ECOVIS®

info

International Tax, Audit, Accounting and Legal News | Issue 1/2016

GREECE BUSINESS REGULATORY ENVIRONMENT 2016

CONTENTS

GREECE

BUSINESS REGULATORY ENVIRONMENT

2016

A. FORMS OF ENTERPISE

General There is a variety of formations under which a company can be established and operate. The following are the types of capital companies and the most important forms of business in Greece:

- ✓ the company limited by shares, also known as corporation ("AE", *société anonyme*)
- ✓ the limited liability company ("EPE")
- ✓ the private capital company ("IKE")

A1. Société anonyme– Company limited by shares ("AE")

1.1. General

A Greek AE operates under the provisions of the codified statute 2190/1920 as amended and the provisions of the company's Articles of Association (AoA). The AE is incorporated by one or more persons, legal or natural, Greek or foreign and is governed by a board of directors. It has its own legal personality, which is separate from its shareholders. The two main bodies of the SA are the General Meeting of Shareholders and the Board of Directors.

1.2. Formation procedure

The AE is established by a notarial deed containing the deed incorporation and the Articles of Association. Under the simplified establishment procedure, all documents required are filed with a Greek notary public (referred to as "one-stop authority"). The notary arranges the registration of the company with the tax authorities and the General Commercial Registrar ("GEMH").

1.3. Capital

The minimum capital required is 24.000 euro, unless the law provides otherwise due to its specific nature (higher thresholds for AE operating under sector-specific legislation). Contributions can be made either in cash or in kind; however minimum capital should be paid up in cash. Capital is divided into fully transferable shares, whose minimum value is 0.3 euro and maximum 100 euro.

1.4. Shareholders meeting

The decision-making body of the AE is the annual general shareholders' meeting, which must take place within 6 months of the end of the financial year. Its exclusive competency includes: amendments to the articles of association, appointment and removal of directors and auditors, approval of company' s balance sheet, distribution of profits, company's merger / division / conversion / reactivation / extension of duration / dissolution, appointment of liquidators and issuance of bond loans.

1.5. Shareholders' liability

The company is solely liable for its debts and obligations towards third parties and creditors only by recourse to company's assets. The liability of shareholders is limited up to the amount of the contributed capital.

1.6. Board of directors

The AE is represented by its board of directors (BoD) acting collectively. The AE must have at least three directors, who do not need to be shareholders or Greek nationals. The BoD is competent to decide upon every matter relating to the corporate management, the administration of the company's property and the pursuit of its objectives, unless the matter falls within the competence of the general meeting. Resolutions of the BoD require an absolute majority of present members. The term of the BoD members may not exceed 6 years.

1.7. Dissolution

The AE is dissolved in case of bankruptcy, after the expiry of its duration as specified in the articles of association or by virtue of a decision of the general meeting of its shareholders.

1.8. Listed companies

Corporations with securities listed on the ATHEX are regulated by special legal provisions (law 3371/2005).

A2. Limited liability Company ("EPE")

2.1. General

The EPE is regulated and operates under the provisions of law 3190/1955 as amended. It has its own legal personality which is separate from its partners. The EPE is incorporated by one (single member EPE) or more natural or legal persons (Greek or foreign nationals), who are called partners. The partners are solely liable for their corporate obligations through the company property.

2.2. Formation procedure

The Company is established by filling all necessary documents and by editing a notarial deed which contains the articles of association. In particular, the articles of association must be drawn up before a notary public (the so called "one-stop authority"), who also arranges its registration with the tax authorities and the General Commercial Registry ("GEMH").

2.3. Capital

There is no minimum capital requirement for EPE; however, any share capital stated in the articles of association must be fully paid up (in cash or in kind) at the time the contract of incorporation is concluded before a notary public. The capital paid-up is divided into share-parts for which no share certificates are issued and which shall only verify the capacity of a person as partner.

2.4. Meeting of partners

The supreme organ of the EPE is the meeting of partners, which has the authority to decide upon: the approval of the balance sheet and distribution of profits, amendments to the company's articles of association, appointment or revocation of the administrators and extension of the company's terms of existence, merger and dissolution. A resolution can only be passed by an absolute majority of the total number of the partners, representing more than half of the total company capital.

2.5. Administration

There is no supervisory board in the EPE and for this reason the management is assigned to one or more administrators, whose acts are binding for the company in almost all matters except those that require a resolution of the partners as specified in the articles of Association. If no administrators are appointed, the administration is exercised by all partners acting jointly. The administrators are liable to the company, the partners and third parties for any breach of law or faults related to the administration.

2.6. Dissolution

The Company is dissolved in case of bankruptcy, by a court decision, resolution of Partners Meeting, whenever the AoA provide so.

A3. Private Capital Company ("IKE")

3.1. General

It refers to a new company form introduced by law 4072/2012.

3.2. Formation procedure

The Company can be formed with a private document unless a notarial deed is needed. It is established by one (single member IKE) or more partners, who can be individual or legal entities. The procedure is carried out through the General Commercial Registrar (one-stop authority).

3.3. Duration

IKE can only be of a limited duration, and if not stated in the AoA, its statutory duration is 12 years but can be extended by a decision of its partners.

3.4. Capital

There is no minimum capital requirement. Instead, the capital is defined freely by its partners. The contribution of the partners in the company can be in capital (in cash or in kind), in non-capital (e.g. in the form of personal services) or in the form of guarantees (e.g. the assumption of liabilities towards third parties on behalf of the company).

3.5. Liability

The company is solely liable for its corporate debts and obligations and the partners' liability is limited to their contribution to the capital.

3.6. Meeting of partners

It is the supreme organ of IKE and is exclusively competent to decide upon: the amendment of the AoA unless otherwise agreed, the appointment and revocation of administrators, the approval of statements and distribution of profits, the exclusion of a partner, the dissolution / extension / conversion / merger of the company.

3.7. Administration

IKE is administered by one or more persons, who do not need to be partners and who are appointed by the AoA or the partners' meeting. If no administrators are appointed, the administration is assigned to all partners acting jointly.

3.8. Dissolution

The Company is dissolved in case of bankruptcy, by a decision of its partners, after expiry of its term of existence and in any other cases other cases provided by the AoA or the law.

B. INCOME TAX FOR BUSINESS ENTITIES IN GREECE

As regulated by law 4172/2013 (the Greek Income Tax Code) as applicable.

1. Legal entities liable to corporate income tax

Any legal entity established in Greece or abroad having its business activity in Greece (i.e. capital companies, personal liability companies (partnerships), joint ventures) is subject to corporate income tax in Greece. Companies with their tax residence in Greece are taxed on their worldwide income, while foreign companies in Greece are taxed only on their Greek-source income.

2. Taxable income

There are three major corporate income sources subject to taxation:

- ✓ Income gained from business activity
- ✓ Income gained from capital
- ✓ Income gained from capital gains

In particular, the taxable income refers to the net profit (before tax) as set out in the company's balance sheet and income statement.

3. The taxable period for companies

The corporate tax is imposed on the net income that companies gain by exercising their business activities normally during one business year.

4. Tax rates

Corporate Income tax rate is 29% for any corporate income gains as of 01.01.2015 for business entities keeping double entry books (capital companies like AE, EPE and IKE). Companies not using the double entry bookkeeping system have to pay 26% for income up to EUR 50,000 and 33% for the exceeding income.

5. Tax filing deadlines and procedure

The filing of corporate income tax is submitted online until the last day of the 6^{th} month following the end of the business year unless extended or otherwise provided.

6. Tax payment

The income tax is paid in eight equal monthly installments commencing on the date of the online filling. Companies are required to pay an amount 100% of current' s year income tax as an advance tax against next year' s tax liability for any profits arising in tax years starting from 1.1.2015 onwards.

7. Income subject to withholding tax

7.1. Income from dividends

The dividends or profits distributed or repatriated for business entities keeping double entry books are subject to withholding tax at a rate of 10%. Foreign companies with no establishment in Greece are subject to withholding tax for any income from dividends distributed at a rate 10%, which results to the exhaustion of their tax liability. However, there is no withholding tax obligation for dividends distributed by Greek subsidiaries based on the participation exemption rule if the following conditions apply cumulatively:

✓ The distributing company is included in the types listed in Annex I, Part A Directive 2011/96/EC, as amended (Parent-Subsidiary Directive)
✓ It is tax resident in an EU Member State
✓ It is subject, in one of the taxes listed in Annex I, Part V Directive 2011/96/EC without choice of exemption
✓ The receiving company holds a minimum participation rate of at least ten percent (10%) of the value or the number of equity or core capital or voting rights of a legal person that distributes and
✓ The minimum holding percentage held at least twenty four (24) months.

Greek branches of foreign entities are explicitly exempted from Greek withholding tax in the event of remittance or crediting of profits. Finally, as far as non EU resident entities are concerned, it should be investigated whether there is a double tax treaty signed between Greece and this certain country, which provides for exemption from Greek withholding tax. Dividends distributed to Greek companies are subject to withholding tax at a rate 10%, which does not extinguish their tax liability; instead, this withholding tax is credited against the company' s annual general income liability.

7.2. Income from interest and royalties

As a general principle, the interest gained by any business entities is subject to withholding tax at a rate of 15%. Foreign companies with no establishment in Greece are subject to withholding tax for any interest gained at a rate 15%, which results to the exhaustion of their tax liability. Interest gained by Greek companies and Greek branches is subject to withholding tax at a rate 15%, which does not extinguish their tax liability; instead, this withholding tax is credited against the company's annual general income liability.

Royalties paid to foreign companies with no establishment in Greece are subject to withholding tax at a rate of 20% unless the company is tax resident of countries with whom Greece has entered into double tax treaties.

However, there is no withholding tax obligation for interest and royalties gained in Greece provided that the legal entity paid or paying possesses 25% of the equity of the counterparty for at least 24 months. Additionally, the receiving legal should a) be included in the types listed in Annex I, Part A Directive 2003/49/EC, b) tax resident in an EU Member State, c) be subject, in one of the taxes listed in Annex I, Part B Directive 2003/49/EC without choice of exemption.

8. Transfer of losses

Companies may forward their tax losses against taxable income of the 5 years following the accounting year in which they incurred.

9. Expenses which can be deducted

Expenses made in the interest of the company or during its ordinary course of business, which correspond to actual transactions whose value is consistent with the market and which are recorded in the company' s books, can be deducted in order to determine the corporate taxable profit.

Exceptionally, the following expenses cannot be deducted: interest on loans granted by third parties other than bank loans, any purchase of goods or services exceeding the amount of 500 euros provided that the payoff was not made using a bank transfer, the unpaid social security contributions, fines and penalties, any services provided or received that constitute a criminal action, the income tax and the VAT paid, any costs for organizing and conducting information workshops, meetings, meals and festivities exceeding 300 euro per person, the personal consumer expenses, the expenses paid to a foreign legal entity resident of a country with which has not concluded any agreement for tax cooperation or of a country with a preferential tax regime and provided that certain conditions are not fulfilled.

C. INCOME TAX FOR INDIVIDUALS IN GREECE

As regulated by law 4172/2013 (the Greek Income Tax Code) as applicable.

1. Liable individuals

Individuals with their tax residence in Greece are subject to taxation for their incomes produced in Greece or abroad, i.e. for their worldwide income gained within a specific tax year. Nonresidents are taxed on their Greek source income only.

2. Who is considered to be Greek tax resident

An individual is considered to be a Greek tax resident provided that his/her permanent residence or his center of vital interests is located in Greece. In addition, a usual place of residence is deemed to exist when the individuals spends more than 183 days in Greece. Non tax residents need to provide specific documentation such as nonresident certificate from the foreign tax authority to prove their status in Greece.

3. What consitutes taxable income

There are four major sources of income subject to taxation:

- ✓ Income gained from employment and pensions
- ✓ Income gained from business activity
- ✓ Passive income gained from capital (dividends, interest, royalties, lease)
- ✓ Income from capital gains

4. The deemed income tax method

The mechanism of deemed income according to objective criteria is adopted in order to determine the minimum income assumed to be gained by any individual. According to this method, the amount of declared income is compared with the amount of deemed income based on evidence relating to expenses made for the acquisition of assets and living expenses. If after the application of these objective criteria, the deemed income is higher than the declared income, the taxpayer will be taxed according to his deemed income. Deemed income does not apply to non-tax residents who earn no real income in Greece.

5. The tax filing and payment procedure

The tax year for individuals is the calendar year, while tax is imposed every year for the income produced the previous tax year. The filing of income tax is submitted online until the 30th of April of the next tax year unless otherwise provided.

6. Income from employment and pensions – relevant deductedexpenses

Income gained from employment and pensions is taxed according to the following scale:

- ✓ Income up to 25.000 EUR with 22%
- ✓ The exceeding income up to 42.000 EUR with 32%
- ✓ Income higher than 42.000 EUR with 42%.

A tax credit up to 2.100 EUR is provided for income up to 21.000 euro. For any income exceeding 21.000 euro, the tax credit is reduced by 100 euro per 1.000 euro of the taxable income, while income higher than 42.000 euro there is no tax credit provided. In addition, a 10% tax credit is provided for the following: a) medical and hospital expenses up to the amount of 3.000 euro, b) donations to public entities, charities and nonprofit organizations.

7. Income from business activity (freelancers and sole proprietorships)

The taxable income gained form business activity refers to the net profit (before tax) after the deduction of business expenses, depreciation and bad debts. The income tax rate is 26% for the total revenue up to EUR 50,000 and 33% for the exceeding income. For newly established business activity, there is a more favorable tax rate for a short period of time.
For any income gained form management fees or consulting services, there is a 20% of withholding tax imposed, which does not lead to the exhaustion of their tax liability. For any income gained from construction services, the withholding tax imposed is only 3%.

8. Passive income

8.1. Dividends

Upon distribution of dividends and other payments from companies to individuals, there is a 10% of withholding tax at the company level, which leads to the exhaustion of the tax obligation for the individual. In case of foreign dividends received by a Greek tax resident, they should be declared in the annual tax filing irrespectively if they remain abroad or not.

8.2. Interest and royalties

Interest is subject to a 15% of withholding tax, while royalties are subject to a 20% of withholding tax, which leads to the exhaustion of the tax liability for the individual.

8.3. Leases

Any income from immoveable property (including leasing, free use, self use of land or real estate) is taxed according to the following scale: for any amount up to 12.000 EUR with a rate of 11%, while for any income exceeding 12.000 EUR with a rate of 33%.

9. Capital gains

Any income gained from capital gainsis subject to tax with a rate of 15%. This type of income includes:

✓ Any Income gained form capital transfer goodwill, including any gains from the transfer of securities if such transfers are not classified as business activities. These transfers include the transfer of equity, of part or the whole of a company or a sole enterprise. If the seller of the securities is a foreign tax resident of a country with which Greece has entered into a double tax treaty and of he provides for all the necessary documentation, he is exempted from the tax imposed on capital gains.

✓ Capital gains from the purchase of part or whole of real estate.

D. REAL ESTATE TAX

1. VAT imposed on purchases of newly constructed properties (with a building permission from 1.1.2006 onwards)

Purchase of a newly constructed real estate is subject to VAT at a rate of 23%paid by the buyer, while an exemption from this tax can be applied in case of purchase of a primary residence.

2. Any other purchase or trasnfer of real estate

Any purchase or transfer of real estate (with the exception of newly constructed properties) is subject to a tax 3% of the deemed value of the real estate paid by the buyer. An exemption from this tax can be applied in case of purchase of a primary residence.

3. Annual tax imposed to owners of real estate (ENFIA)

This tax is imposed in an annual basis on real estate owners (individuals or legal entities) for any real estate located in Greece. The tax is calculated in relevance to specific features of the real estate (like size, age, zone price, floor, etc.).

About Ecovis

Ecovis is a leading global consulting firm with its origins in Continental Europe. It has over 4,500 people operating in over 50 countries. Its consulting focus and core competencies lie in the areas of tax consultation, accounting, auditing and legal advice. The particular strength of Ecovis is the combination of personal advice at a local level with the general expertise of an international and interdisciplinary network of professionals. Every Ecovis office can rely on qualified specialists in the back offices as well as on the specific industrial or national know-how of all the Ecovis experts worldwide. This diversified expertise provides clients with effective support, especially in the fields of international transactions and investments from preparation in the client's home country to support in the target country. In its consulting work Ecovis concentrates mainly onmid-sized firms. Both nationally andinternationally, its one-stop-shop concept ensures all-round support in legal, fiscal, managerial and administrative issues.

The name Ecovis, a combination of the terms economyand vision, expressesboth its international character and its focus on thefuture and growth.

In case you have further question please contact us:

ECOVIS Hellas Tax Advisors:
44 Syggrou, 117-42 Athens, Greece
Tel.: +30 210 3842325 **Fax-No:** +30 210 3842327
Internet:www.ecovis.gr

Leventakis, Dimitrios
Partner, Tax Advisor
E-Mail: dimitrios.leventakis@ecovis.gr,athenstax@ecovis.com

Mantzana-Peteinelli, Marina
Tax Lawyer
E-Mail:athenstax@ecovis.com