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# Investing In ... 2023

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**Greece: Law & Practice**

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**Greece: Trends & Developments**

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## Trends and Developments

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### **Investing in Greece: Challenges and Opportunities in 2023**

Following the fiscal crisis that threw the country into disarray between 2010 and 2018, Greece has developed comparative advantages as a destination for inward investment because of its geo-strategic position, the investment opportunities that have arisen from the financial crisis itself and the continuing modernisation of the public sector and the economy. Restructuring and reform processes in both the private and public sectors have been under way and have been gaining traction, which is increasing the economy's competitiveness. The privatisation programme, which started in 2010, produced worthwhile results and the non-performing loans (NPLs), which at some point amounted to two thirds of bank loans, are no longer a threat to the economy and the banking system.

### **The Pandemic and Recent Developments**

Tourism has been the driving force of the economy, even in the years of recession. Until the outbreak of the COVID-19 pandemic, it had been growing markedly. The COVID-19 pandemic posed new challenges due to the country's dependence on the services market, yet the country has rebounded in 2022 with a high growth rate, despite the surging energy and inflation crisis of recent months following Russia's invasion into Ukraine. Inflation peaked at 12.1% (the highest right in the last 25 years) last October but is now steadily decreasing.

Investments in real estate (both residential and commercial) are still strong, whilst other sectors, such as retail and the food industry, have

been involved in various entrepreneurial and restructuring activities. However, commodities (eg, energy and agricultural products) have been severely impacted by the Ukrainian invasion causing uncertainty to businesses and households. GDP growth, which was above 5% in 2022, is expected to slow down in 2023.

### **Foreign Investments in Greece**

Until the arrival of the pandemic, the ongoing increase in foreign direct investment (FDI) during the previous years looked set to continue. Once the impact of the pandemic settled down, foreign investors resurfaced very quickly. According to the latest available data from the Bank of Greece, the (net) inflows of FDI in Greece in 2021 exceeded EUR5.3 billion compared to 2.8 billion in 2020. These are record levels (the largest net FDI inflows since 2002), which confirm the upward trajectory of the Greek economy and the successful effort made in recent years to attract foreign investment to the country.

Greece is generally open to foreign ownership and investment. There are no restrictions to foreign ownership and investment, and there are no minimum capital requirements. As far as large-scale investments under Law 4146/2013 are concerned, licensing procedures can be expedited in the industry, energy, tourism, transport, telecommunications, health services, waste management and technology sectors.

In the past, two factors acted as disincentives to foreign investors in entering an otherwise investment-friendly country: (i) high tax rates and (ii) a bureaucratic public administration. In recent

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years, tax rates have decreased substantially (corporate tax rate has decreased from 29% to 22%), whilst the public administration has transformed impressively, primarily through the digitisation.

Various laws that are intended to support foreign investment, foster development and reduce bureaucratic obstacles include:

- Law 4887/2022, the “Development Law”, which sets out the incentives for the regional and sectoral development of the country;
- Law 4684/2021 on “Strategic investments and improvement of the investment environment through the acceleration of procedures in private and strategic investments, creation of a framework for the ‘Spin Off’ companies and other urgent provisions for development”, which provides key changes with respect to investments;
- Law 4399/2016, the “Statutory Framework for the Establishment of Private Investments Aid Schemes for the Regional and Economic Development of the Country”, which is currently the main investment incentives law;
- Law 4146/2013, the “Creation of a Business-Friendly Environment for Strategic and Private Investments”, which introduces investment incentives;
- Law 3908/2011, which provides incentives in the form of tax relief, grants and allowances on investments in all key economic sectors; and
- Law 3389/2005, which regulates public private partnerships (PPP).

Investment incentives, that are provided individually or in combination up to a certain percentage, are set out in Law 3908/2011, as amended by Law 4605/2019, which provides for:

- exemptions from the payment of income tax;
- state grants for an amount that covers a portion of the cost of investment; and
- leasing subsidies for a period of up to seven years, where the state pays a portion of the instalments payable under leasing agreements for new machinery and other equipment.

The latest investment incentives of Law 4887/2022 include:

- exemption from payment of income tax, resulting from the current tax legislation, on the profits realised before tax from all the activities of the company;
- funds to cover part of the eligible expenses of the investment plan, determined as a percentage of the total investment cost;
- leasing subsidies offered by the state, which covers part of the payable instalments;
- salary subsidies, which cover the cost of the new jobs, that are created and that are associated with the investment plan;
- financing instruments;
- fixed corporate income tax rate; and
- fast-track licensing procedures.

The country has also developed a residence permit programme, which until early 2020 had produced noticeable results. The rule is that a renewable five-year Greek residency visa is granted to foreign citizens who invest a minimum of EUR500,000 for the regional unit of north, central and south Athens in the region of Attica, the municipality of Thessaloniki, Mykonos and Santorini, and a minimum of EUR250,000 for the rest of the country in Greek real estate (Article 20, Immigration Code).

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## Legal Forms of a Business Operating in Greece

There are several legal forms that a business established in Greece may take. The following legal entities are all subject to a uniform corporate income tax at the rate of 22%:

- joint stock company (*société à nonyme – Ανώνυμη Εταιρεία*);
- limited liability company (*Εταιρεία Περιορισμένης Ευθύνης*);
- private company (*Ιδιωτική Κεφαλαιουχική Εταιρεία*);
- general partnership (*Ομόρρυθμη Εταιρεία*);
- limited partnership (*Ετερόρρυθμη Εταιρεία*); and
- Greek branch of a foreign company.

There are no restrictions on the participation of foreign individuals or entities in Greek entities.

The straightforward, fast and efficient manner of setting up the so-called private companies, together with their limited liability character, has made them a highly popular choice, in particular with foreign investors, since their inception seven years ago.

In late 2018, a new law was introduced on joint stock companies (Law 4548/2018 Reform of the Law on Sociétés Anonymes, Government Gazette A, 104/13.06.2018) resulting in *sociétés anonymes* becoming simpler and more appealing to foreign investors.

## Tax Provisions on Corporate Restructurings

The Income Tax Code (Law 4172/2013 – ITC) has incorporated the provisions of Directive 2009/133/EC on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different mem-

ber states. The ITC includes all relevant provisions on corporate restructurings, in particular:

- the contribution of assets in return for shares (Article 52, ITC);
- the exchange of shares (Article 53, ITC);
- the merger and spin-off of companies (Article 54, ITC); and
- the transfer of registered seat of a European company (Article 55, ITC).

These provisions apply to any company that: (i) has one of the forms listed in Annex I, Part A of Directive 2009/133/EC (ie, Greek *sociétés anonymes* and limited liability companies), (ii) is tax resident in Greece or another EU member state, and (iii) is subject to any of the taxation listed in Annex I, Part B (corporate income tax for Greek companies). Law 4601/2019 has added further clarity to the process.

Neither the capital gain resulting from the above restructuring nor the capital gain resulting from a division is subject to Greek income tax at the time of the division (tax deferral). In addition, no taxes and stamp or other duties are imposed on any of the following:

- the division agreement;
- the contribution and transfer of all assets and liabilities from the company being divided to the recipient companies;
- any act, deed or agreement regarding the contribution and transfer of all assets and liabilities, including rights and obligations, from the company being divided to the recipient companies;
- decisions of the companies participating in the division and any other decision, act or deed required for the completion of the division or the incorporation of a new company; and

- the transfer or registration of the above acts.

According to the provisions of the ITC, the sale, transfer and registration of real estate passing from the company being divided to the recipient companies are exempt from all Greek taxes, stamp duties or other duties payable to the Greek state if the real estate is used by recipient companies for at least five years from the division.

### **Tax Provisions on Dividends Distributed by a Greek Legal Entity**

Under Law 4646/2019, dividends distributed by a Greek legal entity are subject to withholding tax at a rate of 5%. This is a substantial change when considering that only a couple of years ago the rate stood at 15%. No withholding tax applies if the receiving legal entity satisfies all the following requirements:

- it directly owns shares that represent at least 10%, by value or number, of the share capital or rights to profits or voting rights of the Greek legal entity;
- it has directly owned the 10% shareholding for at least 24 months (however, if all other requirements are met, save the 24-month rule, the Greek legal entity can temporarily choose not to withhold the 10% Greek tax, if it makes available to its tax office a bank guarantee that is equal to the amount of the withholding tax (ITC));
- it is set up in one of the legal forms set out in Annex I, Part A of Directive 2011/96/EU;
- it is a tax resident of an EU member state and cannot be deemed to be a resident of any third country; and
- it is subject to one of the taxes set out in Annex I, Part B of Directive 2011/96/EU.

### **“Greece 2.0” – the National Recovery and Resilience Plan (NRRP)**

The NRRP, which was introduced in 2021, reflects the ambitious objective of the Greek economy. It aims to lead to the fundamental economic and social transformation of the country through its revived economic activity while putting new emphasis on new technologies and institutions. The “Greece 2.0” plan includes 106 investment schemes and 68 reform schemes, making use of investment resources amounting to EUR31.16 billion, of which EUR30.5 billion are European funds. These resources are expected to mobilise a total of EUR60 billion in investments in the country over the next five years. The initiative aspires to reinvent Greece’s economy, institutions and society, to shift towards a more extrovert, competitive and green economic model, with much less bureaucracy (thanks to digitisation), high growth and lower taxation.

### **Concluding Remarks**

After a decade of recession, fiscal consolidation and painful (but fruitful) reforms, and after successfully tackling the challenges of the pandemic, Greece has clearly entered into a lasting period of economic growth and foreign inward investment. Today, Greece fosters an investment environment that has overcome several setbacks and dysfunctions of the past and has noticeably modernised its public administration apparatus. In addition, the country has reduced its high taxation, has completed an impressive overhaul of tax and company legislation, and has pursued an ambitious privatisation programme. It has also developed incentives schemes that could attract foreign investment; it has been in the process of reforming its banking system that had been severely hit by NPLs, and has been enjoying political stability after a long period of turmoil. Not surprisingly, foreign investment has been gaining traction and the country looks set

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to enjoy a period of growth. The pandemic and the energy crisis put much of this on hold and has presented the economy with new, unexpected challenges but it is fair to say that the process has resumed despite the surging energy and commodity prices.

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## Author



**Yannis Kelemenis** is the managing partner of Kelemenis & Co. His expertise lies primarily in corporate and commercial matters, finance, corporate tax, restructuring and litigation.

Yannis has been heavily involved in the energy, tourism, capital markets, and food and beverage sectors, and has worked on both

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