



ICLG

The International Comparative Legal Guide to:

Corporate Tax 2014

10th Edition

A practical cross-border insight into corporate tax work

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EDITORIAL

Welcome to the tenth edition of *The International Comparative Legal Guide to: Corporate Tax*.

This guide provides the international practitioner and in-house counsel with a comprehensive worldwide legal analysis of the laws and regulations of corporate tax.

It is divided into two main sections:

One general chapter. This chapter discusses what makes the difference between acceptable tax mitigation and unacceptable tax avoidance.

Country question and answer chapters. These provide a broad overview of common issues in corporate tax laws and regulations in 42 jurisdictions.

All chapters are written by leading corporate tax lawyers and industry specialists and we are extremely grateful for their excellent contributions.

Special thanks are reserved for the contributing editor William Watson of Slaughter and May for his invaluable assistance.

Global Legal Group hopes that you find this guide practical and interesting.

The *International Comparative Legal Guide* series is also available online at www.iclg.co.uk.

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1 Tax Treaties and Residence

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

There are currently 58 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 (being the oldest ones) 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 on 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.

1.6 What is the test in domestic law for determining corporate residence?

In general, the extent of Greece's right to tax legal entities is determined either on a residence or on a source basis. Greece reserves the right to tax the resident entities on their worldwide income and gains, whereas it taxes the non-residents only on their Greek sourced income, i.e. on their income accruing within the Greek territory (e.g. through a Permanent Establishment – PE). However, in determining whether or not a legal entity should be regarded as a Greek resident, as per the relevant tax legislation three (3) factors are taken into account disjunctively, namely the registered seat of the company, as depicted in the articles of Association (i.e. whether such a seat lies in Greece), the law under which the company was set up (i.e. whether established under the Greek law), or the place of "effective management and control" (i.e. whether the actual management is exercised in Greece). With respect to the last criterion (i.e. the "place of effective management") the relevant legislation enumerates specific parameters that are indicatively taken into consideration for the assessment of the aforementioned criterion (e.g. the location of daily administration, the location where the BoD summons etc.).

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 16%, 9% and 5% respectively) as regards the islands in the prefectures of Lesbos, 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, and letting and leasing of immovable property under conditions).

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 five (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 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; and
- v) purchase or importation of passenger vehicles with up to nine (9) 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.

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 rate 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.

Finally, the sale value of shares in corporations listed on the Athens Stock Exchange is subject to tax at the rate of 0.2%.

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 the 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 10% is imposed on profits distributed from 1/1/2014 and onwards by Greek locally resident companies as dividends or interim dividends to their shareholders, whether individual or legal entities, resident or non-resident. Such withholding tax exhausts the tax liability if the beneficiary is an individual, maintaining tax residence in Greece, or a legal entity, maintaining neither tax residence nor permanent establishment in Greece.

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, are subject to withholding tax at a rate of 20%. 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.

The above withholding tax does not apply to royalties paid between associated companies, falling within the scope of the EC Interest and Royalties Directive, as incorporated into Greek law.

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 or a non-resident individual,

is subject to a withholding tax at a rate of 15%. 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.

The above withholding tax does not apply to interest paid between associated companies, falling within the scope of the EC Interest and Royalties Directive, as incorporated into Greek law.

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?

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, are not deducted, to the extent that the "excess interest expenditure" surpasses 25% of the taxable profits before interests, taxes and depreciations (EBITDA). The term "excess interest expenditure" means the excess of interest expenditure as opposed to the interest income. Each non-deductible interest expense is transferred for set-off for five (5) years.

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, credit institutions are exempted from the scope of application of the above "thin capitalisation" provisions.

3.6 Would any such 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, on the condition that the amount of the net interest expenditure posted in the company books does not override the threshold of EUR 1,000,000 per year.

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 from third parties, save bank loans, to the extent that they overcome the interest, that would have accrued, if the interest rate was equal to the interest rate of overdraft account loans towards non-financial enterprises, as such rate is mentioned in the statistic bulletin of economic conditions of the Bank of Greece at the prior time period closest to the lending date, are not deductible.

Interest payments to entities established in non-cooperative countries (i.e. non-EU countries which have not executed a Treaty of Mutual Administrative Assistance with Greece and 12 other countries on tax issues) as well as to entities located in beneficial tax regimes (i.e. countries where the income tax rate is equal to or lower than 50% of the corresponding Greek tax rate) are not deductible. In order to escape such anti-avoidance rules, the taxpayer can evidence the *bona fide* nature of the transactions falling within the above-mentioned scope.

3.8 Is there any withholding tax on property rental payments made to non-residents?

No such obligation exists.

3.9 Does Greece have transfer pricing rules?

The principal transfer pricing provision of Greek tax law incorporates the arm's length principle (Article 50 of law 4172/2013 in conjunction with articles 21 and 22 of law 4174/2013) on local or international transactions executed between associated entities. Any profits that would have been generated due to the arm's length principle are added in the entity's taxable profits to the extent that such profits do not reduce the amount of tax paid. With respect to intra-group transactions carried out between associated enterprises, the latter are obliged to maintain transfer pricing documentation. Advance Pricing Agreements may be available under certain conditions.

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 23 July 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).

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 maintaining double-entry accounting books is set at 26% for income earned in tax years commencing as of 1 January 2014 and thereafter, whereas the following scale applies to entities maintaining single-entry accounting books: 26% for up to EUR 50,000 – 33% for any excess amount.

A special tax regime (tonnage tax) 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 the manner determined by means of a decision, issued by the Secretary General responsible for Public Revenues. The annual tax return must be filed during the time period from 1 February until 30 June of the subsequent tax year. 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 Is the tax base accounting profit subject to adjustments or something else?

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 accounts, which is prepared on the basis of its official accounting books maintained in accordance with the regulations of both Greek GAAP and the Greek Code of

Tax Recording of Transactions. In case the entity applies the International Accounting Standards/International Financial Reporting Standards the taxable profits are determined pursuant to the tax profit and loss accounts. 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 the tax base is accounting profit subject to adjustments, what are the main adjustments?

For the purposes of assessing a company's annual corporate income tax base, the non-deductible expenses are added to net profits. 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 a 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?

The corporate income tax rate does not differ upon distributed, as opposed to retained, profits.

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 1 January 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 1 January 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.

Gains from the disposal of a business as a whole or a branch, of non-listed shares, of units in a partnership or a limited liability company, of a participation in a 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 corporate income tax at the ordinary rate (the applicable corporate income tax rate is 26% for entities maintaining double-entry accounting books). Taxation of gains derived by resident companies from the sale of shares 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 subject to corporate income tax at the ordinary rate.

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 a business as a whole, a 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. 26%).

5.3 Is there a participation exemption for capital gains?

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.

5.5 Does Greece impose withholding tax on the proceeds of selling a direct or indirect interest in local assets/shares?

Please refer to our comments under question 5.1.

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 a *société anonyme* 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 in its jurisdiction?

The computation of taxable income of a Greek branch of a foreign entity follows the same rules provided for companies.

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 double tax relief in its jurisdiction?

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 similar tax be imposed as the result of a remittance of profits by the branch?

A 10% tax may apply on remittance of profits by a branch.

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?

A participation exemption regime applies on intra-group dividends received by a local company from a non-resident company subject to specific conditions.

7.3 Does Greece have "controlled foreign company" rules and, if so, when do these apply?

"Controlled foreign company" (CFC) rules have been introduced in

the Greek tax system. In this respect, the non-distributable income of a legal entity, which is a tax resident of another country, is included for the determination of the taxable income of a taxpayer, provided that the following preconditions concurrently apply:

- a) The taxpayer alone or jointly with other “associated” persons directly or indirectly participates in the capital of the foreign legal entity at a percentage over 50% or is eligible for collecting over 50% of the entity’s profits.
- b) The legal entity is subject to taxation in a country that has a “privileged tax regime” (i.e. subject to a special regime that allows a significantly lower level of taxation than the general one) or in an offshore jurisdiction (i.e. tax havens).
- c) Over 30% of the net income of the legal entity derives from specific sources, namely interest from financial instruments, royalties from copyright, dividends, capital gains, etc. (i.e. the so-called “passive income”), if over 50% of the corresponding income category of the legal entity accrues from transactions with the taxpayer or its affiliates.
- d) The main category of shares of the foreign entity is not listed on a regulated market.

Exemptions from the aforementioned CFC rules apply in case the legal entity is tax resident in the EU (unless the establishment of such entity is considered as an “artificial” one aiming at tax avoidance) or the entity is tax resident in an EEA country and in parallel an agreement for exchange of information exists with such country of origin.

8 Taxation of Real Estate

8.1 Are non-residents taxed on the disposal of real estate in Greece?

The capital gains from the transfer of real estate in Greece by a non-resident individual, is taxed at a rate of 15%.

8.2 Does Greece impose tax on the transfer of an indirect interest in real estate located in Greece and, if so, what constitutes an indirect interest?

Capital gains that arise from the transfer of real estate or participations which attract more than 50% of their value directly or

indirectly from real estate and do not constitute income from business operations, are taxed at a rate of 15%.

8.3 Does Greece have a special tax regime for Real Estate Investment Trusts (REITs) or their equivalent?

There is no special tax regime for REITS or their equivalent in Greece.

9 Anti-avoidance

9.1 Does Greece have a general anti-avoidance or anti-abuse rule?

The recently enacted Code of Tax Procedure (law 4174/2013 – in force as of 1 January 2014 and onwards) has introduced a general “anti-avoidance” clause in the Greek tax system, on the basis of which the Tax Administration, upon assessing the tax due, may ignore any “artificial” arrangement structured mainly towards aiming at avoiding paying taxes and leading to a tax benefit for the taxpayer. Specifically, pursuant to the wording of the relevant legislative provision, an “artificial” arrangement is considered as such provided that it lacks “business rationale”. In addition, Greece has already 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 apply for expenditure paid to the above mentioned “targeted entities”. In order to escape the anti-avoidance rules, the taxpayer can evidence the *bona fide* nature of the relevant transactions.

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

No such requirement applies.

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Panagiotis' field of expertise includes corporate taxation, tax structuring of foreign investments, tax incentive legislation in mergers & acquisitions, tax audits, and litigation before the administrative courts. Panagiotis acts particularly for international investors in cross-border transactions (focusing on the Energy and Construction sectors) and advises major Greek-based enterprises and subsidiaries of MNEs in various industries (Financial and Insurance, Pharmaceutical, Automotive, and Telecommunications) regarding all aspects of Greek taxation. He also has experience in advising bidders in the context of major Public Private Partnership and Concession projects and represented major petroleum and trading corporations before the tax authorities and courts of law.

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