

# Greece



**Panagiotis Pothos**



**Ioanna Barmpa**



**Areti Maxine Avlichou**

**Kyriakides Georgopoulos Law Firm**

## 1 Tax Treaties and Residence

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

Greece has entered into Double Tax Treaties (“DTTs”) on income and capital with the following 57 countries: Albania; Armenia; Azerbaijan; Bosnia and Herzegovina; Canada; China; Egypt; Georgia; Iceland; India; Israel; the Republic of Korea; Kuwait; Mexico; Moldova; Morocco; Norway; Qatar; Russia; the Republic of San Marino; Saudi Arabia; Serbia; Singapore; South Africa; Switzerland; Tunisia; Turkey; Ukraine; the United Arab Emirates; the United Kingdom; the USA; Uzbekistan; and all EU Member States except for Sweden (the DTT with Sweden has been terminated since 1 January 2022).

### 1.2 Do they generally follow the OECD Model Convention 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. By exception, the treaties with the USA and the United Kingdom (being the oldest ones) deviate from the Model, as they were concluded before the adoption of its first draft in 1963.

### 1.3 Has your jurisdiction signed the tax treaty MLI and deposited its instrument of ratification with the OECD?

On 26 January 2021, the Greek Government officially published Law 4768/2021 to ratify the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (“MLI”). On 30 March 2021, Greece deposited its instrument of ratification for the MLI with the OECD.

### 1.4 Do they generally incorporate anti-abuse rules?

Yes. By virtue of Law 4174/2013 (the “Greek Tax Procedure Code”), the Greek legislator has established a General Anti-Abuse Rule (“GAAR”) to prevent tax avoidance, which is in

line with OECD guidelines and European law, and has been updated in order to align with the Anti-Tax Avoidance Directive (“ATAD”). Further to the GAAR, a number of special anti-abuse rules have also been incorporated into Greek tax legislation and will be analysed in the following questions.

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

According to the Greek Constitution, international treaties ratified by Greece prevail over any domestic provision, to the extent that they are more favourable for the taxpayer, and therefore may not be overridden by any (other than a constitutional) existing or subsequently introduced domestic provision.

### 1.6 What is the test in domestic law for determining the residence of a company? Has the application of the test been modified in response to COVID-19?

An entity or other legal person should be considered tax resident in Greece if one of the following conditions is met:

- it has been incorporated/established according to Greek legislation;
- it has its registered office in Greece; or
- the place of effective management is in Greece for any period of time within a fiscal year.

The assessment of the effective management of an entity/legal person is made on a facts-and-circumstances basis, taking into account, particularly: (i) the place of the day-to-day management; (ii) the place of strategic decisions; (iii) the place of the annual general meeting of the shareholders/partners; (iv) the place where the books/records are kept; (v) the place of the meeting of the Board of Directors or other executive management board; and (vi) the place of residence of the Directors. The place of residence of the shareholders/partners may also be taken into account.

The Independent Authority of Public Revenue (“IAPR”) issued a circular (E. 2113/2020) to resolve concerns relating to the effect of the COVID-19 pandemic on domestic tax rules and the rules of the DTTs in relation to the definitions of tax residency of individuals and entities/legal persons, as well as the potential creation of permanent establishments (“PEs”) for

businesses. The circular is in line with the OECD's guidance and recommendations related to potential cross-border issues resulting from COVID-19, published on 3 April 2020.

In particular, the circular clarifies that, upon examination of the place of effective management of a foreign company as a factor that may determine its tax residence status, the mere presence of an individual in Greece because of the restrictions imposed in response to COVID-19 for the period of 18 March 2020 to 15 June 2020 will not be taken into account for the purpose of such examination. It is clarified that this period of time can be extended depending on the specific travel restrictions imposed in the individual's country of origin.

By virtue of the latest circular issued by the IAPR (E. 2130/2021), the Greek tax administration updated the previous Circular E. 2113/2020 to cover the period from 15 June 2020 onwards in relation to the application of domestic law and DTT provisions with respect to matters such as tax residence, PEs, etc., in light of the exceptional circumstances resulting from the COVID-19 pandemic. In particular, according to such guidance, the period of 9 November 2020 to 14 May 2021 shall not be taken into account when determining a legal entity's tax residence, due to the increased restrictive measures (i.e. "lockdown") imposed during that period in response to the COVID-19 pandemic. On the other hand, as regards the period of 15 June 2020 to 9 November 2020, such assessment shall be made on a case-by-case basis, specifically based on whether travel restrictions were actually in place.

### 1.7 Is your jurisdiction's tax authority expected to revisit the status of dual resident companies in cases where the MLI changes the treaty "tiebreaker"?

Greece has made a reservation in relation to article 4 of the MLI ("Dual Resident Entities") and, therefore, said article will not apply to its Covered Tax Agreements.

## 2 Transaction Taxes

### 2.1 Are there any documentary taxes in your jurisdiction?

Stamp duty (1% to 3%, increased by a supplementary charge equal to 20% on each rate levied in favour of the Agricultural Insurance Organisation) is levied on certain transactions and documents that are not subject to value-added tax ("VAT"), e.g. cash withdrawals, commercial loan agreements, etc.

### 2.2 Do you have Value-Added Tax (VAT), or a similar tax? If so, at what rate or rates? Please note any rate reduction in response to COVID-19.

Greek VAT law follows the European Council Directive on the common system of VAT. The standard rate is 24%. There are reduced rates of 13% and 6% depending on the nature of goods/services. A 30% reduction on these rates applies in certain Aegean islands as of 1 July 2021.

The applicable VAT rate was reduced to 6% until the end of 2021 for products necessary for protection against COVID-19, such as: protective masks and gloves; antiseptic liquids, antiseptic wipes and relevant products; soaps and other products used for personal hygiene purposes; denatured ethanol (alcohol), when used as raw material for the industrial production of antiseptic; and pure undenatured ethanol (alcohol), obtained from agricultural products, of an alcoholic strength of 95%, which is distributed bottled for retail sale.

Furthermore, a relief from import duties and a VAT exemption on importation was granted for goods needed to combat the effects of the COVID-19 pandemic until 31 December 2021.

In addition, a VAT exemption on the supply of any goods and/or the provision of any services in the form of donations to cover extraordinary needs to limit the dispersion of COVID-19 has been granted for as long as it is deemed necessary.

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

VAT applies to all stages of production and distribution of goods, provision of services and intra-community acquisition or imports of goods from abroad, against a consideration. Greek VAT law provides for two categories of exemptions: (i) exemption with the right to deduct VAT; and (ii) exemption without the right to deduct VAT (e.g. services of hospitals, medical and paramedical professions, supply of goods/services closely related to social welfare and insurance, etc.).

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

Taxable persons are entitled to deduct VAT, provided that the goods/services purchased are wholly employed for transactions subject to VAT or exempt transactions with the right to deduct. There are a number of expenditures for which input VAT is not deductible, e.g. hotel accommodation, food, drink and tobacco. If taxable persons are involved in both taxable and exempt activities, VAT on expenditure, which may not be directly attributable to either activity, should be computed on a *pro rata* basis. At the end of each VAT period, excess output tax is paid to the tax authorities, whereas excess input tax is either carried forward or refunded.

### 2.5 Does your jurisdiction permit VAT grouping? If so, how does this apply where a company in one jurisdiction has an establishment in another?

No, VAT grouping is not permitted in Greece.

### 2.6 Are there any other noteworthy transaction taxes or indirect taxes that are payable by companies?

Other noteworthy transaction taxes payable by companies are as follows:

- (1) For stamp duty, refer to question 2.1.
- (2) Real estate transfer tax is imposed on the higher of the objective value and the market value of the property sold and is borne by the buyer at 3.09% (including the municipality surcharge), except for the first sale of new buildings for which the building licence was issued on or after 1 January 2006, to which VAT applies.
- (3) Transaction tax of 0.2% on the sale of shares listed on the Athens Stock Exchange.

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

Capital concentration tax of 0.5% is imposed on certain types of capital injections, specifically provided by law. The issuance of share capital upon formation of a company is exempt from capital concentration tax.

Custom duties are imposed on imports from non-EU countries according to the Community Customs Code and the Common External Customs Tariff.

Excise duties on tobacco products, alcohol and alcoholic drinks and fuels (heating and transportation) are imposed in line with EU law.

A special luxury tax is levied on certain categories of goods considered “luxury goods”, such as aircraft, seaplanes, and helicopters for private use. Private and public passenger vehicles, vehicles for the 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.

An annual contribution of 0.6% is imposed on the average outstanding monthly balance of any loan/credit granted by a foreign or Greek financial institution to a Greek entity/legal person.

### 3 Cross-border Payments

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

Dividends paid to non-residents are subject to a 5% withholding tax, subject to tax treaty relief. Profits derived from a PE of a foreign entity are not subject to any withholding tax upon distribution. No withholding tax applies on dividend distributions, provided that the conditions of the EU Parent-Subsidiary Directive are satisfied, subject to the anti-abuse rules.

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

Royalties paid to non-resident entities are subject to a 20% withholding tax, subject to tax treaty relief. No withholding tax applies on royalty payments, provided that the conditions of the EU Interest and Royalty Directive are met.

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

Interest payments are subject to a 15% withholding tax in Greece, subject to tax treaty relief. No withholding tax applies on interest payments, provided that the conditions of the EU Interest and Royalty Directive are met.

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

Greek domestic law provides for an interest limitation rule, which has recently been updated in line with ATAD I and BEPS Action 4. According to the latter, any exceeding borrowing costs (e.g. interest expenses exceeding interest revenues) are tax deductible up to 30% at EBITDA. The aforementioned rule does not apply to companies that incur interest expenses of less than EUR 3 million. Any excess amount of non-deductible interest expenses may be carried forward indefinitely into future years and will be deductible in future years to the extent that these future years indicate an uncovered EBITDA amount.

#### 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 is assured.

However, the “interest limitation rule” (please refer to question 3.4) does not apply to several types of financial undertakings, such as credit institutions, insurance companies and specific institutions for occupational retirement.

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

Interests from loans guaranteed by a parent company are deductible on the condition that the amount of the net interest expenditure posted in the company books does not surpass the threshold of EUR 3 million per year.

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

Apart from the interest limitation rules (thin capitalisation) analysed under question 3.4 (in accordance with BEPS Action 4), business expenses (including interest expenses) related to acquisitions of participation or share capital increases in a company/subsidiary that fall in the scope of the EU Parent-Subsidiary Directive – in which case any dividend distribution would be exempt from corporate income tax (“CIT”) at the level of the recipient entity – are not considered tax deductible for Greek tax purposes.

Greece transposed the EU Directive regarding hybrid mismatches with third countries as per the amendments introduced by ATAD II. In case a hybrid mismatch results in double deduction, the deduction shall be denied in the EU Member State that is the investor jurisdiction, while if the investor jurisdiction is a country that has not denied the deduction, the EU Member State that is the payer jurisdiction shall deny the deduction. To the extent that a hybrid mismatch results in a deduction without inclusion, the EU Member State of the payer shall deny the deduction of such payment, or if the payer jurisdiction is a country that has not denied the deduction, the EU Member State that is the payee jurisdiction shall include the payment in its income.

Please also refer to question 4.3 and to the transfer pricing rules in case of intra-group interest payments.

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

No, there is no withholding tax on property payments made to non-residents in Greece.

#### 3.9 Does your jurisdiction have transfer pricing rules?

Yes, in cases where entities/legal persons perform transactions with associated entities on economic/commercial terms that deviate from the terms that would apply in transactions between independent parties, any profits that would have been realised if the transaction would be compliant with the arm’s length principle (but were not realised due to the deviation from arm’s length terms) should be included in the tax base of such entity/legal person.

In addition, any corporate reorganisation that can be considered a domestic/cross-border reorganisation of functions, assets, risks and business opportunities, and is performed by associated entities/legal persons or where associated entities/legal persons are involved, should be performed at arm's length.

### 3.10 Can companies in your jurisdiction obtain unilateral, bilateral or multilateral advance pricing agreements?

According to the applicable provisions, the possibility of rolling back the implementation of bilateral or multilateral advance pricing agreements ("APAs") (explicitly excluding unilateral ones) is established, upon request, under certain conditions that must be cumulatively met at the time of application for the previous tax years to which the request is extended. The conditions are as follows:

- the possibility of a tax audit must not have expired; and
- the taxpayer must not have received a tax audit order.

## 4 Tax on Business Operations: General

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

As regards corporate profits generated as of 2021, the corporate tax rate is 22%.

### 4.2 Is the tax base accounting profit subject to adjustments, or something else?

Taxable profits should be computed after the deduction from the total business income of the tax-deductible expenses, the tax depreciations and provisions for bad debts. Any revenues derived by an entity/legal person are considered to stem from business activities, including revenues from the transfer of assets and liquidation proceeds. Taxable profits are determined each tax year, as set out in the entity's/legal person's Profit and Loss account, following the Greek Accounting Standards or the International Accounting Standards, after an adjustment of income for tax purposes.

### 4.3 If the tax base is accounting profit subject to adjustments, what are the main adjustments?

The deduction of expenses for tax purposes are subject to general conditions, notably: (i) the expenses should be incurred for the benefit of the taxpayer; (ii) they should correspond to real transactions that are effected in line with the arm's length principle; and (iii) they should be recorded in the taxpayer's accounting books and should be evidenced by appropriate documentation.

Besides the aforementioned criteria, there are also special deductibility restrictions, e.g.: (i) restriction on any expense related to the purchase of goods/services of more than EUR 500, where (partial/total) payment was not performed via bank payment; (ii) fines/penalties; and (iii) the interest limitation rule, described under question 3.4.

Depreciations of assets for tax purposes are provided by domestic tax law.

### 4.4 Are there any tax grouping rules? Do these allow for relief in your jurisdiction for losses of overseas subsidiaries?

No, group taxation is not permitted in Greece.

### 4.5 Do tax losses survive a change of ownership?

In principle, tax losses are carried forward for five years. The carrying forward of the tax losses of an entity/legal person is not acceptable where the following conditions are (cumulatively) met:

- (i) during a tax year, the entity's/legal person's capital or voting rights change directly or indirectly by more than 33%; and
- (ii) in the same/following tax year as of the year of the aforementioned change, another change occurs as regards the nature of the activity of the entity/legal person (in which the participation/voting rights are acquired) to an extent of more than 50% of the turnover in comparison to the previous year.

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

There is no difference in tax rates between distributed and retained earnings. However, in the case of capitalisation or distribution of profits that has not been subject to any CIT, the amount capitalised or distributed is subject to CIT.

### 4.7 Are companies subject to any significant taxes not covered elsewhere in this chapter – e.g. tax on the occupation of property?

Entities/legal persons that own real estate in Greece are subject to uniform real estate property tax ("ENFIA") as of 1 January of each year. ENFIA comprises: (i) the main ENFIA, which is assessed at rates depending on various parameters (e.g. surface, location, etc.); and (ii) the supplementary ENFIA.

In addition, a special real estate tax is imposed on companies that hold ownership or usufruct on immovable property located in Greece at a rate of 15%. However, several exemptions are provided by law, e.g. for listed entities.

## 5 Capital Gains

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

Capital gains derived by corporations are taxed as ordinary business profits at the CIT rate (currently 22%), unless an exemption is provided for (analysed under question 5.2).

It should be noted that, under the exit tax rules pursuant to ATAD I, a legal entity is subject to Greek income tax for transferring its assets, tax residence or business from Greece to another EU Member State or to a third country, from 1 January 2020 onwards. The tax is calculated on the market value of the assets transferred at the time of the exit, minus their value for tax purposes. The applicable provisions set out the cases where exit taxation is imposed.

### 5.2 Is there a participation exemption for capital gains?

Yes. As of 1 July 2020, capital gains derived at the level of a

Greek corporation from the sale of shares in Greek or EU subsidiaries are tax exempt on the condition of a minimum participation of 10% and a minimum holding period of at least 24 months.

The abovementioned income is not taxed further, neither at the distribution nor at the capitalisation of these profits, while the business expenses associated with these participations are not recognised as tax deductible.

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

No, there is no special relief for reinvestment.

### 5.4 Does your jurisdiction impose withholding tax on the proceeds of selling a direct or indirect interest in local assets/shares?

No, Greece does not impose withholding tax on the proceeds of selling a direct or indirect interest.

## 6 Local Branch or Subsidiary?

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

No capital duty is imposed upon the formation of a subsidiary (regardless of its legal form). For Greek *Sociétés Anonymes*, a duty of 0.1% on share capital upon incorporation is payable to the Competition Committee.

### 6.2 Is there a difference between the taxation of a local subsidiary and a local branch of a non-resident company (for example, a branch profits tax)?

No, there is no difference.

### 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 follows the same rules as those provided for companies.

### 6.4 Would a branch benefit from double tax relief in its jurisdiction?

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

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

No other taxes would be imposed.

## 7 Overseas Profits

### 7.1 Does your jurisdiction tax profits earned in overseas branches?

Tax resident entities are subject to tax for their worldwide income. Therefore, profits derived from overseas branches should be included in the Greek corporate tax base.

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

In principle, dividends received by a local company from a non-resident company in Greece (subject to any foreign tax credit/exemption by virtue of any applicable DTT or domestic law) are taxed as business income, subject to CIT (currently at 22%). However, a participation exemption regime applies to inter-company dividends by virtue of the EU Parent-Subsidiary Directive, provided that certain conditions are met.

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

Greek domestic law provides for controlled foreign company (“CFC”) rules, which have been recently updated in order to align with ATAD I. According to these rules, which are applicable to both legal persons and individual taxpayers, tax residents in Greece, foreign legal entities and foreign PEs are considered CFCs insofar as certain conditions are cumulatively fulfilled.

As long as the relevant conditions are met, any non-distributed income of the CFC under examination is included in the Greek corporate taxpayer’s taxable income and is taxed according to the Greek CIT rate (currently 22%). Any foreign CIT paid by the CFC is credited against Greek tax (up to the maximum of the Greek tax assessed).

It should be noted that, based on the updated CFC rules, even if the relevant conditions are cumulatively fulfilled, and provided that the CFC under examination is established in the EU/EEA, the said anti-tax avoidance rule shall not apply as long as such CFC performs substantial economic activity, supported by employees, equipment, assets and premises, as evidenced by relevant facts and circumstances.

## 8 Taxation of Commercial Real Estate

### 8.1 Are non-residents taxed on the disposal of commercial real estate in your jurisdiction?

Capital gains on the disposal of commercial real estate located in Greece should be subject to Greek taxation.

### 8.2 Does your jurisdiction impose tax on the transfer of an indirect interest in commercial real estate in your jurisdiction?

Capital gains earned by individuals that arise from the transfer of real estate or participations that 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%. The effect of the above provision has been suspended until 31 December 2024.

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

Real estate investment companies (“REICs”), which engage exclusively in the acquisition and management of real estate property, may be considered the equivalent of REITs in Greece and benefit from several tax exemptions, notably:

- Exemption from CIT, with the exception of dividends acquired in Greece.
- Exemption from real estate transfer tax in case of acquisition of real estate by REICs.
- Exemption from capital gain taxation deriving from the transfer of real estate property and the transfer of shares.
- Dividends distributed by a REIC are exempt from income tax.

REICs are subject to tax at a rate of 10% of the applicable European Central Bank intervention rate (the Interest Reference rate) increased by one point and calculated on the average of the investments, plus any available funds, at their current value.

## 9 Anti-avoidance and Compliance

### 9.1 Does your jurisdiction have a general anti-avoidance or anti-abuse rule?

Yes. By virtue of the Greek Tax Procedure Code, a GAAR has been adopted. According to this rule, which has been updated in order to align with ATAD I, the Greek tax authorities may ignore an arrangement or a series of arrangements that, having been put in place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or purpose of the applicable tax law, are not genuine with regard to all relevant facts and circumstances (non-genuine arrangements). The concept of “arrangement” may include a transaction, an agreement or any other structure, or even a combination of the above, that ultimately results in tax avoidance. An arrangement or a series thereof shall be regarded as non-genuine to the extent that they are not put into place for valid commercial reasons that reflect economic reality. Finally, for the purposes of determining whether an arrangement should be considered genuine, the provision provides for an indicative list of situations that are considered non-genuine arrangements.

The GAAR, as amended, is applicable not only to purely domestic transactions, but also to cross-border transactions to the extent that the DTT does not contain its own anti-abuse rules (“Principal Purpose Test”, etc.).

### 9.2 Is there a requirement to make special disclosure of avoidance schemes or transactions that meet hallmarks associated with cross-border tax planning?

Yes. Greece has incorporated European Council Directive 2018/822/EU (“DAC 6”) into its domestic law. According to the Directive, a disclosure obligation is imposed on intermediaries or the taxpayer himself towards the tax administration regarding cross-border arrangements. In particular, arrangements to be reported are those that: (a) involve either more than one EU Member State or an EU Member State and a third country; and (b) contain at least one of a number of features and elements (“hallmarks”) listed in the law. Hallmarks are considered in accordance with the rules to present a strong indication of tax avoidance.

Based on a deferral of the time limits for filing and exchange of information, which was allowed under the Directive and introduced in the domestic law, the tax reporting and information exchange dates fall after the beginning of 2021. However, these

relevant law provisions entered into force on 1 July 2020 and the scope of reporting includes arrangements implemented as of 25 June 2018.

In case of non-compliance with the above provisions, monetary fines may be imposed.

### 9.3 Does your jurisdiction have rules that target not only taxpayers engaging in tax avoidance but also anyone who promotes, enables or facilitates the tax avoidance?

Yes. A person who assists or instigates another person or collaborates with another person for the purposes of committing tax avoidance is liable for the same penalties as the taxpayer. In addition, a person who by any means knowingly collaborates or offers immediate assistance in committing tax evasion is subject to punishment as a primary accessory in the crime.

### 9.4 Does your jurisdiction encourage “co-operative compliance” and, if so, does this provide procedural benefits only or result in a reduction of tax?

A corrective tax return can be filed (once a tax audit has begun) prior to the issuance of a preliminary tax assessment, and this can result in a reduction of penalties.

### 9.5 Are there rules requiring special disclosure where a company is taking a position on a tax issue that is uncertain (open to dispute from a technical perspective)?

No, Greek tax legislation does not provide for special disclosure in case a company is taking a position on a tax issue that is uncertain, but such a company may file a return “under reservation”, meaning that the latter pays the relevant tax but at the same time expresses its uncertainty; therefore, the Greek tax administration should respond to such reservation. Failure to explicitly respond or a negative reply by means of the Greek tax administration can be challenged through the available administrative and judicial remedies.

## 10 BEPS, Tax Competition and the Digital Economy

### 10.1 Has your jurisdiction implemented the OECD’s recommendations that came out of the BEPS project?

Yes. Greece regularly takes the necessary legislative measures in order to conform to BEPS minimum standards and to harmonise its tax system with both BEPS Actions and the EU Directives complementing and reinforcing the OECD’s BEPS project. In particular:

- Regarding Action 2, Greece has incorporated ATAD II rules that cover hybrid mismatches between EU Member States and non-Member States, respectively.
- Regarding Action 3, Greece introduced a CFC regime in 2014 that has recently been updated in order to align with ATAD I.
- Regarding Action 4, Greek domestic law provides for rules relating to limitation on interest deduction, in line with ATAD I.
- Regarding Action 5, Law 4474/2017 transposed EU Directive 2015/2376 on the automatic exchange of information, with respect to cross-border advance tax rulings and APAs. Also, Greece has both the GAAR

and a specific anti-abuse rule on the application of the EU Parent-Subsidiary Directive in case of artificial arrangements.

- Regarding Actions 8–10, the Greek transfer pricing rules explicitly refer to the most updated OECD Transfer Pricing Guidelines for Tax Administrations and Multinational Enterprises (Circular 1097/2014) and, therefore, render any updates immediately effective in Greek law.
- Regarding Action 12, DAC 6 has been introduced into Greek legislation by virtue of Law 4714/2020.
- Regarding Action 13, the Greek legislative framework introduced transfer pricing documentation requirements for Country-by-Country Reporting (“CbCR”) with Law 4484/2017, adopting in essence EU Directive 2016/881 on the automatic exchange of information for CbCR.
- Regarding Action 14, a mutual administrative procedure provision has been included in Greek domestic law in accordance with ATAD I. Greece has also implemented the Directive on Tax Dispute Resolution Mechanisms into national legislation and the new mechanism will be applicable to any complaint submitted by an EU resident. This relates to a tax dispute concerning income or capital earned in a fiscal year commencing on or after 1 January 2018. The new dispute resolution mechanism applies when a dispute arises between Greece and one or several EU Member States in relation to the interpretation and application of agreements and conventions that provide for the elimination of double taxation of income and capital.
- Finally, regarding Action 15, Greece signed the MLI on 7 June 2017. As stated in question 1.3, on 26 January 2021, the Greek Government officially published Law 4768/2021 to ratify the MLI and, on 30 March 2021, deposited its instrument of ratification for the MLI with the OECD, with the MLI entering into force on 1 July 2021.

#### 10.2 Has your jurisdiction adopted any legislation to tackle BEPS that goes beyond the OECD’s recommendations?

No, for the time being, Greece has not adopted any rules to tackle BEPS that go beyond the OECD and EU guidelines.

#### 10.3 Does your jurisdiction support information obtained under Country-by-Country Reporting (CbCR) being made available to the public?

International agreements governing the use and exchange of CbCR require tax authorities to maintain the confidentiality of the information and data provided in the CbCR. The IAPR will use CbCR data in the risk assessment process for cross-border transactions, especially among MNE Group members (referring to multinational enterprises).

#### 10.4 Does your jurisdiction maintain any preferential tax regimes such as a patent box?

There is a preferential tax regime with respect to shipping companies and business service centres.

#### 10.5 Has your jurisdiction taken any unilateral action to tax digital activities or to expand the tax base to capture digital presence?

In the course of applying the OECD BEPS Actions, Greece has established a “use and enjoyment rule” applicable to broadcasting, telecommunications and electronic services provided to non-VATable persons.

Specifically, if the place of supply of the above services is a non-EU country but the service is used and enjoyed in Greece, in the sense that the customer is in Greece at the time of supply, it will be taxable in Greece.

In compliance with article 12 of the OECD Model Tax Convention and in accordance with the reservation expressed on the application of article 12 from Greece, article 38 of the Greek Income Tax Code covers, in its definition of royalties, among others, the right to use software for commercial exploitation and personal use as well as the payment for advisory services provided electronically through a problem-solving database.



**Panagiotis Pothos** heads the firm's Tax Department and is a member of Kyriakides Georgopoulos Law Firm's Private Wealth practice. Panagiotis combines unique expertise in business and personal taxation, having a particular focus on corporate and M&A taxation, international taxation, taxation of financial transactions, VAT and indirect taxation, real estate taxation, inheritance and donation taxation, shipping taxation and private wealth structuring. He advises multinational groups, domestic listed and privately held entities, high-net-worth individuals and family offices, as well as foreign counsels and practitioners on their Greek tax issues. Further, he assists clients in structuring their cross-border investments and complex corporate and financial transactions. Panagiotis is a distinguished litigator, representing corporate and private clients before the tax authorities and all levels of the administrative courts. Additionally, he supports individuals and families on the tax and legal aspects of the management of their private wealth. Panagiotis is a member of the Taxation Committee of the American-Hellenic Chamber of Commerce and a regular speaker in domestic and international tax conferences, as well as a contributor in tax journals and publications.

**Kyriakides Georgopoulos Law Firm**  
28 Dimitriou Soutsou Str.  
115 21 Athens  
Greece

Tel: +30 210 817 1509  
Email: [p.pothos@kglawfirm.gr](mailto:p.pothos@kglawfirm.gr)  
URL: [www.kglawfirm.gr](http://www.kglawfirm.gr)



**Ioanna Barmpa** specialises in Greek, EU and international corporate taxation. She provides advisory services on the full spectrum of corporate and international tax matters involving the set-up of Greek corporations, financing, operation, tax restructuring or exit strategies. Ioanna is also active in M&As, assisting clients with tax structuring whereas she is also involved in the negotiations with counterparties. She further specialises in real estate taxation, providing to the clients assistance in tax matters relevant to the acquisition, sales and general restructurings of businesses active in the real estate industry. She also has significant experience in projects linked to the energy industry. She also represents clients in tax controversy cases. Ioanna has been a lecturer on the Double Tax Treaties (Post-Graduate programme on Greek Tax Law) at the Athens School of Economics since 2022.

**Kyriakides Georgopoulos Law Firm**  
28 Dimitriou Soutsou Str.  
115 21 Athens  
Greece

Tel: +30 210 817 1540  
Email: [i.barmpa@kglawfirm.gr](mailto:i.barmpa@kglawfirm.gr)  
URL: [www.kglawfirm.gr](http://www.kglawfirm.gr)



**Arete Maxine Avlichou** is a member of the law firm's Tax Department. Maxine provides legal support in tax controversy cases pending before administrative and judicial authorities. She also provides advisory services.

**Kyriakides Georgopoulos Law Firm**  
28 Dimitriou Soutsou Str.  
115 21 Athens  
Greece

Tel: +30 210 817 1514  
Email: [m.avlichou@kglawfirm.gr](mailto:m.avlichou@kglawfirm.gr)  
URL: [www.kglawfirm.gr](http://www.kglawfirm.gr)

Kyriakides Georgopoulos Law Firm (KG) is a leading Greek multi-tier business law firm and the largest in Greece, dating back to the 1930s and recognised as one of the most prestigious law firms in Greece. KG has been the preferred choice for US and European international law firms, capable of delivering legal services at the most demanding international standards of professional quality and client service. Our partners and lawyers are prominent participants in international practice law institutions and networks, such as the International Bar Association, the American Bar Association, the Antitrust Alliance, the Employment Law Alliance, the European Employment Lawyers Association, the International Fiscal Association, etc.

KG is a founding member of South East Europe Legal Group (SEE Legal), a regional alliance of major law firms from 12 countries in South East Europe, established in 2003. Working together on cross-border transactions, SEE

Legal is the largest local legal team in South East Europe, with more than 450 lawyers organised in cross-jurisdictional practice groups. Our firm's performance is consistently ranked highly by the most prestigious of international directories, such as *Chambers and Partners Global*, *Chambers and Partners Europe*, *The Legal 500 EMEA*, as well as *IFLR1000*.

[www.kglawfirm.gr](http://www.kglawfirm.gr)



KYRIAKIDES GEORGOPOULOS  
Law Firm