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Private Wealth 2022

Greece: Trends & Developments

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Trends and Developments

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Introduction

Despite the economic slowdown triggered by COVID-19, Greece has implemented innovative personal tax structural reforms with the aim of attracting foreign investments, high net worth individuals, pensioners and skilful human resources to Greece. Recent decisions of the Minister of Finance and the Governor of the Independent Authority for Public Revenue specify the details for the implementation of the latest provisions of the Greek Income Tax Code and give a clear picture of the new tax regimes, laying the groundwork for a solid tax plan. Greece managed to put into place four favourable alternative tax regimes aiming to attract high net worth individuals, pensioners, foreign employees and freelancers to redomicile to Greece, with the possibility to set up family offices in Greece. A summary of these personal tax structural reforms is provided below.

Non-Dom Status Regime

The Non-Dom Status Regime focuses on high net worth individuals who wish to transfer their tax residence to Greece. High net worth individuals could benefit from Non-Dom taxation by submitting their application before 31 March of each year.

The Non-Dom tax regime provides for the exhaustion of all worldwide tax liability for any foreign-sourced income by paying an annual flat tax of EUR100,000, regardless of the amount of income earned abroad and with no obligation to declare any foreign income in Greece. It also provides an exemption from any inheritance or donation tax regarding any property abroad. The taxes that may have already been paid abroad do not decrease tax liability arising in Greece under the special Non-Dom regime. The special scheme may also be extended to family members of the high net worth individual by contributing an additional flat tax of EUR20,000 for each member annually.

Two substantial requirements should be met in order to become a Greek Non-Dom tax resident:

- the individual must not have been a Greek tax resident in the previous seven out of eight years prior to the transfer of the tax residence in Greece; and
- the individual has invested or will invest at least EUR500,000 in Greece (the “minimum investment amount”), either themselves or through a legal entity or a relative (ie, spouse, direct ascendant or descendant). The investment may take different forms, such as investments in real estate, business, securities or shares in legal entities registered in Greece. The investments should be completed within three years of the submission of the transfer application.

The applicant must take into account the following important dates/deadlines:

- the application for transfer of residence must be submitted to the Tax Authority of non-Greek residents by 31 March;
- the relevant documentation is accepted by the Authority within 60 days of the filing and by 31 May at the latest;
- the Tax Authority approves the application within 60 days of the filing and notifies the foreign tax authority of the transfer of the taxpayer’s residence in Greece;

- the flat tax of EUR100,000 is assessed before 30 June; and
- the flat tax is paid as a lump sum by 31 July of each year.

This alternative taxation starts in the tax year during which the application for the transfer of residence was submitted, and expires in 15 years. However, it may be terminated at any time if the taxpayer fails to fulfil their obligations under this tax regime or requests the revocation of the Non-Dom Tax regime.

The special regime will not impact the tax treatment of Greek-sourced income, which shall therefore be taxed according to the general tax rules applicable in Greece.

This tax regime applies regardless of whether or not the high net worth individual is physically present in Greece for more than 183 days and whether the centre of their vital relations is in Greece, as the corpus and animus criterion is not included in the requirements prescribed by Article 5A of the Greek Income Tax Code. However, individuals spending more than 183 days in another country could risk being considered tax residents in such other country.

18 individuals applied for and received Non-Dom Tax Status in Greece in 2020, and 57 in 2021. Applicants come from Argentina, Australia, Belgium, Canada, Cyprus, Czech Republic, France, Germany, Israel, Lebanon, Malta, Monaco, Oman, Panama, Russia, Senegal, Switzerland, the UAE, the UK and the USA.

Pensioners Regime

In order to be eligible for the Pensioners Regime, an individual must satisfy the following conditions:

- they earn foreign sourced pension income;
- they transfer their tax residency to Greece;
- they have not been Greek tax residents for the previous five of the last six years before the transfer of their tax residence to Greece; and
- they relocate from a country with which Greece has a valid agreement concerning administrative co-operation on tax issues.

In order to qualify under the Pensioners Regime, the applicant must evidence that they receive a pension from a foreign social security institution or other public authority or occupational pension fund or private insurance company, by presenting any document issued by such foreign institutions.

The applicant must either have been registered before with the Greek tax authorities and appears as a foreign tax resident in the records of the Greek tax authorities for the previous five of the last six years before the transfer of their tax residence to Greece, or they must produce evidence of their foreign tax residence status for the previous five of the last six years before the transfer of their tax residence to Greece.

If the applicant pensioner qualifies, they are required to pay a 7% flat income tax for their income obtained abroad, annually before the end of July of each year, with full exhaustion of their tax liability in Greece for such foreign source income, unless such income is exempt by application of a tax treaty between Greece and the foreign source country.

The deadline to file the application and supporting documentation is 31 March of the respective fiscal year; applications filed after such deadline will be examined for the following fiscal year. The Greek tax authorities have 60 days in which to issue their decision. A maximum of 15 years is set for the eligibility for the alternate tax regime from the first year the application is made; this cannot be extended.

Successful applicants are considered Greek tax residents within the meaning of the tax treaties that Greece has enacted with foreign jurisdictions. The successful outcome of the application does not affect the tax residency status of the applicants' relatives, as this will be examined separately at a later stage.

Seven individuals applied for and received Pensioners Tax Status in Greece in 2020, and 150 in 2021. Applicants come from Austria, Belgium, Bulgaria, Cyprus, France, Germany, Hong Kong, Italy, Malta, the Netherlands, Portugal, Romania, Russia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, the UK, the USA and Venezuela.

Expat Regime

Greece has enacted a new tax regime to bring back from abroad Greek expats who left Greece during the "brain drain" era of 2010–2020.

In order to be eligible under the new tax regime, an individual needs to satisfy the following conditions:

- they have not been Greek tax residents for the previous five of the last six years before the transfer of their tax residence to Greece;
- they relocate from a country with which Greece has a valid agreement concerning administrative co-operation on tax issues;
- they are providing employment services in Greece through an employment relationship as defined by Greek law to a Greek legal person or legal entity, or to a Greek branch of a foreign company; and
- they declare that their stay in Greece will be for at least two years.

The favourable tax regime applies only to new employment positions. All other income (in and outside Greece) is taxed in accordance with the general provisions. The special taxation regime also applies to individuals who transfer their tax residence to Greece with an intention of undertaking business activity in Greece.

The deadline to apply for this regime is 31 July of the year during which the employment or business commences. The decision of the tax authorities to accept or reject the application is issued within 60 days of the application date. The special taxation regime can apply for a maximum term of seven years. If any of the conditions ceases to exist at any time, the individual will no longer be subject to the special tax regime and will be taxed on the total amount of their Greek employment income onwards.

Provided that the application for the transfer of the tax residence through the above process is successful, the individual will be exempt from paying income tax and solidarity tax on 50% of their Greek employment income.

More than 1,500 applications were filed in its first year of application in 2021, highlighting the dynamic impact of the specific tax incentive.

Family Offices

The Greek government has also introduced the Family Office regime to serve the management of family wealth and assets of high net worth individuals who are tax residents in Greece.

Family offices can be established under any of the legal forms referenced in the Greek Income Tax Code, except those of a non-profit nature and those whose exclusive purpose is to support Greek tax resident individuals and their close family members with the management and administration of their family wealth and assets that are held either directly or indirectly through legal entities in which they participate.

First and foremost, the establishment of a family office in Greece requires a Greek tax resident individual. These persons, their spouses (or partners through a civil partnership), their children and their parents are considered members of a family and can be partners/shareholders of a family office. The services of such an office can be provided by its employees or assigned to third parties, even if they are not situated in Greece. However, at least five people should be employed in Greece. The main requirement for the establishment of a family office is to spend at least EUR1,000,000 per annum in operating expenses in Greece.

Furthermore, Greece's economic prosperity can be achieved not only by imposing taxes on family offices' income, but mostly through the side effects of the capital, which can be channelled to the internal market by such an entity. The gross income from the services provided by the qualifying offices is defined by adding a 7% profit to all their expenses and depreciation, except income tax (cost method plus profit margin). For the assessment of the tax base (net income), the expenses of the entity will be deducted from the gross income, on the condition that these are booked in accordance with the relevant provisions of the law. The tax will be assessed over this amount by applying the tax rate for legal entities (currently 22%).

Family offices are required to withhold income tax for payments they effect as per the general rules. If the company's revenue as shown in its accounting books is higher than the revenue as determined by the above "cost plus profit margin" method for any reason, the revenue shown in the accounting books is taken into account. Therefore, the Greek tax authorities will use the higher amount as the calculation base of the net income. Besides, the actual income of the entities can be crosschecked through their bank statements, since any payments to them must be made by bank remittances. Finally, it is important to note that VAT is not imposed on any transactions between the partners or shareholders of a family office and this office itself.

Although this new tax regime is invaluable in attracting foreign capital to Greece, the following revisions are necessary in order for the Greek Family Office regime to be accomplished.

- The tax residence of family members should be disassociated with the set-up of a family office in Greece. Otherwise, the scope of the regime shall be restricted exclusively to domestic families, thus significantly reducing the number of potential family offices to be set up in Greece.
- Family offices are set up to manage family wealth from generation to generation. The number of generations to be serviced by the office should be unlimited, thus ensuring a long economic life for the office. The current regime is limited to the servicing of two generations.
- Extending the life of a family office also requires the number of families being served by the office to be extended. Multi-family offices are trending at an international level, as they facilitate serving families of the third or further generations, while achieving synergies and economies of scale.
- The family office should be allowed to provide services to any legal entity holding family assets. Limiting the scope of service recipients to the founding members of the office shall also limit the scope of services to be provided, thus making the office inflexible.
- An annual minimum expenditure of EUR1 million makes the regime rather expensive; it has been suggested that it should be reduced to EUR300,000.
- Activities of family offices should be expressly shielded from place of effective management rules. Otherwise, the regime would trigger significant tax uncertainty in relation to the

place of effective management of legal entities holding family assets across the globe.

Conclusion

The above new tax regimes will be conducive towards economic growth and are moving in the right direction to help Greece improve its tax competitiveness. Greece will be introducing a tax activity in order to contribute to boosting investments, attracting sophisticated human resources and effectively developing a new sector of professional services. All these goals are accomplished with the application of the new tax regimes to make Greece an attractive tax destination.

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Machas & Partners Law Firm is a full-service, independent law firm in Greece, with a team of 30 lawyers. It has a strong presence in Greece and long-standing professional associations worldwide, and stands out for its global perspective and pro-business approach. The firm represents and advises a wide array of Greek and international high net worth individuals, family businesses, charitable organisations, educational institutions, banks and trusts. The attorneys provide counsel on estate, gift, succession and income tax planning; sophisticated charitable giving; probate and fiduciary litigation; structuring private and corporate wealth; tax disputes; business succession planning; asset protection; and international wealth transfer. The team represents individuals in complex probate litigation and helps to achieve optimum results through negotiation, litigation, trial, appeal and alternative dispute resolution methods in matters of fiduciary misconduct.

AUTHORS

Tom Kyriakopoulos provides comprehensive legal and tax advisory and compliance services on all aspects of Greek and foreign laws. He has comprehensive knowledge and a thorough understanding of both Greek and foreign private wealth, commercial, corporate, financing and tax issues with respect to the personal domiciliation/redomiciliation of private clients, structuring/restructuring and executing complex private, family, commercial/financing transactions, implementing tax-efficient family and investment structures and pragmatically structuring cross-border transactions. Tom has advised and assisted high net worth individuals with cross-border holdings in structuring (and at times restructuring) their operating, trading, financing and holding entities. He also advises clients on highly complex commercial agreements.

Petros Machas is the founding partner and chairman of Machas & Partner. Before establishing his law firm in 2011, he was a senior associate in one of the oldest law firms in Greece, handling several complex commercial deals and high-profile cases both in Greece and abroad. Petros has developed a strategic pro-business approach and has earned the respect of peers and clients alike for his solid, proactive and effective multi-jurisdictional practice. He has extensive experience in handling a broad spectrum of work for high net worth clients, and is highly qualified in successfully managing complex cases. He is acknowledged for his cross-border litigation practice and for providing high-quality services in demanding and sophisticate corporate deals. Petros' experience spans M&A, real estate, privatisations and energy, as well as capital markets and banking and finance matters.

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