PANORAMIC

TAX CONTROVERSY

Greece

LEXOLOGY

Tax Controversy

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Generated on: November 27, 2024

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OVERVIEW

Legislation

What is the relevant legislation relating to tax administration and controversies? Aside from legislation, are there other binding rules for taxpayers and the tax authority?

The applicable legislation relating specifically to tax administration is the Code of Tax Procedure (Law No. 5104/2024), which regulates, among other matters, the process of tax audits and controversies up to the stage of recourse to Greek courts, and the Code of Administrative Procedure (Law No. 2690/1999), which is, in general, applicable to the relations of citizens and any public law entity. The applicable legislation relating to controversies with the Greek state (including tax controversies) is the Code of Administrative Courts Procedure (Law No. 2717/1999).

Moreover, the Independent Authority for Public Revenues issues circulars that are binding on the tax authority for the interpretation and implementation of tax legislation. However, the said circulars are not binding on taxpayers.

Greece has signed and ratified bilateral treaties for the avoidance of double taxation with a long list of countries in the areas of both income tax and inheritance tax.

Furthermore, Greece deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting with the Organisation for Economic Co-operation and Development on 30 March 2021.

It is also to be noted Law No. 5100/2024, which came into force on 5 April 2024, transposed into Greek tax legislation the Pillar Two and EU Minimum Tax Directive rules imposing a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups.

Law stated - 2 July 2024

Relevant authority

What is the relevant tax authority and how is it organised?

Every tax authority falls under the jurisdiction of the Independent Authority for Public Revenues, which, as of 2017, is an independent authority, released from state control and monitoring. The Authority is governed by the administrative council, a governor and a European Commission expert. The European Commission has appointed two officials to the council.

The competent tax office is determined by the registered seat of the legal entity or the residence of the taxpayer. The three major cities (Athens, Piraeus and Thessaloniki) have separate tax offices for limited liability corporations (sociétés anonymes). For individuals who have their residence abroad, the competent tax office is determined by the residence of their tax representative. For non-Greek tax residents with an obligation to be registered in Greece, the Tax Office of non-Greek Residents (residents abroad) is competent.

For large enterprises and for individuals of a certain wealth, the Independent Authority for Public Revenues has already established an Audit Centre for Large Enterprises (K.E.ME.EP.) as well as an Audit Centre for Taxpayers of Great Wealth (K.E.F.O.ME.P). Besides, audit authority has been granted to specific audit centres in Athens and Thessaloniki.

It should also be noted that, as of 2023 and onwards, the Independent Authority for Public Revenues has started readapting and reorienting its internal organisation, by establishing Centres for the Collection of Tax Debts (KE.V.EIS.), Property Taxation Centres (KE.FO.K.) as well as Tax Procedures and Service Provision Centres (KE.FO.D.E.), which will gradually replace all existent Tax Offices.

Law stated - 2 July 2024

ENFORCEMENT

Verification of compliance with tax laws

How does the tax authority verify compliance with the tax laws? Does this vary for different taxpayers or taxes?

Normally, on submission of a tax return, tax is assessed without further action by the tax authorities, either simultaneously with the submission of the tax return or shortly after in the case of annual income tax returns. However, following a tax audit, the tax authorities may issue a corrective tax assessment, provided that the audit shows that the previously submitted tax return was inaccurate or mistaken.

If the taxpayer does not file a tax return despite his or her respective obligation, an estimated tax assessment may be issued unless the taxpayer files a late tax return.

Furthermore, if the taxpayer doubts whether he or she shall (or not) submit a tax return, he or she may decide to submit a tax return with a reservation, as long as the latter is specific as well as justified.

In extremely urgent cases, such as when there are indications that the taxpayer intends to leave the country, thus jeopardising the collection of taxes due, especially through the transfer of assets, the tax authorities may issue a preventative tax assessment prior to the date for submission of the respective tax return. In such a case, the taxpayer either pays the tax indicated on the preventative tax assessment as a lump sum or secures its payment by providing a guarantee or by accepting a lien of property in favour of the tax administration for the total amount of the tax liability.

Besides, it is to be stated that the new Code of Tax Procedure (Law No. 5104/2024) enacted the possibility of an intermediate tax assessment in cases of immediate and imminent risks of tax evasion (eg, in case of seasonal start-ups).

Law stated - 2 July 2024

Tax return review procedure and limitation periods

What is the typical procedure for the tax authority to review a tax return and how long does the review last? What limitation periods apply?

Different types of taxpayers are subject to different reporting requirements. Employees and pensioners are subject to limited reporting and essentially to an annual income tax return. Such individuals are usually subject to an audit if an unjustified increase in their assets is found to exist (usually following an audit of their bank accounts). Individuals of a certain wealth are audited by the Audit Centre for Taxpayers of Great Wealth (K.E.F.O.ME.P).

Businesses (either individuals or legal entities) are subject to increased reporting standards, which involve keeping and maintaining accounting books on the basis of the simplified or double-entry accounting principle. Although efforts have been made to reduce the amount of reporting required, Greece is still a country with complicated and intensive requirements.

Businesses are also subject to a variety of tax reviews, including, for example, full audit, partial audit (which relates solely to a certain tax issue) and audit for value added tax refund.

Over the past year, Greek tax authorities have been developing a digital platform (myDATA), which in the near future will enable businesses to maintain electronic books and record invoice and tax receipt data.

As of 1 October 2022, Law No. 4972/2022 enables tax authorities to impose fines on businesses, which fail to transmit retail sales data issued through the Electronic Tax Mechanism.

Law stated - 2 July 2024

Tax authority requests for information

What types of information may the tax authority request from taxpayers? Can the tax authority interview the taxpayer or the taxpayer's employees? If so, are there any restrictions?

Upon written request of the tax authorities, the taxpayer is obliged to provide copies of his/her books or of his/her records or of any other related documents for the determination of his/her tax liability, including lists of customers and suppliers as well as any other information, within ten business days from the notification of the request. Nonetheless, a taxpayer, who keeps books according to the simplified accounting principle, is not obliged to provide a copy of his books for the tax years for which he/she declares that all the relevant income and expenditure information has been transmitted to the myDATA digital platform.

Furthermore, an obligation exists for certain third parties (eg, banks, undertakings for collective investment in transferable securities and notaries) to provide the tax authorities with all the requested information they possess (in relation to the taxpayer) within 10 days (with the exception of privileged information and documents). In the case of data and information in a foreign language, an official translation in Greek should be submitted.

Interviews with the taxpayer or the taxpayer's employees are not required by Greek tax legislation. However, in practice, during a tax audit, the auditors may discuss issues raised by the audit with the taxpayer. Additionally, before notification of the final assessment, the tax audit authority is obligated to inform the taxpayer of its preliminary findings and request the taxpayer's written position.

Law stated - 2 July 2024

Taxpayer failure to provide information

What actions may the tax authority take if the taxpayer does not provide the required information?

Failure to respond to requests by the tax administration to provide the required information constitutes a procedural infringement and a penalty is imposed on the taxpayer. Moreover, if the information not provided refers to the business books and records kept and issued by the taxpayer, the tax authorities may use indirect methods to determine the taxable income by calculating the taxpayer's gross income and outflows on the basis of generally accepted principles and techniques of auditing. Such methods include:

- analysis of the liquidity of the taxpayer;
- the net position of the relation between the sales price and the total turnover; and
- the amount of bank deposits and expenses in cash.

Law stated - 2 July 2024

Protecting commercial information

How may taxpayers protect commercial information, including business secrets or professional advice, from disclosure? Is the tax authority subject to any restrictions concerning what it can do with the information disclosed?

Data concerning third parties in their transactions with taxpayers are not covered by professional secrecy and therefore there is an obligation to provide such data. However, professional secrecy may be lifted if written permission from the competent prosecutor for the granting of data covered by such secrecy is provided.

Employees of the tax administration are obliged to keep confidential all of the taxpayer's data and information that they receive during the exercise of their duties (duty of confidentiality). If they fail to do so, they are personally liable (for both civil and criminal purposes).

However, they may communicate, under exceptional circumstances, the taxpayer's data to the judicial authorities, to the National Transparency Authority, to the National Authority for the Fight against Money Laundering from Criminal Activities as well as to other persons or authorities listed in article 21 of L. 5104/2024. In that respect, it shall be in particular highlighted that, pursuant to Opinion No. 28/2023 of the State Legal Council, the Independent Authority for Public Revenues is obliged to communicate tax data of a taxpayer to the Independent Authority for the Protection of Personal Data, given that the latter, in absence of access to the abovementioned tax data, would be deprived of its supervisory and constitutional role.

In the case of outstanding debts of more than € 150,000, the name of the taxpayer may be published without the taxpayer's consent.

Law stated - 2 July 2024

Alternative dispute resolution

What (if any) alternative dispute resolution (ADR) or settlement options are available?

As of 1 January 2014, an administrative appeal is provided as an extrajudicial mandatory remedy for challenging any act or omission of the tax authority (please note that the exercise of this administrative appeal constitutes a precondition for the admissibility of the judicial appeal lodged before the competent administrative court). Thus, prior to any judicial review, a re-examination of the disputed act or omission is conducted by a special administrative authority specifically formed for this purpose: the Dispute Resolution Directorate (DRD). The administrative recourse may be submitted to the DRD within 30 days of the date of notification of the final corrective assessment act or other tax dispute, or 60 days for taxpayers residing abroad. The DRD must issue a decision within 120 days from the fling of the administrative appeal; otherwise, the appeal is considered tacitly rejected.

Nonetheless, a taxpayer may abstain from contesting the corrective tax assessment (which has been issued following the conduct of a tax audit), in order to benefit from article 75 of L. 5104/2024, which provides for the possibility of a reduction of up to 50 per cent of fines relating to a tax debt arising from a tax audit.

Finally, since 2020, the provisions of Directive (EU) 2017/1852/EU of the Council of the EU of 10 October 2017 on tax dispute resolution mechanisms in the EU have been incorporated into Greek legislation.

Law stated - 2 July 2024

Collecting overdue payments

How may the tax authority collect overdue tax payments following a tax review?

As soon as the assessment is notified to the taxpayer, the tax administration issues the taxpayer with a payment notice prior to proceeding to any enforcement action. In the event of non-payment of the amount due within 30 days from the notification of the payment notice, the tax authorities may proceed (without a judicial decision) to the imposition of a seizure of movable assets, real estate, property rights, claims and, in general, all of the debtor's assets or, in case of the debtor being a legal entity, to all of the directors' assets bearing joint liability (the latter is applicable under conditions specified by the law). On the basis of the above conditions, the tax authorities may also proceed to take appropriate interim measures.

Non-payment of tax due for a period of time longer than four months is a criminal offence (a misdemeanour – this refers to non-payment of taxes over €100,000).

Law stated - 2 July 2024

Penalties - scope of application

In what circumstances may the tax authority impose penalties?

The tax authority may impose penalties in cases of infringement of Greek tax legislation. These penalties distinguish between penalties for procedural infringements and penalties for infringements found following an audit by the tax authority.

Procedural infringements include (indicatively):

- non-submission or late submission of a statement of informative character or a tax return or a withholding tax return;
- non-compliance with a request of the tax administration for the provision of information or data;
- non-cooperation during a tax audit;
- non-registration before the tax registry; and
- non-compliance with an obligation regarding the keeping of books and issuance of records according to Greek accounting standards, among others.

Infringements found following an audit by the tax authority include (indicatively):

- filing of an inaccurate tax return;
- non-filing of a tax return;
- non-payment of VAT;
- non-issuance of a tax record for a transaction subject to VAT;
- issuance of false tax records;
- issuance and receipt of fictitious tax records; and
- improper transmission of invoices and transcripts to myData difital platform, among others.

There are also special penalties for infringements of transfer pricing legislation.

Law stated - 2 July 2024

Penalties – calculation
How are penalties calculated?

The calculation of the penalties may vary, depending on the nature of each infringement. Indicatively:

- penalties for non-submission or late submission of a statement of informative character or a tax return equate to the sum of €100;
- penalties for non-compliance with a request of the tax administration for the provision of information or data may range among €250 and €500, depending on the type of the accounting books; and
- penalties for the delayed filing or non-filing or filing of inaccurate Summary Information Table as well as for the delayed submission or non submission of the TP Documentation File are calculated based on the value of intragroup transactions.

Besides, in case of infringements, which have been found following a tax audit, the penalties shall be calculated as follows:

- if the infringement refers to filing of an inaccurate tax return:
    - if the amount of tax imposed by the tax audit exceeds 5 per cent to 20 per cent of the tax arising from the tax return, a penalty of 10 per cent on the amount of the difference is imposed;
    - if the amount of tax imposed by the tax audit exceeds 20 per cent to 50 per cent of the tax arising from the tax return, a penalty of 25 per cent on the amount of the difference is imposed;
    - if the amount of tax imposed by the tax audit exceeds 50 per cent of the tax arising from the tax return, a penalty of 50 per cent on the amount of the difference is imposed; and
    - especially for infringements relating to VAT and withholding taxes, a penalty of 50 per cent on the tax that would incur from the non-submitted return or of the difference, respectively, is imposed.

Penalties imposed for the delayed filing or non-filing or filing of inaccurate Summary Information Table as well as for the delayed submission or non-submission of the TP Documentation File are calculated based on the value of intra-group transactions.

Law stated - 2 July 2024

Penalties – defences

What defences are available if penalties are imposed?

The taxpayer may submit to the Independent Authority of Public Revenue an application for the exemption from penalties in case that force majeure arose, with the exception of infringements referring to submission of inaccurate tax returns and infringements relating to tax evasion.

Law stated - 2 July 2024

Collecting and calculating interest

In what circumstances may the tax authority collect interest and how is it calculated?

In cases of late payment or non-payment of any amount of tax (the latter being found following a tax audit), the taxpayer is obliged to pay interest for the period from the end of the legal deadline until the date of payment of the tax. The determination of the interest rate is a decision made by the Deputy Minister of Finance. The interest rate, according to the ministerial decision currently in force, is set at 8.76 per cent.

As of November 2022, the Minister of Finance, in light of the successive increases in which the European Central Bank proceeded, decided to freeze the interest rates charged on overdue debts to tax authorities, by decoupling them from Euribor. As a result, these interest rates will remain unchanged (until 2 November 2023) at 8.76 per cent per year or 0.73 per cent for each month of delay.

Although up until 31 December 2019, interest was calculated on a monthly basis, from 1 January 2020, it should have been calculated on a daily basis. Although in force, said amendment has not been adopted by Greek fiscal authorities yet. The significance of this differentiation lies in the fact that if a debt is paid on the 15th day of the month, according to the former calculation, the taxpayer would be called upon to pay interest for the entire month. In contrast, from 1 January 2020, the same taxpayer should have been called upon to pay 15/365 of the relevant interest (which corresponds to the 15 days that the payment was delayed).

Law stated - 2 July 2024

Criminal consequences

Can criminal consequences arise as a result of tax non-compliance? Are these different for different types of taxpayers?

Legal provisions governing criminal tax evasion have been incorporated in the Greek Code of Tax Procedures, pursuant to which tax evasion is considered to be committed by persons who:

- intentionally avoid the payment of taxes (eg, income tax, uniform tax on the acquisition of ownership, special real estate tax, value added tax, turnover tax, premium tax, withholding and imputable taxes, fees or contributions, shipping tax) by not paying or paying incorrectly or reimbursing or setting off or deducting or withholding taxes; and
- intentionally issue false or fictitious tax records as well as receiving fictitious tax records or altering such records, irrespective of whether they evade paying taxes or not.

Under the Greek penal system, legal entities do not bear criminal liability. For this reason, individuals who are engaged with the effective management, administration and representation of a legal entity (either by holding specific executive positions or by exercising de facto management duties) are considered to be the perpetrators or accomplices of tax evasion.

Law stated - 2 July 2024

Tax avoidance

Are there specific rules or provisions regarding perceived tax avoidance?

Greek tax legislation has incorporated a number of anti-avoidance rules, both general anti-abuse rule (GAAR) and targeted anti-abuse rule (TAAR), namely as follows.

GAAR provided under article 39 of Law No. 5104/2024

GAAR was initially based on the European Commission's Recommendation on Aggressive Tax Planning (EU GAAR), published on 6 December 2012 (C(2012) 8806 final). By virtue of article 13 of Law No. 4607/2019, GAAR was amended to transpose article 6 of Anti-Tax Avoidance Directive (EU) 2016/1164.

By virtue of GAAR, it is provided that tax authorities shall ignore any arrangement or a series of arrangements that, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage that defeats the object or the purpose of the applicable tax law, are not genuine, having regard to all relevant facts and circumstances.

TAAR for tax losses forfeiture provided under article 27 Law of No. 4172/2013

TAAR refers to the fact that it is not possible to carry forward losses in the event of a change of more than 33 per cent of the direct or indirect holding or the voting rights in a legal person or entity, provided that there is also a change of activity of the legal person or entity in a percentage exceeding 50 per cent of its turnover in relation to the immediately preceding tax year from the change of shareholding structure or voting rights.

TAAR for corporate restructurings provided under article 56 of Law No. 4172/2013

TAAR on corporate restructurings is aligned with the provisions of Directive 2009/133/EU and applies for all restructurings (mergers, full or partial demergers, spin-offs, share exchanges or transfer of the registered seat) effected under articles 52–55 of Law No. 4172/2013. By virtue of TAAR, to the extent that tax avoidance or tax evasion is identified as the main or one of the main objectives of the companies under restructuring, all benefits granted in accordance with the above-mentioned articles are fully or partially disallowed. The fact that a transaction is not performed for valid economic reasons, such as the restructuring or the rationalisation of the activities, may constitute an evidence that the main or one of the principal objectives of the transaction is the tax avoidance or tax evasion.

There are other anti-avoidance rules included in the Greek tax legislation, such as interest limitation rules (which, in general, provide that interest expenses shall not be deductible to the extent that the surplus of interest expenses compared to interest income exceeds 30 per cent of earnings before interest, taxes and amortisation) as well as controlled foreign companies rules (which, also in general, provide that the undistributed passive income of a foreign legal person or entity satisfying certain conditions shall be attributed to and taxed in the hands of the Greek resident controlling shareholder).

TAAR for tax-abusive creation of corporate forms provided under article 28E L 4172/2013

This TAAR provides that a self-employed/freelancer individual who, after the enactment of Law No. 5073/2023 and until fiscal year 2026, interrupts his business activity and sets up a single member company with the same business activity, may, after a tax audit, be required to pay as a natural person the tax difference he avoided with his tax-abusive behaviour, if the

tax resulting from the operation of the company is lower than the tax he would have paid if he had continued his individual business activity.

Additional anti-avoidance rules encompass interest limitation regulations, which restrict the deductibility of interest expenses exceeding 30 per cent of EBITDA (Earnings Before Interest, Tax, Depreciation and Amortisation) compared to interest income, and Controlled Foreign Company (CFC) rules, which attribute and tax undistributed passive income of foreign entities meeting specific criteria in the hands of Greek resident controlling shareholders.

These provisions collectively reinforce the integrity of the Greek tax system and deter abusive tax practices.

Law stated - 2 July 2024

Enforcement record
What is the recent enforcement record of the authorities?

Pursuant to the Independent Authority for Public Revenues, the realized tax revenues of the trimester January-March 2024 amounted to €14,843.92 million, recording an increase of 9.38 per cent (or in absolute terms €1,272.53 million euros) compared to the revenues of the corresponding period of the previous year and thereby achieving the target of 104.2 per cent or in absolute terms an excess of €598.31 million euros.

Law stated - 2 July 2024

THIRD PARTIES AND OTHER AUTHORITIES

Third-party involvement with tax reviews
Can a tax authority involve third parties as part of the authority's review of a taxpayer's returns?

The tax authority has the right to request any kind of information from third parties such as other public entities (authorities, organisations or companies owned by the state), judicial or prosecution authorities or other third parties, such as financial institutions, investment funds, chambers of commerce, notaries, registrars, heads of land registry offices, economic or social or professional associations or organisations. The right is restricted for pending criminal cases or investigations where the granting of a relevant permission by the court or the prosecutor is required to request the information.

Third parties bound by professional confidentiality (including lawyers) may provide information related to their economic transactions with the taxpayer. However, for the rest of the information covered by the confidentiality obligation, the tax authority should request permission from the competent prosecutor on proving that the taxpayer is suspected of tax evasion and invoking the reasons for which it wishes to obtain the information by the third party.

A fine ranging from €250 to €500 will be imposed if third parties refuse to provide the above-mentioned information to the tax authority.

Law stated - 2 July 2024

Cooperation with other authorities

Does the tax authority cooperate with other authorities within the country? Does the tax authority cooperate with the tax authorities in other countries?

Between Greece and the EU member states, Directive 2011/16/EU (incorporated with Law No. 4170/2013) regarding the administrative cooperation in the field of direct taxation, is applicable. This Directive has been amended by the following:

- Directive 2014/107/EU, effective from 1 January 2016, which introduced the automatic exchange of financial accounts information (incorporated with Law No. 4378/2016). Based on the provisions of this Directive, the EU has concluded agreements on the automatic exchange of information with Switzerland, Andorra, Monaco, San Marino (incorporated with Law No. 4515/2018) and Liechtenstein (incorporated with Law No. 4516/2018).
- Directive 2015/2376/EU, effective from 1 January 2017, which introduced the automatic exchange of information on advance cross-border rulings and advance pricing arrangements (incorporated with Law No. 4474/2017).
- Directive 2016/881/EU, effective from 5 June 2017, which introduced the automatic exchange of information on the country-by-country report (incorporated with Law No. 4484/2017).
- Directive 2016/2258/EU, effective from 1 January 2018, which introduced the access of tax authorities to mechanisms, procedures, documents and information in order to combat money laundering from illegal activities (incorporated with Law No. 4569/2018).
- Directives 2018/822/EU & 2020/876/EU, which introduced the mandatory automatic exchange of information on reportable cross-border arrangements (incorporated with Law No. 4714/2020).
- Directive 2021/514/EU, which established the scope and the conditions of the mandatory automatic exchange of information reported by platform operators (incorporated with Law No. 5047/2023).

Between Greece and other (non-EU) countries, administrative cooperation in the field of taxation is based on the following agreements:

- The European Convention on Mutual Administrative Assistance in Tax Matters of 25 January 1988 (as amended in 2010 – ratified with Law No. 4153/2013), the scope of which covers specific categories of direct and indirect taxes. The Convention provides for three kinds of information exchange, namely: upon request, spontaneous and automatic exchange of information.
- The Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (ratified with Law No. 4428/2016), which provides for the exchange of information corresponding to that defined in the Directive 2014/107/EU.
- The Multilateral Competent Authority Agreement on the Exchange of (Country-by-Country Reports (ratified with Law No. 4490/2017), which provides

for the exchange of information corresponding to that defined in the Directive 2016/881/EU.

Between Greece and the USA, administrative cooperation in the field of taxation is based on the following agreements:

- Agreement to improve International Tax Compliance and to Implement Foreign Account Tax Compliance Act ((FATCA) – ratified with Law No. 4493/2017).
- Arrangement on the Exchange of Country-by-Country Reports (ratified with Law No. 4534/2018), which provides for the exchange of information corresponding to that defined in the Directive 2016/881/EU.

Moreover, Greece has signed and ratified 57 bilateral treaties for the avoidance of double taxation, which include a provision for administrative assistance. It shall be, however, noted that the bilateral treaty for the avoidance of double taxation concluded between the Greek Republic and the Kingdom of Sweden has ceased to be in force as of 01.01.2022, following its unilateral termination by the Swedish tax authorities. The bilateral treaty for the avoidance of double taxation concluded between the Greek and French Republic (which came into force as of 30 December 2023) is the first one (and the only one so far) to be wholly founded on the Multilateral Instrument of the Organization for Economic Co-operation and Development.

Law stated - 2 July 2024

FINANCIAL OR OTHER HARDSHIP

Voluntary disclosure and amnesties

Do any special procedures apply in cases of financial or other hardship, for example when a taxpayer is bankrupt?

If a taxpayer is declared bankrupt, the Greek state enjoys a priority right after the claims of secured creditors for claims of VAT, including any kind of surcharges thereof, and it ranks fifth after other priority creditors.

Concerning the declared bankrupt, if the Greek state has announced its claims within the bankruptcy procedure, it may request a settlement to be granted by the Minister of Finance. If the debt exceeds €600,000, the State Legal Council may accept a settlement that may involve:

- the payment of the total amount of debt along with the partial or total release from late payment surcharges, tax surcharges and fines;
- the payment of the basic debt and the late payment surcharges in monthly instalments (up to 90); or
- a combination of the previous two.

A new insolvency framework was enacted with Law No. 4738/2020 enabling households and businesses to settle their debts, including debts to the state, social insurance funds, banks, servicers and other private creditors.

Law stated - 2 July 2024

Voluntary disclosure and amnesties

Are there any voluntary disclosure or amnesty programmes?

There are currently no voluntary disclosure programmes in force. However, a new debt settlement scheme has been recently introduced, through which taxpayers can settle their tax liabilities in up to 24 or 48 instalments (depending on the debt).

Law stated - 2 July 2024

RIGHTS OF TAXPAYERS

Rules protecting taxpayers

What rules are in place to protect taxpayers when dealing with the tax authority?

The aforementioned Code of Tax Procedure and the Code of Administrative Procedure protect taxpayers, as well as the general principles of the Greek Constitution.

Law stated - 2 July 2024

Requesting information from tax authority

How can taxpayers obtain information from the tax authority? What information can taxpayers request?

Taxpayers may file a petition to the tax authority to receive copies of any public or private document within 20 days provided that they prove a legitimate interest. In practice, the authorities response period may be longer and the legitimate interest might not be proven. If the document is related to the private or family life of a third party, it shall be protected by confidentiality under a special provision, or is crucial to a police, judicial or administrative investigation, the tax authority may deny the petition.

Law stated - 2 July 2024

Oversight of tax authority governance

Is the tax authority subject to non-judicial oversight?

Every tax authority is subject to the control and monitoring of the Independent Authority for Public Revenues, which as of 2017, is an independent authority, released from state control and monitoring. The Authority is governed by the administrative council, a governor and a European Commission expert. The European Commission has appointed two officials in the council.

Before the taxpayer initiates pre-court or court actions against an act or omission by the tax authority, he or she may file a complaint to the Greek Ombudsman, an independent authority

that intervenes in cases involving public bodies, including tax authorities. Upon examination of the complaint, the Greek Ombudsman should attempt to contact the tax authority and resolve the issue.

Law stated - 2 July 2024

COURT PROCEEDINGS

Competent courts
Which courts have jurisdiction to hear tax disputes?

Tax disputes fall within the jurisdiction of administrative courts, on two levels: the Administrative Court of First Instance and the Administrative Court of Appeals.

Tax disputes up to €60,000 and tax disputes arising from the enforcement of tax claims by the tax authority (eg, seizures) fall under the competency of the single-member Administrative Court of First Instance.

Tax disputes from €60,000 up to €150,000, as well as non-monetary tax disputes, lie within the competency of the three-member Administrative Court of First Instance.

If the tax dispute is valued at €150,000 or more, the three-member Administrative Court of Appeals has exclusive jurisdiction as a first and final instance.

Decisions issued by the Administrative Courts of First Instance for tax disputes valued at more than €5,000 may be appealed by any of the parties.

The territorial jurisdiction is determined by the seat of the tax authority that issued the contested act (or omission).

Final decisions issued by the Administrative Court of Appeals valued at more than €40,000 are subject to a petition for cassation before the Supreme Administrative Court on limited exclusively legal grounds and if no prior jurisprudence of the Administrative Supreme Court exists or if the decision of the Administrative Court of Appeal contradicts prior jurisprudence of the Administrative Supreme Court or other Supreme Court or irrevocable decision of an administrative court.

Greek law has introduced the 'pilot trial', a process by which any legal matter of an appeal before the administrative courts may be examined first by the Supreme Administrative Court directly upon the filing of a petition by the interested party, provided that the matter is of great importance and it affects many taxpayers. Moreover, an administrative court itself may issue a preliminary decision, initiating a pilot trial before the Supreme Administrative Court. The final decision by the Supreme Administrative Court is binding on the court that initiated the pilot trial and any party that was involved in the pilot trial and constitutes jurisprudence on the legal matter in the way described in the previous paragraph.

Law stated - 2 July 2024

Lodging a claim
How can tax disputes be brought before the courts?

Tax disputes are brought before administrative courts as a recourse against any act or omission of the tax authority (including assessment of taxes and fines or the denial of refunds to the taxpayer, etc). Recourse may be brought by any taxpayer who has a legitimate interest affected by the contested act or omission, on any legal or factual grounds and without any threshold.

Recourse may also be brought independently by individuals or entities who are jointly liable for tax obligations of legal persons or entities. Tax disputes may not be brought before the courts by the tax authority.

The Code of Tax Procedure requires that before recourse to administrative courts, an administrative appeal before the Dispute Resolution Directorate (DRD) of the Independent Authority for Public Revenues is filed as mandatory. The administrative recourse may be submitted to the DRD within 30 days of the date of notification of the final corrective assessment act or other tax dispute, or 60 days for taxpayers residing abroad. The DRD must issue a decision within 120 days from the filing of the administrative appeal; otherwise, the appeal is considered tacitly rejected.

The taxpayer has the right to challenge such rejection judicially by submitting an appeal to the administrative courts within 30 days of the date of notification of the decision issued by the DRD, or the expiry of the 120-day period if no decision was issued by the DRD. In any case, he or she is obliged to pay upon filing a court fee amounting to 1 per cent of the tax in dispute up to €1,000. Another court fee of up to €2,000 is payable for the hearing of the appeal at first instance. An additional court fee of up to €12,000 may be imposed by the court.

Relief sought is limited to total or partial annulment or modification of the contested act, including an obligation to refund any amounts unduly paid to or due by the tax authority, with interest. In the case of contestation of an omission by the tax authority, the taxpayer may request the court to determine the amount of the taxpayer's claim.

Law stated - 2 July 2024

Combination of claims

Can tax claims affecting multiple tax returns or taxpayers be brought together?

In principle, each contested act or omission by the tax authority is subject to a separate appeal. However, coherent acts may be contested in one appeal, especially in cases of tax audits covering multiple taxations and fiscal years. In any case, the admissibility of the appeal is judged separately for each contested act (deadline or court fee, etc). In cases where multiple persons or entities are jointly liable for payment of any amount of tax, an appeal may be brought together or separately for all or any of them. 'Collective' appeals by taxpayers are not permitted under Greek law.

Law stated - 2 July 2024

Pre-claim payments

Must the taxpayer pay the amounts in dispute into court before bringing a claim?

Payment of the amounts in dispute is not a prerequisite for the filing or hearing of an administrative appeal before the DRD or an appeal at first instance (except for the court fees).

The submission of an administrative appeal or an appeal at first instance suspends the payment of 50 per cent of the amount in dispute, provided that the remaining 50 per cent is paid. In any case, the taxpayer may seek suspension of the whole amount in dispute by the DRD or (more commonly) by the court, by proving inability to pay entailing irreparable damage in the case of enforcement of the claim by the tax authority. In practice, it is difficult to obtain suspension, since it requires the disclosure of the global income and assets of the taxpayer and his or her family members or, in the case of legal entities, of jointly liable individuals, main shareholders and affiliated entities.

In the case of an appeal before the administrative court of appeals against a decision of the Administrative Court of First Instance, the payment of 20 per cent of the amount determined by the Court of First Instance until the date of hearing before the Court of Appeal is a prerequisite for the appeal to be heard.

Law stated - 2 July 2024

Cost recovery

To what extent can the costs of a dispute be recovered?

The costs of a tax dispute may be sought by both the taxpayer and the tax authority. These only include costs connected to the proceedings before the court, in all instances. In practice, Greek courts only grant rather symbolic amounts as costs (a few hundred euros, even for the Supreme Court). Court fees paid are refunded in full or in part in the case of acceptance of the appeal.

Law stated - 2 July 2024

Third-party funding

Are there any restrictions on or rules relating to third-party funding or insurance for the costs of a tax dispute, including bringing a tax claim to court?

Greek law has no restrictions or rules relating to third-party funding or insurance for the costs of any dispute.

Law stated - 2 July 2024

Availability of jury trials

Who is the decision maker in the court? Is a jury trial available to hear tax disputes?

In the case of multi-member courts, the opinion expressed by the majority of judges prevails for the issuance of the decision. No jury trial is provided by Greek legislation for tax disputes.

Law stated - 2 July 2024

Time frames

What are the usual time frames for tax hearings?

Time frames in Greek administrative courts used to be notoriously long, but the situation has gradually improved (especially before the Courts of Appeal). An appeal before the Administrative Court of First Instance of Athens may be heard within two to four years from filing, and a decision is issued within six to 12 months from the hearing. The time frames before administrative courts in other cities are shorter.

However, tax disputes involving amounts exceeding €150,000 are brought directly before the Administrative Courts of Appeal and heard within six to 12 months from filing. A decision is usually rendered within six months from the hearing.

The time frames before the Supreme Administrative Court range from one to three years, depending on the importance of the case.

Law stated - 2 July 2024

Disclosure requirements

What are the requirements concerning disclosure or a duty to present information for trial?

In principle, in trials before the administrative courts, there is no specific requirement to present information and each party bears the burden of proof of its own pleadings. In any case, if the court does not have enough evidence, it may issue a preliminary ruling ordering a re-audit or supplementary audit with a limited scope, which is carried out by the tax authority.

Law stated - 2 July 2024

Permitted evidence

What evidence is permitted in tax hearings?

Tax trials usually do not involve testimonies other than sworn statements (affidavits). In any case, the taxpayer is not accepted as a witness. The persons most commonly providing sworn statements or testimonies in tax trials include accountants, employees of the taxpayer or counterparties in various transactions. Experts or persons providing technical reports or legal opinions are also permitted to testify. All written evidence in other languages must be translated into Greek. Sworn statements or testimonies by non-Greek speakers are carried out with the assistance of a translator.

Law stated - 2 July 2024

Permitted representation

Who can represent taxpayers in a tax trial? Who represents the tax authority?

In tax trials with amounts in dispute exceeding €600, taxpayers must be represented by an attorney at law. The tax authority is represented either by its director or by members of the State Legal Council, a special body of lawyers representing the Greek state before all courts.

Law stated - 2 July 2024

Publicity of proceedings

Are tax hearings public?

All trial hearings before administrative courts are public but, as explained, the procedure essentially takes place on paper.

Law stated - 2 July 2024

Burden of proof

Who has the burden of proof in tax hearings?

In principle, in trials before the administrative courts, each party bears the burden of proof of its own pleadings. However, in Greek tax law, the taxpayer has the burden to prove all the elements that are necessary for a tax assessment that constitute the reasoning of such tax assessment (usually in the form of a tax audit report). As a result, a tax assessment or audit may be annulled on the grounds of lack of reasoning. As an exception to this rule, Greek tax legislation often introduces presumptions of the indirect proof of the existence of taxable matter; in these cases, the burden of proof is reversed. Also, according to recent case law, in some extreme cases (eg, of tax evasion), the court may decide on an ad hoc allocation of the burden of proof, subject to judiciary review by the Supreme Administrative Court.

In any case, if the court does not have enough evidence, it may issue a preliminary ruling ordering a re-audit or supplementary audit with a limited scope, which is carried out by the tax authority.

Law stated - 2 July 2024

Case management process

What is the case management process for a tax hearing?

In preparation for a tax trial, all evidence should be collected and translated, and usually sworn statements are prepared. In certain cases, where additional legal grounds for the initial appeal exist, they can be submitted to the court 15 days before the hearing and notified to the other side, and they become part of the appeal. Proxies or authorisation documents on behalf of the client should be submitted to the court at least one day before the hearing.

The arguments of the appeal, the evidence and the counter arguments against the Greek state's position are analysed in the legal memorandum submitted within three days from the hearing; and in the following three days, the legal memorandum of the Greek state (if any has been submitted) can be rebutted.

Law stated - 2 July 2024

Appeal

Can a court decision be appealed? If so, on what basis?

Either party may file an appeal against a decision of the Administrative Court of First Instance within 60 days from the notification of the decision. A prerequisite for the filing of the appeal is the payment of 20 per cent of the tax levied. The appeal may include any legal or factual ground.

Against decisions of the Administrative Court of Appeals, a petition for cassation may be filed within 60 days from the notification of the decision, or 90 days if the taxpayer resides abroad.

Law stated - 2 July 2024

UPDATE AND TRENDS

Key developments of the past year

What are the current trends in enforcement of tax controversies? What are the current concerns of the authorities and taxpayers in relation to the enforcement and handling of tax controversies and are these likely to change? Are there proposals to change the relevant legislation or other rules?

Tax evasion, tax avoidance, and inefficiencies in tax collection mechanisms have been prominent concerns for Greek tax authorities in recent years, posing significant challenges to the country's fiscal stability. Although the precise extent of tax evasion remains elusive, recent surveys suggest that it ranges between 6 per cent and 9 per cent of the Gross Domestic Product (GDP), equating to an annual loss of €11 billion to €16 billion. This phenomenon is largely attributed to several factors, including high tax rates, low detection and enforcement capabilities, and lenient penalties.

To address these issues, Greece has taken significant strides in combatting tax avoidance and aggressive tax planning. The country has aligned its legislation with European Union directives and recommendations outlined by the Organization for Economic Co-operation and Development. Implementation of anti-tax-avoidance rules has been prioritised, bolstering the legal framework to counter evasion tactics.

The enactment of Law 5073/2023, recently brought into force, represents a pivotal development in Greek tax legislation. This legislation introduces several amendments aimed at enhancing tax compliance and enforcement. Noteworthy provisions include the establishment of a minimum presumed income for individuals engaged in business

activities, mandatory use of banking channels for real estate transactions, and the introduction of monetary rewards for reporting tax violations.

Despite these advancements, there exist ample opportunities to further refine the efficiency and competitiveness of Greek tax policies. Reforms in corporate taxation, value-added tax (VAT) regulations, and international tax frameworks could significantly enhance the effectiveness of Greek tax policy. By modernising tax laws and enhancing enforcement mechanisms, Greece can mitigate revenue losses, promote fiscal sustainability and foster an environment conducive to economic growth and development.

Law stated - 2 July 2024