

TAXATION ON REAL ESTATE IN GREECE

General

Currently real estate property in Greece is subject to various taxes. In that respect, the possession, the use, the purchasing, the donation or inheritance of real estate property are currently subject to tax, whereas in the near future VAT is anticipated to be imposed on new buildings.

Individuals or companies (Greek and non-Greek) acquiring real estate property in Greece or receiving income from such property situated in Greece, need to obtain a Greek tax registration number and file a Greek income tax return. Furthermore, foreign companies owning real estate property in Greece must also follow certain minimum accounting requirements, regardless of whether they maintain a permanent establishment in the country.

Taxation of rental income

Rental income earned by individuals and companies is subject to Greek income tax. For individuals the tax is computed according to a progressive tax scale ranging from 0% to 40%, for income earned in 2003. For companies the tax computed on profits is 35% for profits earned in 2003.

Certain constraints exist as to the determination of such rental income. In cases where the rental mentioned in the relevant agreement is disproportionately lower than the actual rental value of the building, the determination of such income is effected through comparative data. Such disproportion is considered to exist when the rental value is higher than the actual rental by at least 15%. In particular, such income cannot be less than 3.5% of the real estate value used as a residence, as calculated according to the objective real estate property value system, where applicable.

Furthermore, a 20% income tax is imposed on any amount paid by the tenant to the owner, beyond the agreed rentals, in the case of the renting of a building alone or along with any equipment or other installation that it may have.

Rental payments are also subject to a 3.6% stamp duty, calculated on the actual rent and payable on a monthly basis. No VAT is currently charged on rentals income, nor is it anticipated to be charged, as long as rentals are subject to stamp duty tax.

Furthermore, rental income earned by companies is also subject to a supplementary income tax of 3%, whereas in the case of individuals such supplementary tax is calculated at 1.5%, and 3% for residences larger than 300m².

Depreciation

The net taxable income derived by individuals from real estate property is determined after making the following deductions for depreciation.

- For buildings used as residencies, boarding houses, schools, cinemas or theatres, hotels, and clinics, a depreciation amount equal to 10% is deducted, as well as a maximum of 15% for any insurance fees, repair and maintenance expenses (which must be supported).
- For buildings used for other purposes, the respective percentages are 5% and 5%.

Companies depreciate their real estate property according to the rates mentioned in the Presidential Decree 100/1998, which vary from 5% to 12%, depending on the property item. It is expected that a new Ministerial Decision will set out new minimum and maximum rates for depreciable items, used for tax purposes; it is not likely that such rates will substantially differ from the above range.

Real estate transfer tax

The current transfer tax rate is 7% for real estate property of up to 15,000 Euros, and 9% for any amount beyond 15,000 Euros. These rates are respectively increased to 9% and 11%, when the property is situated in an area covered by a public fire protection service.

Such real estate transfer tax is reduced in the following cases.

- Distribution of real estate property parts among co-owners.
- Dissolution of partnerships and limited liability companies (Ltds).

The real estate transfer tax is reduced to ½ in the following cases.

- Compulsory trade-off of neighbouring properties.
- Merger of Societe Anonymes (SAs) or take-over of one by the other.
- Take-over of real estate property by the state for public use and for the public benefit.
- Trade-off of real estate of equal value.
- Purchasing of real estate with capital imported to Greece (effective 18 February 1997 and onwards), under certain conditions.

On the real estate transfer tax calculated as mentioned above, a local authority surcharge (i.e., municipality tax) is imposed, equal to 3%.

The income generated by the sale of real estate is taxed at the standard corporate tax rate applicable.

Value added tax (VAT)

Potentially, the rate for VAT is 18%, but currently there is no VAT imposed on the acquisition of new constructions.

According to legislation, Greek VAT will apply to new constructions for which the building license will be issued from 1 January 2005 and onwards.

Real estate tax

Real estate ownership is subject to real estate tax, whereby the total value of the real estate property owned by an individual or legal entity as of January 1 each year is subject to tax for that respective year. Foreign companies owning real estate property in Greece are also subject to real estate tax irrespective of whether their headquarters are based in or out of Greece.

- The real estate tax in the case of companies is calculated as follows. The first 243,600 Euros of the value of the property is not subject to tax.
- Any value of the property beyond 243,600 Euros is subject to 0.7% tax.

In the case of single individuals such tax is calculated as follows.

- The first 243,600 Euros of the value of the property is not subject to tax.
- Any value of the property beyond 243,600 Euros is subject to tax according to a scale ranging from 0.3% to 0.8%.
- Certain exemptions from real estate tax apply in the cases of forest areas, agricultural and mining areas, real estate property used by industrial, trade or hotel and professional units for satisfying their operational needs, hotel businesses for 50% of the value of the land which they own and which are used for tourist purposes and on which they have constructed buildings that satisfy their operational needs.
- Such reduction also applies to land rented to hotel businesses and the rental of which is calculated as a percentage of their turnover, buildings under construction for a seven year period following the issuance of the construction license, and provided that during that period the buildings have not been rented or used in any way, real estate property belonging to the Greek state or to Greek public services.

The real estate tax return is filed annually at dates to be announced by the Greek Ministry of Finance (e.g., for the year 2003 such filing took place in March through May) and the respective tax is paid in three equal instalments. The first instalment is due upon the filing of the respective tax return. Non-filing, late filing or filing of an incorrect return will result in penalties being imposed.

Real estate duty – Telos Akinitis Periousias (TAP)

Real estate ownership is further subject to a real estate duty, currently calculated at a range of 0.25‰ to 0.35‰ on the objective value of the real estate property as such is defined according to the “area prices” and the “age coefficient” applicable on the respective property, depending on the area where the real estate property is situated.

Certain exemptions are granted from TAP in the following cases.

- Buildings under construction, for a seven-year period following the granting of the construction license, or until they are rented or in any other way used prior to the lapse of such seven-year period.
- The commonly used sections of residential buildings.
- Buildings characterised as historical monuments.

TAP burdens the owner of the real estate, and is included for payment in the electricity bills, unless such bill is issued in the name of the tenant of the real estate, in which case TAP is paid by the latter and is deducted through the agreed monthly rental.

Capital gain on the sale of property

Gains made by companies upon the sale of real estate property are treated as part of the company’s taxable profits. If, on the other hand, there is a transfer of shares of a company holding real estate, the following tax implications will arise.

- Upon the transfer of Greek SA shares non-listed on the Athens or any other stock exchange, a 5% tax is imposed on the real transfer price of such shares, as it is defined by a relevant Ministerial Decision, unless the provisions of a bilateral tax treaty provide otherwise.
- Upon the transfer of SA shares listed on the Athens or any other stock exchange, a 0.3% transfer tax will be imposed, calculated on the transfer price of such shares.
- Upon the transfer of parts of an Eteria Periorismenis Efthinis (EPE), or limited liability company, a capital gain tax of 20% is imposed upon any resulting capital gain, as such is calculated according to a relevant Ministerial Decision, unless the provisions of a bilateral tax treaty provide otherwise.

Real estate mutual funds

A real estate mutual fund is managed by a Fund Management Company, or Anonimi Eteria Diahiris Amiveon Kefaleon (AEDAK), formed as an SA, which must have a minimum paid-in share capital of at least 2,935,000 Euros. Such a mutual fund is established following a license granted by the Capital Market Committee (CMC). The assets under management must amount to at least 2,935,000 Euros.

Certain requirements are set by law in relation to the operation of the AEDAK and the fund itself. It is required that at least 90% of the asset funds are invested in real estate and in cash, bank accounts and credit titles. At least 10% of the equity must be invested in cash, bank accounts and credit titles of equivalent liquidity. However, the fund is not allowed to invest in precious metals or titles in such.

The fund property is divided in equal units or unit ratios, and each fund unit must be priced at least 1,467,500 Euros.

The establishment of the fund, the sale, redemption and transfer of units, its cease of operations as well as the transfer of real estate to the fund, are free of any tax, duty, stamp duty, contribution or other Greek state charge. No real estate tax is due for the real estate included in the fund's assets. The mutual fund is subject to an annual tax of 0.3% calculated on the six-month average of the fund's net assets. Both the fund and the investors are not subject to any further tax for their relevant investment.

Real estate investment companies (REIC)

A REIC is set up as an SA, exclusively engaging in the management of portfolios comprising of securities and real estate, with a minimum share capital of 2,935,000 Euros (GRD 10 bil). A REIC's reserves must be invested at least 80% in real estate, a maximum of 10% in securities and a maximum of 10% in other movable property.

REICs are required to float their shares on the Athens Stock Exchange (ASE) or on another organized market within a year following their formation, REIC shares and the transfer of real estate property to such companies are exempt from any tax, duty, stamp duty, contribution or other similar Greek state charge.

REICs are subject to an annual 0.3% income tax calculated on their average investments increased by their cash reserves in current prices, with no further tax obligation being imposed on the company or its shareholders.

Furthermore, the transfer of REIC shares non-listed on the Athens Stock Exchange are not subject to any income tax.

No real estate transfer tax is imposed in the case of REICs resulting from mergers or conversions, and no real estate tax is due on the real estate that is included in the REIC's assets, provided that such property is not own-used.

Withholding tax on dividends

There is no withholding tax on dividends. Profits that are taxed at the company level are distributed tax free, whether the beneficiaries are Greek or non-Greek parties.

Losses carried forward

Greek operating companies may carry forward their losses for a period of five years. Company losses cannot be carried back.

Special tax on real estate property

Companies possessing ownership titles or rights of use on real estate in Greece, pay a 3% annual tax calculated on their value.

The following are exempt.

- Greek companies with registered shares, all the way up to the individual.
- Companies owned by banks and institutional investors (as per expected legislative amendment).
- Companies that have acquired real estate property by use of shipping activity proceeds (as per expected legislative amendment).
- Companies with shares listed on an organized exchange in accordance with article 3 of L.2396/1996.
- Companies whose real estate related income is less than 50% of the total turnover corresponding to their business in Greece. Real estate used by the company for business activities, other than real estate exploitation, is not included in the calculation. The person making the claim has to provide evidence in order to obtain the exemption.

Every individual or legal entity participating in any way, in a legal entity having real estate ownership or participating in another legal entity that has ownership or other rights on real estate, is wholly responsible with the liable person for the tax payment.

If the ownership or usufruct is transferred, the liability for the payment of the tax, as well as for any additional payments rests with the new owner or user together with the liable person.

The return is filed and the tax is paid by 10 May every year to the competent tax office, calculated on the value of all real estate or usufruct existing on the 1 January of the taxable year.

Special merger incentives for real estate companies

Merger incentive laws will also apply to real estate companies formed by absorption providing the absorbing company held 100% of the shares of the absorbed company (normally merger incentives do not apply to real estate companies).