprises, as amended) with respect to the 26 other Member States (Laws 2216/1994, 3537/2007 and 3417/2005).

The Ministry of Development has introduced transfer pricing documentation rules for financial year 2008 and onwards (Law 3728/2008), in parallel with the rules of the Ministry of Finance. The tax authorities will be notified by the auditors of the Ministry of Development where a violation has been identified.

## 4 Tax on Business Operations: General

### 4.1 What is the headline rate of tax on corporate profits?

The headline rate of income tax on profits of domestic corporations is set at (20%) for accounting periods commencing from January 1 2011 and thereafter.

An additional tax of 3% is levied on gross income derived from immovable property. Such additional tax cannot exceed the tax calculated on the company's income.

A special tax regime applies to resident, as well as non-resident companies owning and operating Greek-flagged ships.

#### 4.2 When is that tax generally payable?

Income tax on corporate profits is payable in eight equal monthly instalments; the first of which must be paid upon the timely filing of the annual income tax return. The latter must be filed within four months and ten days from the end of their accounting year. The other seven instalments must be paid on the last working day of each of the months following the month in which the return was filed. Corporations must also effect an advance payment equal to 80% of the tax corresponding to declared income at the end of the accounting period, which is refunded if in excess of the final income tax liability of the following year. Such rate of advance payment is increased to 100% in the case of resident banks and branches of non-resident banks operating in Greece.

#### 4.3 What is the tax base for that tax (profits pursuant to commercial accounts subject to adjustments; other tax base)?

Net income before distribution, arising from operations either at home or abroad, constitutes the tax base for corporate income tax further to adjustments on the tax return. Such income is derived from the company's profit and loss account, which is prepared on the basis of its official accounting books maintained in accordance with the regulations of either Greek GAAP and the Greek Code of Books and Records or International Accounting Standards/International Financial Reporting Standards. Please note that all Greek listed companies and their consolidated participations are subject to mandatory IFRS application. In determining the net income of the company, those deductions from its gross income specifically authorised by law and directly associated with the business activity of the company are allowed.

#### 4.4 If it otherwise differs from the profit shown in commercial accounts, what are the main other differences?

For the purposes of assessing a company's annual corporate income tax base, the following adjustments take place:

- i) non-deductible expenses are added to net profits;
- ii) profits from participation in other entities that have been subject to income tax are deducted therefrom;
- iii) tax-free or specially taxed income is further deducted therefrom (in the case of banks and insurance companies only part of the tax-free or special taxed income is deducted);
- iv) the part of the debt interest, if any, relating to tax-free income, specially taxed income and income from participations is added thereto (such rule does not apply to banks, insurance companies, mutual funds and investment companies);
- v) 5% of tax-free income, specially taxed income and income from participations, which however cannot exceed 20% of the company's expenses, is further added thereto (such rule does not apply to banks, insurance companies, mutual funds and investment companies); and
- vi) taxable profits of a company are increased by the amount of tax-free or specially taxed income that corresponds to the distributed profits grossed up by the respective tax.

Besides the above, please note that IFRS rules are not recognised by Greek administration for tax purposes. Hence companies may either hold statutory accounting according to Greek GAAP and publish IFRS compliant financial statements or hold statutory account directly in IFRS and hold at the same time an adjustment book, which retraces all differences from the statutory account, to support the tax return. The main differences between statutory tax

calculation and IFRS tax arise due to: different amortisation rules; potential tax free income; tax adjustments; and permanent differences.

#### 4.5 Are there any tax grouping rules? Do these allow for relief in Greece for losses of overseas subsidiaries?

There are no tax grouping rules in Greece, i.e. each legal entity is treated for tax purposes as a separate taxpayer.

#### 4.6 Is tax imposed at a different rate upon distributed, as opposed to retained, profits?

Corporate income tax rate does not differ upon distributed, as opposed to retained, profits, since the previous regime providing for a different rate on distributed and retained profits was abolished and thus never came into play.

#### 4.7 Are companies subject to any other national taxes (excluding those dealt with in "Transaction Taxes") - e.g. tax on the occupation of property?

Real Property Tax ("RPT") at a rate of 0.6% shall be due annually on the total objective value of land owned by all types of legal entities, whereas 0.1% is imposed on self-used properties (buildings).

As of January 1 2003, an additional special real estate tax is imposed on companies, which have ownership or usufruct on real estate located in Greece. The applicable tax rate for such tax has increased from 3% to 15% as of January 1 2010. Given that said tax has been introduced in order to discourage the ownership by offshore companies of real estate located in Greece, various exemptions are provided by law (e.g. Greek or EU-based corporations with registered shares, companies listed on a stock exchange, companies with gross revenues from other activities higher than those revenues derived from the exploitation of real estate in Greece, etc.).

Finally, the owners of cars, trucks and motorcycles are obliged to pay annual circulation tax based on the vehicle's engine capacity.

#### 4.8 Are there any local taxes not dealt with in answers to other questions?

Greek local authorities benefit from various taxes and duties paid to them directly or indirectly (e.g. through the electricity bills), the most important of which are the following: tax on electrified spaces; real estate duty; duty for the provision of cleaning and lighting services; duty for the use of communal spaces, etc.

## 5 Capital Gains

#### 5.1 Is there a special set of rules for taxing capital gains and losses?

Under Greek tax legislation, capital gains from the sale of fixed assets (except ships) are treated as ordinary business income. Gain or loss is calculated on the basis of the difference between the sale price and the value of the asset as in the company's books.

However, gains from the disposal of a business as a whole or a branch, of units in a partnership or a limited liability company, of a participation in a joint venture (other than a construction joint venture) or in a joint ownership of rights governed under civil law; of any right related to the exercise of the company's business (such as patents, industrial property etc.), of licences of vehicles destined

for public use; as well as gains from any amount paid by a lessee to the lessor in excess of the agreed lease payment, from the assignment of any leasing rights, as well as from the waiver of a right to participate in a capital increase of a partnership or a limited liability company or of leasing rights, are subject to a flat rate tax of (20%), which is not final since the company must include the relevant item in its taxable profits subject to corporate income tax at the ordinary rate, with a credit being granted for the advance tax paid. As to taxation imposed on transfer of non-listed shares, see question 2.5 above.

Taxation of gains derived by resident companies from the sale of shares acquired until December 31 2011 in Greek/foreign corporations listed on the Athens/foreign Stock Exchange, as well as from derivatives traded on the Athens Derivatives Exchange or on a similar foreign market, is deferred if the gains are transferred to special reserves to offset future losses from the sale of the above shares or products respectively. However, capital gains deriving from the sale of listed shares acquired as of January 1 2012 shall be subject to taxation according to the general provisions (20% corporate income tax).

### 5.2 If so, is the rate of tax imposed upon capital gains different from the rate imposed upon business profits?

As aforementioned, capital gains from the disposal of both fixed assets and business as a whole, branch etc. are included in the taxable profits subject to corporate income tax. Currently, there is no difference between the capital gains tax rate and the corporate income tax rate (i.e. 20%).

### 5.3 Is there a participation exemption?

No participation exemption is provided under Greek tax law.

### 5.4 Is there any special relief for reinvestment?

No relief for reinvestment is provided under Greek tax law.

## 6 Local Branch or Subsidiary?

### 6.1 What taxes (e.g. capital duty) would be imposed upon the formation of a subsidiary?

Any contribution (either in cash or in kind) to the share capital on the formation of a company is subject to a capital duty at the rate of 1%. It should be noted that a capital duty at the rate of 1% is also imposed on fixed or working capital provided by a non-EU resident foreign company to its Greek branch.

In addition to the above, a duty of 0.1% in favour of the Greek Competition Committee is imposed on the capital of SA's upon incorporation or increase thereto.

Finally, legal and notary fees, as well as publication costs, are payable upon the formation of a company.

### 6.2 Are there any other significant taxes or fees that would be incurred by a locally formed subsidiary but not by a branch of a non-resident company?

There are no significant taxes or fees that would be incurred by a locally formed subsidiary but not by a branch of a non-resident company.

### 6.3 How would the taxable profits of a local branch be determined?

The computation of taxable income of a Greek branch of a foreign entity follows the same rules provided for companies. Please note that any profits or losses incurred by the foreign enterprise abroad are not taken into consideration for the determination of the taxable income of its Greek branch. If the Greek branch remits profits from tax-free income or specially taxed income to its foreign head office, then such income is adjusted and taxed.

### 6.4 Would such a branch be subject to a branch profits tax (or other tax limited to branches of non-resident companies)?

A Greek branch of a foreign entity is subject to corporate income tax at the same rates applicable to resident companies.

### 6.5 Would a branch benefit from tax treaty provisions, or some of them?

In principle, the establishment of a Greek branch by a foreign enterprise creates a permanent establishment of that entity in Greece and therefore precludes it from the privileges of tax treaty provisions. However, a Greek branch of a foreign head office enjoys the benefits derived from the non-discrimination provision included in the income tax treaties signed by Greece.

### 6.6 Would any withholding tax or other tax be imposed as the result of a remittance of profits by the branch?

Profits remitted by Greek branches to their head office suffer 25% withholding tax. The taxable moment is payment or mere credit of the profits to the head office.

## 7 Overseas Profits

### 7.1 Does Greece tax profits earned in overseas branches?

Resident companies are taxed on their worldwide income. Therefore, profits earned in overseas branches shall be taxed at the normal income tax rate.

### 7.2 Is tax imposed on the receipt of dividends by a local company from a non-resident company?

Dividends received by a local company from a non-resident company would be taxed as normal business income and be subject to the applicable corporation tax at a 20% rate, which is imposed on domestic and foreign-sourced income. However, 20% tax is withheld upon repatriation, which is set off against the 20% corporation tax imposed on its total income (zero effect). Any tax paid in the foreign company's country for the same income should be deducted up to the amount of Greek tax corresponding to the said income. Nevertheless, dividends received from participations in EU subsidiaries under the conditions of the EU Parent-Subsidiary Directive are exempt from corporate tax, provided they are sheltered in a tax-free reserve account as of March 31 2011. In the case that the dividends are further distributed, the 25% withholding tax on dividends shall apply, subject again to the conditions of the EU Parent-Subsidiary Directive or a reduction under the applicable treaty.



### 7.3 Does Greece have “controlled foreign company” rules and if so when do these apply?

In principle, no “controlled foreign company” (CFC) rules exist in Greece. Nevertheless, quasi CFC rules apply merely for participations in EU transparent entities.

## 8 Anti-avoidance

### 8.1 Does Greece have a general anti-avoidance rule?

In principal, no such anti-avoidance rule of general effect is in force. Nevertheless, quite recently Greece has introduced anti-

avoidance provisions applicable to several transactions with “targeted” entities, i.e. entities established in black-listed countries and countries with beneficial tax regimes. Such rules also apply for sales to the above mentioned “targeted entities” as well as transactions in which such entities are interposed. In order to escape the anti-avoidance rules, the taxpayer can evidence the *bona fide* nature of the relevant transactions.

### 8.2 Is there a requirement to make special disclosure of avoidance schemes?

No such requirement applies.



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