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Private Wealth 2021

Greece
Fotodotis Malamas
Bernitsas Law

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GREECE

Law and Practice

Contributed by:

Fotodotis Malamas

Bernitsas Law see p.23



CONTENTS

1. Tax	p.3	6. Roles and Responsibilities of Fiduciaries	p.14
1.1 Tax Regimes	p.3	6.1 Prevalence of Corporate Fiduciaries	p.14
1.2 Stability of the Estate and Transfer Tax Laws	p.7	6.2 Fiduciary Liabilities	p.14
1.3 Transparency and Increased Global Reporting	p.7	6.3 Fiduciary Regulation	p.14
2. Succession	p.9	6.4 Fiduciary Investment	p.14
2.1 Cultural Considerations in Succession Planning	p.9	7. Citizenship and Residency	p.15
2.2 International Planning	p.9	7.1 Requirements for Domicile, Residency and Citizenship	p.15
2.3 Forced Heirship Laws	p.9	7.2 Expeditious Citizenship	p.15
2.4 Marital Property	p.9	8. Planning for Minors, Adults with Disabilities and Elders	p.16
2.5 Transfer of Property	p.10	8.1 Special Planning Mechanisms	p.16
2.6 Transfer of Assets: Vehicle and Planning Mechanisms	p.10	8.2 Appointment of a Guardian	p.16
2.7 Transfer of Assets: Digital Assets	p.10	8.3 Elder Law	p.17
3. Trusts, Foundations and Similar Entities	p.10	9. Planning for Non-traditional Families	p.18
3.1 Types of Trusts, Foundations or Similar Entities	p.10	9.1 Children	p.18
3.2 Recognition of Trusts	p.11	9.2 Same-Sex Marriage	p.19
3.3 Tax Considerations: Fiduciary or Beneficiary Designation	p.11	10. Charitable Planning	p.19
3.4 Exercising Control over Irrevocable Planning Vehicles	p.12	10.1 Charitable Giving	p.19
4. Family Business Planning	p.12	10.2 Common Charitable Structures	p.20
4.1 Asset Protection	p.12		
4.2 Succession Planning	p.13		
4.3 Transfer of Partial Interest	p.13		
5. Wealth Disputes	p.13		
5.1 Trends Driving Disputes	p.13		
5.2 Mechanism for Compensation	p.13		

1. TAX

1.1 Tax Regimes

Following more than ten years of tax increases, Greece has now introduced tax reductions and tax breaks on Greek-sourced income. In an effort to smooth the financial impact of the COVID-19 pandemic, new relaxed rules have been enacted with regard to private debt to the State, mainly under the scheme of temporary settlements.

Greek tax-resident individuals are liable to pay taxes on their global income, and non-Greek tax residents are liable to pay taxes on their income from Greek sources. Taxable income includes employment, business activity, capital and capital gains income, and is generally an aggregate of all types of income, minus income-generating expenses and applicable deductions.

Tax Deductions

Employment

Income from employment, pension and business activities is taxed at a maximum rate of 44% for income exceeding EUR40,000. A further solidarity contribution is imposed on annual income exceeding EUR12,000, at a rate ranging from 2.2% to 10%.

Severance payments

Special treatment applies to severance payments upon the termination of employment, in particular to every lump sum severance payment that is provided by any employer, and for any reason resulting in the termination of the employment relationship or other agreement that connects the employer with the beneficiary of the payment. The maximum tax rate in this case is 30% for severance payments exceeding EUR150,000.

Annuities

A favourable tax regime applies to annuities paid within the framework of group pension plans

that are taxed at source, with the rate varying depending on the payment period. Periodically paid benefits are taxed at 15%, while lump sum payments of up to EUR40,000 are taxed at 10% and any amount above that at 20%; both are increased by 50% in the case of early redemption. Tax is withheld by life insurance companies and uses up the relevant tax liability of the employee.

Capital income

Capital income is defined as income gained from dividends (taxed at 5%), interest (taxed at 15%), royalties (taxed at 20%) and real estate (taxed at 15%–45%). Gross income from rental property is automatically subject to a 3.6% stamp duty (excluding residential rentals). Capital gains derived from the sale of real estate property are taxed at a flat rate of 15% of the sale price, minus acquisition costs and related expenses.

Capital gains tax for the sale of real estate property has been suspended until 31 December 2022. Moreover, Greece introduced a new tax regime for high net worth individuals, employees and pensioners who transfer their tax residence and invest in Greece, which has been included in Articles 5A, 5B and 5C of Law 4172/2013.

Tax on Income Acquired Abroad

In an effort to attract specific groups of taxpayers, Greece recently introduced three tax incentive schemes that resemble similar tax schemes that already apply in other EU countries, such as Italy.

The new initiatives currently applicable in Greece target the following:

- high net worth individual investors;
- employees and freelancers; and
- pensioners.

High net worth individuals

High net worth individuals transferring their tax residence to Greece may be subject to the alternative income taxation method for income acquired abroad, if the following requirements cumulatively apply:

- they have resided abroad for seven of the last eight years;
- the investment is higher than EUR500,000 and is in the form of real estate property, securities and shareholdings; and
- the investment has been concluded within three years from the date of the application.

High net worth individuals must file the relevant application with the competent tax authority no later than 31 March of the relevant tax year and file supporting documents, which are defined on a case-by-case basis.

The special regime terminates after 15 tax years and cannot be extended further.

High net worth individuals that meet the above conditions enjoy the following tax benefits:

- non-Greek-sourced income is tax exempt and not reported;
- an annual flat tax liability of EUR100,000 is introduced for non-Greek-sourced income; this benefit is extended to close relatives of high net worth individuals with the payment of an additional annual tax of EUR20,000 per person;
- assets outside Greece are not subject to gift or inheritance tax; and
- no justification is required for funds remitted to Greece.

High net worth individuals must pay the annual tax within 30 days of the date of approval.

Employees and freelancers

The second tax regime targets employees and freelancers, which are the most productive sections of society, comprising most of the workforce that relocated from Greece to other countries over the last ten years. Individuals wishing to transfer their tax residence to Greece may benefit from reduced income tax if the following criteria are met cumulatively:

- they have not been Greek tax residents for the last five out of six years;
- they are tax residents in an EU/EEA jurisdiction or a jurisdiction with which Greece has signed an administrative co-operation agreement;
- they will be employed by a Greek legal entity or the Greek permanent establishment of a non-Greek legal entity (unless they are self-employed); and
- they make a declaration that they will reside in Greece for at least two years.

The new tax regime applies to employees, executives (with an employment relationship), freelancers or entrepreneurs who will carry out individual business activities in Greece.

It should be noted that only newly employed individuals are eligible to benefit from the new tax regime.

Eligible individuals may benefit from the new tax regime for a period of up to seven years from 1 January 2021 and will receive a 50% tax break on their Greek-sourced income, applicable to income tax, solidarity contributions, deemed income from housing (only for main residences) and private cars.

To register, applicants must include the jurisdiction of their tax residence in the application and the Greek tax authorities will report the transfer of their tax residence to this jurisdiction.

Applications must be filed by 31 July of the respective tax year and the tax authorities must approve or reject the application within 60 days.

A ministerial decision providing guidelines for the application of the new tax regime is currently pending.

Pensioners

The third initiative pertains to pensioners who wish to relocate permanently to Greece. Pursuant to the new provisions, non-Greek pensioners who decide to transfer their tax residence to Greece will be subject to a 7% flat tax for income not generated in Greece.

Eligible for this tax incentive regime are pensioners who:

- were not Greek tax residents for the previous five out of six years; and
- have their tax residence in a jurisdiction with which Greece has signed an administrative co-operation agreement.

The tax incentive regime for pensioners does not exclude the application of the favourable provisions of Double Tax Treaties (DTTs).

Taxes on Web Platforms

In an attempt to combat tax evasion from residential rentals, the State applies strict tax provisions for rentals through web platforms such as Airbnb and Tripping.

In principle, legal entities and persons are subject to income tax at 24%, and any dividends they distribute are subject to further taxation at 5% at the level of the shareholder.

Real Estate Taxes

The imposition of various taxes on real estate acts as a disincentive to investment in immov-

able property. The main taxes applicable to real estate can be summarised as follows.

Unified Real Estate Tax (URET) is levied annually on property located in Greece and consists of the main tax, calculated by reference to the size, location, zone price, surface, age, use and other characteristics of the property, and a supplementary tax, calculated on the total taxable value of all the taxpayer's property if this exceeds EUR250,000. The supplementary tax rate for individuals ranges from 0.1% to 1.15%, depending on the value of the property; for legal entities it is 0.55%; and for non-profit legal entities it is 0.35% for real estate that is not used by the taxpayer personally. Buildings and plots used for business purposes by legal entities that own them are taxed at 0.1%.

Although the recently enacted tax reductions on URET are conducive to a more attractive tax environment, real estate remains heavily taxed in Greece. URET is calculated on the objective minimum value of real estate, as such value is assessed by a formula of the Ministry of Finance. Nevertheless, the increased minimum value (objective value) on real estate that is contemplated to apply per geographic area in 2022 will counterbalance any positive impact from the real estate tax reduction.

Real estate tax reductions

For the 2019 and 2020 tax years, a reduction varying from 10% up to 30% applies to real estate tax for natural persons. The main criterion for the rate of the applicable discount is the value of the real estate property, as calculated by the formula set by the Ministry of Finance.

- Local Real Estate Duty (TAP) is payable to municipal authorities at rates varying between 0.025% and 0.035% of the assessed value of the property.

- Special Real Estate Tax (SRET) – legislators introduced Law 3091/2002 to deal with a trend where offshore companies whose activities are not considered normal (eg, industrial, commercial or the provision of services) had acquired property in Greece and their gross income from these activities was greater than the gross income from the property.

SRET

The law provides that legal entities that own full property rights, bare ownership or usufruct property in Greece must pay an annual special property tax at 15%, and sets out a number of exemptions related mainly to the nature of the activity of the legal persons. An exemption is provided for companies that have their headquarters in Greece or another EU country and are usually S.A.s with shares registered to individuals or owned by declared individuals with a tax registration number in Greece, or limited liability companies, if the shares are owned by individuals or if the company declares the ultimate individual owners of their shares, provided that these individuals have a tax registration number in Greece.

The prevailing real estate transfer tax rate is 3%, calculated on the taxable value of the real estate. New constructions with a building licence issued since January 2006 are subject to VAT at 24%.

However, the VAT has been suspended until 31 December 2022 and constructors have the option to be subjected to real estate transfer tax at the rate of 3%.

Transfer tax

Exceptionally, the acquisition of a primary residence is exempt from the payment of transfer tax if the purchaser, their spouse or a minor child is domiciled in Greece and none of them are entitled to full ownership, usufruct or habitation in a residence. These provisions apply to

contracts for the purchase of property where the purchaser resides in Greece or intends to do so and falls into one of the following categories of beneficiaries:

- Greek citizens;
- repatriates from Albania, Turkey and the former Soviet Union;
- citizens of the Member States of the European Union and the European Economic Area (EEA);
- recognised refugees as defined by Presidential Decree 96/2008; or
- third-country nationals who enjoy the status of long-term residency in Greece as defined by Presidential Decree 150/2006.

This tax exemption is granted to an unmarried individual for the purchase of a residence of up to EUR200,000 and a land purchase of up to EUR50,000. The amount of these exemptions may be increased, depending on the individual's marital status and number of children, and some other considerations. The exemption is dependent on the property not being further transferred by the buyer for a period of at least five years.

Inheritance and Gift Tax

Inheritance and gift tax are charged and regulated by the Inheritance and Gift Tax Law (IGTL), with beneficiaries of the inherited or gifted property (heirs, legatees, shareholders and any persons who acquire property through inheritance) being classified into three categories.

Assets acquired through inheritance or donation are subject to tax at a maximum rate of 10% for first-class relatives (spouse, children or grandchildren), 20% for second-class relatives (parents and siblings, then their children or grandchildren) and 40% in any other case.

The law provides for specific exemptions or special tax treatment of specified transactions, inter alia, in the following cases:

- movable property situated outside Greece and held by a Greek national (citizen) who has been resident outside Greece for a period of at least ten consecutive years is exempt from Greek inheritance tax;
- the acquisition by inheritance of ships or participation rights in Greek or non-Greek ship holding companies is exempt from Greek inheritance tax, provided that these ships have a total capacity exceeding 1,500 gross registered tonnes; and
- funds acquired by way of a gift (donation) are subject to tax, calculated independently at 10% for first-class heirs and 20% for second-class heirs; these amounts are not further taxed along with other gifted (donated) items and consequently these tax scales do not apply in that case. In the case of death, such funds are taxed along with the other inherited items.

The transfer of properties

The transfer of properties through a Parental Gift is specifically regulated by tax law. The receiver of a Parental Gift is liable to pay tax at the time of the execution of the Parental Gift Deed, and the parties must file a Parental Gift tax statement before the competent tax authority prior to the execution of the Notarial Deed for the conveyance of real estate property. For Greeks residing abroad, the parental gift deed may be executed before the Greek Consulate, the Parental Gift tax statement filed before the consul and the tax paid in full to the consul.

The tax-free amount is currently EUR150,000, and where the Parental Gift is of real estate property, the remaining value of the property over the tax-free amount is taxed at a progressive tax rate

of 1% to 10%. In the case of funds, a fixed rate of 10% applies.

1.2 Stability of the Estate and Transfer Tax Laws

The state of vulnerability that characterises the Greek economy, which is subject to permanent handicaps, makes it more difficult for business activities to develop, and in many cases exacerbates their economic difficulties. The current tax framework, especially given the increased tax rates that have applied to real estate disposals, social security contributions and excise duties since 1 January 2017, deprives individuals and legal entities of economic resources that could be reinvested, and deprives consumers of disposable income that could help to increase trade. Despite the weak growth of the Greek economy (1.9% for 2019), house prices increased in 2020 (March 2020 to March 2021) on a weighted average by approximately 3.2%.

Nevertheless, the impact of the COVID-19 pandemic has adversely affected the real estate market.

1.3 Transparency and Increased Global Reporting

By way of Law 4174/2013 determining the Code of Tax Procedure, which came into force on 1 January 2014, Greece introduced a general anti-avoidance clause into its tax system, on the basis of which the tax administration can ignore any “non-genuine” arrangement deemed to be aimed at tax avoidance or tax evasion and leading to a tax benefit for the taxpayer when assessing tax due. An arrangement is considered non-genuine if it lacks “economic or commercial essence”.

The Greek Ministry of Finance issues an annual list of jurisdictions that are deemed to be non-cooperative, and a list of jurisdictions that are deemed to have preferential tax regimes.

Non-cooperative Jurisdictions and Tax Consequences

Non-cooperative jurisdictions are generally non-EU countries that have not entered into an agreement on administrative assistance in tax matters with Greece and another 12 countries. According to the Income Tax Law, countries with a preferential tax regime are those with a statutory corporate income tax rate lower than 60% of the Greek rate.

The tax consequences of transacting business with a resident of a non-cooperative jurisdiction or one with a preferential tax regime are as follows:

- dividends received from a subsidiary located in a non-cooperative country do not qualify for benefits under the participation exemption; and
- for the purposes of Greece's controlled foreign company (CFC) rules, the undistributed income of a foreign legal entity will be considered as taxable income of a Greek resident that controls the foreign entity if, inter alia, the foreign entity is resident in a non-cooperative country or in a non-EU country that has a preferential tax regime.

For EU countries with a preferential tax regime, the CFC rules apply only if the scheme is a wholly non-genuine arrangement, the purpose of which is to avoid or evade tax.

Multilateral Competency Agreements

Greece has ratified the OECD Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information by way of Law 4428/2016 (the Agreement). In accordance with the Agreement, Greek financial institutions or Greek branches of international financial institutions are under an obligation to report account information regarding interest, dividends, account balances and sale proceeds

from financial assets to the Ministry of Finance, and to follow certain procedures, consistent with the reporting and due diligence procedures set out in the OECD Common Reporting Standard (CRS). The Greek competent authorities are obliged to automatically exchange this information annually with the competent authorities in signatory countries where account holders are resident.

Law 4378/2016 has already incorporated Council Directive 2014/107 on the mandatory automatic exchange of account information between EU Member State competent authorities into domestic legislation.

EU DAC 6

Law 4714/2020 transposed into national legislation the provisions of Directive 2017/1852/EU on tax dispute resolution mechanisms in the European Union.

The procedure and timeframe for the dispute resolution mechanism are as follows:

- the taxpayer whose taxation is directly affected by the matter in dispute must file a complaint before each of the competent authorities of each of the Member States concerned, requesting the resolution thereof;
- where the complaint is accepted by one of the tax authorities, the mutual agreement procedure is initiated and must be concluded within two years;
- if the tax authorities do not reach an agreement, the affected taxpayer may file a request to set up an Advisory Commission or the tax authorities of the Member States may set up an Alternative Dispute Resolution Commission (the Commission);
- the Commission must be set up within 120 days from the date of the request and must decide on the complaint within six months of the date that it was set up;

- the Commission's decision is binding on the tax authorities, who must reach an agreement on the complaint within six months of being notified of the decision of the Committee; and
- the final decision shall be binding on Greece but shall not constitute a precedent.

The decision must be implemented subject to the affected taxpayer accepting the final decision and renouncing the right to any domestic remedy within 60 days of the final decision being notified.

The new tax dispute resolution mechanism applies to complaints filed after the publication of the Law in the Government's Gazette (31 July 2020) for disputes related to income or capital obtained on or after 1 January 2018.

2. SUCCESSION

2.1 Cultural Considerations in Succession Planning

Greece has one of the largest numbers of small and medium-sized enterprises (SMEs) in the European Union. The majority of these enterprises are family businesses, and the main shareholder is usually also the CEO or chairman of the board, or the main partner taking the most important decisions. Greek cultural norms create hurdles to the transfer of business, rendering the entire process fairly complex and difficult.

The older generation generally wishes to transfer businesses to the next generation, but is reticent to do so and ill-equipped to prepare for the process. The legal framework does not simplify the transition process from one generation to the other, with business owners facing impediments including high inheritance and gift tax rates, bureaucracy and a complex legal framework.

The Greek State has not provided any tools to entrepreneurs for the successful transition of a family business, and it appears that large families are more concerned with the transition of their businesses to the next generation. The second generation tends to be better prepared for the transition in terms of knowledge and experience, and as a result the probability for survival of family businesses is higher in large families than small ones.

2.2 International Planning

The tendency towards globalisation has also affected Greek businesses and, again, large families have proved to be better equipped for the international challenge compared to SMEs. Their working relationships with foreign businesses and the acknowledgment that cross-border expansion entails a different legal framework for each country contribute to better preparation for a smooth business transition. However, the complexities of the tax environment and inheritance issues such as forced heirship generate concerns for the transition process.

2.3 Forced Heirship Laws

One of the institutions of inheritance law that determines how property passes after death is forced heirship, which aims to protect the closest relatives of the deceased and, more specifically, descendants, parents and the surviving spouse (forced heirs). Forced heirs are always entitled to a certain percentage of the estate despite the will of the deceased, and they have all the duties and rights of heirs. However, the deceased may exclude a forced heir if a reason for disinheritance exists.

2.4 Marital Property

Future spouses can enter into an agreement regulating their choice of system for the community of property and can even stipulate which assets shall be included in the common property, if they so wish.

If the spouses are unable to reach an agreement, the property self-sufficiency system with a claim for participation in acquisitions will come into force. In practice, future spouses do not enter into any agreement except one regarding the family name of their children, for which the law requires an explicit declaration. If the spouses fail to make such a declaration, or in the case of a possible disagreement, the Greek Civil Code states that the children shall bear the family name of their father.

Only when one spouse mandates the other to administer their communal assets must both spouses categorically agree that the rules of the Greek Civil Code will not come into force. Consequently, the administrator is obliged to provide information to their spouse on the administration of their assets, and to repay any income that they have collected. However, it is understood that they cannot waive their right to withdraw the power of administration, as the relevant rule of the Greek Civil Code is mandatory.

2.5 Transfer of Property

The value of transferred property must be assessed by either an independent asset valuer or the tax authorities. This valuation may be used in the future as the cost basis of the property being transferred.

2.6 Transfer of Assets: Vehicle and Planning Mechanisms

There are no favourable tax provisions for the transfer of assets to the next generation that facilitate tax-free transactions. However, for assets valued at less than EUR150,000, a donation (gift) to first-class relatives (spouse, children or grandchildren) does not give rise to tax implications. Tax incentive laws for the transformation or merger of legal persons or entities may also be used for the transition of assets from one generation to the next.

2.7 Transfer of Assets: Digital Assets

The Inheritance and Gift Tax Law (IGTL) does not regulate the taxation of digital assets for the purposes of succession. Nevertheless, it appears that cryptocurrencies like Bitcoin may be treated as deposits in foreign currency subject to inheritance tax, or as investments in foreign currency. Their value will be assessed by the applicable F/X rate at the date the inheritance tax liability arose.

Moreover, websites or domain names may be treated as movable assets subject to inheritance tax, and their market value may be assessed by independent valuers in order to provide supportive documentation to the tax authorities for their tax base.

3. TRUSTS, FOUNDATIONS AND SIMILAR ENTITIES

3.1 Types of Trusts, Foundations or Similar Entities

The entities that can be used for tax planning are usually charitable foundations and, in the case of inheritance, a substitution in trust, whereby a testator may impose on an heir the obligation to surrender to another beneficiary the inheritance or a portion thereof which the heir has acquired after the occurrence of a specified event or at a specific time.

The Independent Authority of Public Revenues issued Ministerial Circular POL. 1114/2017 (the Circular) with regard to the tax treatment of foreign trusts and foundations.

In general, trusts are treated as either transparent or opaque legal entities for income tax purposes, whilst foundations are treated as opaque legal entities. In both cases, however, it appears that the Ministry of Finance has adopted the

look-through approach, treating beneficiaries as being subject to inheritance, gift or donation tax.

3.2 Recognition of Trusts

Though brief reference is made in Greek legislation to arrangements such as a trust or foundation, there are no provisions regulating the establishment and operation of these legal entities, and trusts are not recognised, creating impediments to family wealth planning. However, for tax purposes, specific provisions apply to income originating from trusts and foundations.

3.3 Tax Considerations: Fiduciary or Beneficiary Designation

In accordance with the Circular, a trust constitutes a particular regime for property management and settlement, which lacks any legal personality and is established either by means of a statement of will of the property owner or with the transfer of such property, in life or at death, by means of a will. The settlor or trustor contracts with the trustee by way of a deed of settlement and transfers property assets to the latter, which the trustee manages to the benefit of trustees, beneficiaries or the settlor, or to their own benefit, for the service of a specific purpose, which the trustee defines. More specifically, the trustee acquires the property of the settlor separately from its own and is obliged to keep it and deliver it in accordance with the terms and conditions of the trust, while the beneficiaries are natural or legal persons or legal entities who enjoy the benefits of the trust from the trustees, either via regular payments or upon the expiration of the trust, also in accordance with the conditions set by the settlor (in life or after death).

The Circular does not provide a clear definition of a “trust”, but describes its operation and the relationship between the settlor, the trustee and the trust.

The Income Tax Code

The Income Tax Code makes numerous references to trust and foundation structures. It defines various terms for taxation purposes and provides, inter alia, that any trust or foundation structure falls within the definition of the term legal entity (*nomiki ondotita*) and is therefore subject to taxation in Greece.

In the income tax field, the Circular examines the period after the introduction of the new Income Tax Code (ITC) and the period before it (the Old ITC).

Trusts

After the introduction of the ITC, trusts are recognised as legal entities but not legal persons. As a result, withholding tax applies for passive income, such as dividends, interest and royalties. Real estate income is considered business income subject to the corporate income tax rate (currently 24%).

The provisions of Double Tax Treaties also apply to trusts and foundations, unless otherwise provided for by the respective Double Tax Treaty.

For the period to which the Old ITC applies, trusts are not considered as legal entities.

Furthermore, the Circular provides guidelines for the tax treatment of trusts and foundations from an inheritance and donation tax perspective. It appears that the Ministry of Finance has adopted the look-through approach, treating beneficiaries as being subject to inheritance or donation tax.

Dividends, Interests and Royalties

In particular, for the period after the introduction of the ITC, any income from dividends, interests and royalties acquired in Greece by foreign trusts is subject to withholding tax (at 15% or 20%, as the case may be), after which their tax

obligation is exhausted, to the extent they do not have a permanent establishment in Greece.

Income from immovable property acquired in Greece is taxed as income from business activity at the tax rate of 24%.

Finally, capital gains acquired from the transfer of securities are not taxed in Greece, unless it is deemed that a foreign trust maintains a permanent establishment in Greece.

Avoiding Double Taxation

It should be noted that the above provisions apply subject to the provisions of the Treaties for the Avoidance of Double Taxation (TADT). Consequently, where a trust is tax resident in a country with which Greece has concluded a TADT, the provisions of the respective TADT in force will apply; in any other case, the provisions of domestic legislation shall apply.

3.4 Exercising Control over Irrevocable Planning Vehicles

There have been no changes regarding irrevocable planning vehicles in Greece.

4. FAMILY BUSINESS PLANNING

4.1 Asset Protection

To the extent that there is no framework for trusts or foundations other than charitable foundations, the structures available for asset protection are fairly limited, with the most popular being the foundation. Under this structure, assets such as artworks and antiques are contributed to a foundation with a public benefit scope. Buildings can also be contributed to a foundation to be used for exhibitions or other purposes benefiting the public.

By way of Law 4778/2021, Greece introduced a tax incentive intending to facilitate the management of family estates. As the matter of family estates is rather complicated to be handled by individuals, the management of cash flows, investments and family assets of natural persons with a tax residence in Greece can be carried out by special purpose legal entities, the so-called family offices (Family Offices). Internal transactions between a Family Office and the persons participating in it constitute transactions carried out within a single entity and are outside the scope of VAT.

The sole objective of Family Offices is to provide support to the natural persons that reside for tax purposes in Greece and to their family members in the administration and management of their assets and investments, held either directly or indirectly through legal persons or entities.

Family members can participate in the special purpose companies, as can legal persons or entities in which the natural persons with a tax residence in Greece and/or members of their family participate.

In order for Law 4778/2021 to apply, the Family Office must:

- employ at least five employees in Greece within 12 months from its establishment and onwards (the natural person members of the Family Office cannot be employed by it); and
- incur operating expenses of at least EUR1 million per year in Greece.

The gross revenues from the services provided by Family Offices are determined by adding a percentage of profit to all their expenses and depreciations, except for income tax (ie, the cost-plus method), and their profit margin is 7%.

For the calculation of the taxable income of Family Offices, expenses are deductible on the condition that they are supported by the respective documentation, and the income tax is calculated at the ordinary corporate income tax rate (currently 24%).

However, good intentions do not necessarily lead to practical results. The minimum amount of expenses and employees required for the Family Offices render this scheme non-flexible and expensive. Unless specific amendments are introduced, the viability of this tax incentive is not certain. The expenses should be rationalised, the minimum number of employees has to be reconsidered and its scope should include a broader concept of family rather than being restricted to the founding family members.

4.2 Succession Planning

The tax and legal environment create impediments to business succession planning strategies in most cases. Potential structures used for succession should take possible future tax implications into consideration. The most common structure used to pass wealth and control through generations is the transfer of securities by way of a sale or a donation, depending on their value; this method of planning is effective in cases of no or very small liability to capital gains tax.

Donations of securities are tax exempt for amounts up to EUR150,000, after which the maximum rate is 10% for donations to first-class relatives (spouse, children or grandchildren), whereas the sale of securities incurs capital gains tax at a rate of 15%.

In some cases, the older generation contributes assets to a newly established company, shares of which are donated or transferred to the next generation. In cases where the next generation has already established a legal entity, tax

incentive laws may be used for the transfer of wealth to them by way of a merger without any tax implications.

4.3 Transfer of Partial Interest

When a partial interest in an entity is transferred during lifetime or upon death, the fair market value of the interest, for transfer tax purposes, is not adjusted to reflect a discount for lack of marketability and control. For tax purposes, the value of a partial interest is its fair market value at the time of the transfer.

5. WEALTH DISPUTES

5.1 Trends Driving Disputes

Increasing financial pressure on family members and dependents, as well as a greater willingness to hold executors and trustees to account for their actions, can mean a higher than usual level of complexity in disputes of this nature, with disputes relating to family and inherited wealth becoming increasingly common. Complex family structures involving second or even third families, cross-border estates that span two or more jurisdictions, and generally more valuable estates all tend to give rise to circumstances in which there is more scope for probate and will disputes, or contentious probate.

5.2 Mechanism for Compensation

The main mechanism in Greece for compensating aggrieved parties in wealth disputes is action before the civil courts. The rules that govern civil procedures in Greece are regulated by the Code of Civil Procedure, which provides for pre-action interim remedies, or safety measures, over and above the ordinary procedures. As an alternative, disputes may be resolved through arbitration or mediation, although mediation has only recently been introduced into the Greek legal system and only a small number of disputes are resolved through it.

In principle, damages are pecuniary, although the court may take into consideration any special circumstances and order the reinstatement of the former situation, or status quo ante, in lieu of monetary damages if such method of compensation is not contrary to the interests of the creditor. Damages comprise a decrease in the existing patrimonium of the plaintiff, as well as loss of profit. Monetary compensation may be due in cases where loss is not pecuniary.

6. ROLES AND RESPONSIBILITIES OF FIDUCIARIES

6.1 Prevalence of Corporate Fiduciaries

In principle, Greek legislation does not provide for the use of corporate fiduciaries within the meaning attributed to this term in common law countries, other than in the issuance of bonds. The Bond Law (Law 3156/2003) introduced the possibility for a group of bondholders to be represented by a bondholder agent, who takes security on their behalf. The duties of the bondholder agent are performed by a trustee, which may be a credit institution or an affiliated company that legally provides services in the European Economic Area. Unless otherwise provided for in terms of a covered bonds issue, trustees are liable to bondholders for wilful misconduct and gross negligence.

A newly established form of corporation bears some of the characteristics of a corporate fiduciary. The Non-Performing Loans (NPLs) Law provides for companies in the form of Sociétés Anonymes, which may undertake the management of such loans with a licence from the Bank of Greece and be delegated the management of claims arising from loan and/or credit agreements that have not been performing for a period exceeding 90 days. The management of claims arising from loans and/or credits that have been

performing may only be delegated together with claims against non-performing debtors.

Acting as non-beneficiary parties, management companies are entitled to file any legal remedy and to undertake any other judicial action to recover the claims under management, and also to initiate, appear or participate in any pre-insolvency resolution, insolvency, debt settlement and special administration procedures. For the purposes of this law, management companies may hire companies operating in accordance with Law 3758/2009 to inform debtors of their outstanding debts, or companies with a similar objective operating in a Member State of the EU or the EEA.

6.2 Fiduciary Liabilities

As trusts and foundations are not institutions recognised by Greek legislation (with the exception of charitable foundations), such mechanisms are not applicable.

To the extent that the institution of corporate fiduciaries is not provided for in Greek legislation, there are no specific stipulations regulating their liability.

6.3 Fiduciary Regulation

In cases where the appointment of a fiduciary is provided for by the law (ie, bond loans), and unless otherwise provided for in terms of a covered bonds issue, trustees are liable to bondholders for wilful misconduct and gross negligence.

6.4 Fiduciary Investment

Trusts, foundations or similar entities are not authorised to own or run an active business in Greece.

7. CITIZENSHIP AND RESIDENCY

7.1 Requirements for Domicile, Residency and Citizenship

Many foreign nationals of Greek descent or who identify with the Greek culture wish to become Greek citizens. There are several fairly complex ways to achieve this, depending on certain characteristics of the applicant, including their status, place of birth, timing and origins.

The validity period of visas and permanent residence permits was extended by virtue of a decision of the Minister of Immigration and Asylum. A temporary prohibition of entrance to Greece was imposed on nationals of countries that are outside the EU and the Schengen Agreement, with limited exceptions. Nationals to whom entrance to Greece was prohibited could apply to enter the country on an exceptional basis and on business or personal grounds (Article 9 of Act of Legislative Content of 14 March 2020 and Joint Ministerial Decision No Δ1α/ΓΠ.οικ. 19030/17.3.2020).

As of 15 May 2021, Greece is slowly lifting the strict restrictions with regard to travel.

7.2 Expeditious Citizenship Greek Citizenship by Birth

A child born in Greece does not automatically obtain Greek citizenship, unless:

- their mother was a Greek citizen during her pregnancy and at the time of their birth;
- their father was a Greek citizen at the time of their birth; or
- both their parents were non-Greek immigrants living in Greece with a valid resident's permit for at least five consecutive years prior to their birth.

If one of these requirements is met, the child may obtain Greek citizenship by birth, although parents can of course opt out and declare another country's citizenship in accordance with the laws of that country.

Becoming a Greek Citizen by Going to School

A child who does not fulfil any of the prerequisites mentioned above may still obtain Greek citizenship if:

- they enrol in the first grade of a Greek primary school and are still attending when the application is filed;
- at least one of their parents had been living in Greece legally with a valid permit for at least five years prior to the child's birth;
- at least one of the parents holds a legal resident's card, as described in the new statute; and
- they have not reached the age of 18 years.

Alternatively, a non-Greek minor legally residing in Greece can still obtain Greek citizenship if they have attended at least nine years of primary/secondary Greek school, or six years of secondary Greek school. A non-Greek adult legally residing in Greece can obtain Greek citizenship if they have obtained a high school diploma in Greece and then graduated from a higher education institution (university or technical education institution). In this case, as soon as Greek citizenship is obtained, any underage and unmarried children automatically become Greek citizens as well.

Claiming Greek Citizenship through Ancestors

Persons born outside Greece whose parent or parents are Greek, or who have one or more Greek grandparents, are entitled to claim Greek citizenship through their ancestor(s) born in Greece.

The citizenship process has been impacted by the COVID-19 crisis due to the general lockdown and restrictions in movement. However, as of 14 May 2021, Greece is lifting the travel restrictions and the citizenship process is expected to be normalised slowly but steadily.

Greek Tax Residence

Natural persons who have their permanent or principal residence or usual abode or centre of living interests (namely their personal or financial relations) in Greece are, in principle, considered Greek tax residents.

Apart from the above factor and in compliance with the OECD Model, the tax residence status of a natural person is determined by their physical presence in Greece in any 12-month period. An individual that is present in Greece for a period exceeding 183 days, including short periods of living abroad, is considered a tax resident in Greece from the first day of their presence in Greece. However, the above rule do not apply to individuals who are present in Greece only for touristic, medical, curing or similar private purposes and their presence does not exceed 365 days, including short periods of living abroad.

Notwithstanding the above, an individual's tax residence status is also determined on the basis of the provisions of DTTs concluded between Greece and other countries.

8. PLANNING FOR MINORS, ADULTS WITH DISABILITIES AND ELDERS

8.1 Special Planning Mechanisms

Greek legislation does not recognise trusts, foundations or similar entities, and this absence of structures available for efficient planning for minors or adults with disabilities renders any

planning for their physical and financial care difficult.

8.2 Appointment of a Guardian

The appointment of a guardian is provided for by the Civil Code, on the condition that neither parent has nor is able to exercise parental care. In this case, the court will appoint a guardian or entrust the exercise of parental care to a third party and determine the particulars of guardianship in accordance with the law. The following persons may be appointed as a guardian:

- a spouse;
- a physical or juristic person appointed by testamentary disposition or by a declaration made before a justice of the peace or notary; or
- the person most appropriate in the view of the court.

An adult may be placed under judicial assistance or guardianship where by reason of intellectual, psychological or physical impairment they cannot take care of themselves or their affairs entirely or partly, or if they pose a risk to the life of their spouse, descendants or parents through drug abuse or alcoholism.

A minor who is under parental care or guardianship may be placed under judicial assistance or guardianship where the relevant conditions are fulfilled in the last year of their minority. The consequences of being placed under judicial assistance begin to take effect when the minor comes of age.

A court can decide whether an individual is eligible for judicial assistance following the request of the individual, their spouse, parents, children or the public prosecutor, or through the initiative of the court itself. In cases of physical disability, a court will decide solely on the basis of a request filed by the disabled person themselves.

8.3 Elder Law

Public Welfare System

In Greece, the main institution by which families and individuals prepare financially for longer lives is the Public Welfare System, which provides essential and supplementary or auxiliary protection. It is comprised of a great number of insurance funds and a large variety of schemes, although all social security institutions fall under the authority and supervision of the Ministry of Health, Welfare and Social Security.

Some local authorities also provide home care services, although the entitlement to and availability of these services is not clear. The majority of elderly people continue to live at home, either with their families or alone, and families play a pivotal role in providing care, for which they receive no direct support from the State.

However, in the last two decades, the State has taken measures to increase community care services for the elderly so that they can remain in their own homes for as long as possible. These measures include a help at home programme and the creation of open care community centres for older people or KAPIs (these are centres in an open environment, within the neighbourhood or community, providing services to the elderly, including nursing, meal distribution, physiotherapy, social services, etc).

Care of Dependent Relatives

The Constitution and Civil Law states that the family is responsible for the care of dependent relatives of all ages, and that the State will care for the health of its citizens and adopt special measures for the protection of young people, the elderly and invalids, as well as provide assistance to the disadvantaged members of society. Consequently, the social security system does make certain provisions if a family is unable to care for a dependent relative.

There is no insurance covering long-term care in Greece. Financial assistance is mainly in the form of discretionary tax rebates to family caregivers, some of whom use supplementary pensions for incapacity or dependency to help towards the costs of caring.

Some local authorities provide home help services to elderly dependent people. Discretionary grants and benefits are also available in some areas, but are dependent on the financial resources of individual local authorities and are not based on an official policy.

Help at Home Project

Many KAPI centres collaborate with the Help at Home project, which offers a range of services to elderly people who are unable to manage on their own, such as:

- social services (counselling and psychosocial support, information on rights and health issues);
- healthcare services; and
- family assistance (assistance with housework, personal care and meal preparation and feeding, as well as activities and socialisation).

Apart from the Public Care System, the Greek State does not provide for other means that may help families and individuals prepare financially for longer lives. As a result, the contribution of the private sector is essential for efficient financial planning.

In this framework, one may plan for how one's money should be handled in the event of illness or death. Good planning ensures that the family will meet any cost that may arise in the future. To this end, health insurance or pension plans may contribute to a better quality of life in case of illness, or in old age.

9. PLANNING FOR NON-TRADITIONAL FAMILIES

9.1 Children

According to Article 1463 of the Greek Civil Code, a person's relationship to their mother (and her relatives) is established solely by birth, and that with their father (and his relatives) is presumed from the marriage of the mother to the father or established by means of voluntary or court-imposed acknowledgement of the child by the father.

Acknowledgment of Paternity

A father may acknowledge a child born out of wedlock as his own, provided that the mother consents. Where a mother has died or has no legal capacity to consent, the acknowledgment shall be effected by the sole declaration of the father, unless the father has died or has no legal capacity, in which case the acknowledgment may be effected by the father's parents. If the child has died, the acknowledgement shall be effective in favour of their descendants.

An acknowledgment by a father or his parents takes place by means of a declaration made before a notary public or in a last will and testament. The consent of a mother is given by means of a declaration before a notary public. Declarations of acknowledgment and consent must be made personally and unconditionally, cannot be subject to any terms, and are irrevocable.

A mother has the right to demand the acknowledgment of the paternity of her child born out of wedlock through legal action and directed against the father or his heirs, subject to a five-year statute of limitations starting from the child's date of birth. The right of a child to demand acknowledgement expires one year after adulthood commences, and the rights of a father or his parents expire two years after a mother's refusal to give her consent.

Establishing Paternity

Paternity is presumed where it is established that the person in respect to whom paternity is alleged had intercourse with the mother during the time period in which the child was conceived. Where a child is born out of wedlock, a court may, at the request of the mother, order the father whose paternity has been judicially established, even if the child has been stillborn, to:

- pay expenses relating to the child's birth; or
- provide for the maintenance of the mother, insofar as she is unable to provide for herself for the two months preceding childbirth and four months thereafter or, in the event of special circumstances, for a maximum duration of one year.

Where paternity is voluntary or judicially acknowledged, a child is treated as having been born to married parents for the purposes of both parents and their relatives, including in relation to matters pertaining to the child's family name, support and rights of inheritance.

Underage Children or Born out of Wedlock

According to Article 1486, an underage child has the right to claim maintenance from its parents to the extent that the income deriving from any property the child owns or from the product of the child's work is not sufficient to cover maintenance expenses. Maintenance is paid monthly in advance and includes everything necessary for the child's upkeep and any further expenses required for their upbringing and professional and general education.

According to Article 1502 of the Greek Civil Code, where a child is born out of wedlock and its paternity is very probable, and to the extent that the mother has become impoverished, a court may order protection through the advance payment of a reasonable amount by the father to the child each month to be set off against main-

tenance payments, even before the lodging of a legal action for acknowledgement of paternity.

9.2 Same-Sex Marriage

Same-sex marriages are not recognised in Greece, although same-sex civil partnerships have been recognised since 2015. The adoption of children by same-sex couples, however, is neither recognised nor provided for.

Domestic partnerships are recognised in Greece, with partners enjoying the same rights available to married couples, with the exception of children adopted by same-sex partners, which is neither recognised nor provided for.

10. CHARITABLE PLANNING

10.1 Charitable Giving

In Greek tax law, as in other systems, there are special favourable provisions concerning the funding of charitable purposes systematically pursued by private or public institutions.

Inheritance and Donation

According to the Inheritance and Donation Code, the following gifts/donations are not subject to gift tax and do not need to be declared:

- gifts/donations of money or other movable property, whether made anonymously or not, organised at a national level and proven to be charitable in nature; and
- gifts/donations of any property to the church institutions listed in paragraph 3a of Article 25 (churches, Holy Monasteries, the Sacred Commons of the Most Holy Sepulchre, the Holy Monastery of Mount Sinai, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Jerusalem, the Patriarchate of Alexandria, the Church of Cyprus and the Orthodox Church of Albania).

Acquisitions

Acquisitions by the following legal persons and entities or individuals are also exempt from tax but not from the obligation to submit a declaration:

- the Greek State or accounts created in favour of the Greek State; and
- foreigners subject to the rule of reciprocity, on the condition that this tax exemption is provided for by international conventions; if the legislation of the foreign country does not provide for a full exemption but for lighter taxation subject to the rule of reciprocity, the inheritance or trust subject to taxation in Greece of a foreign national corporation or individual is subject to lighter taxation corresponding to the tax imposed by the foreign country in question.

Transfers of Assets

Free transfers of movable or immovable assets belonging to the State, municipalities or communities and public organisations are exempt from donation tax. By virtue of the Inheritance and Donation Code, an acquisition is also subject to independent taxation when the beneficiaries are:

- public organisations, prefectural administrations, municipalities, communities, churches, Holy Monasteries, the Sacred Commons of the Most Holy Sepulchre, the Holy Monastery of Mount Sinai, the Ecumenical Patriarchate of Constantinople, the Patriarchate of Jerusalem, the Patriarchate of Alexandria, the Church of Cyprus or the Orthodox Church of Albania; and
- non-profit corporations that exist or are lawfully constituted or are being constituted in Greece, as well as all corresponding foreign corporations subject to the rule of reciprocity and the Law for Charitable Foundations and Bequests, on the condition that they are proven to pursue purposes in favour of the nation

or religion, or in a wider sense philanthropic, educational, artistic or charitable purposes within the meaning of the Law for Charitable Foundations and Bequests.

In accordance with Article 29, paragraph 5 referred to above, “the acquisition through inheritance of sums of money by corporations or individuals is subject to tax, which is calculated at a rate of zero point five per cent (0.5%). The acquisition through inheritance of other assets by such individuals or corporations is subject to a tax calculated independently at a rate of 0.5%.”

The amount of the resulting tax also includes 3% in favour of municipalities and communities by virtue of the provisions of Article 50 of Royal Decree 24/9-20.10.1958.

All gifts/donations of money in favour of corporations are subject to an independent tax of 0.5%, with a tax-free bracket of EUR1,000 annually.

10.2 Common Charitable Structures

The Greek Civil Code regulates the establishment, operation and dissolution of Civil Law Companies (CLC).

A minimum of two partners are required for the establishment of a not-for-profit Civil Law Company (NPCLC), which is managed by its partners, who have joint and unlimited liability, and may appoint one or more managers. A general meeting of the partners is the supreme governing body of an NPCLC and may decide on all issues relating to its operation, including the admission of new members, its management, the election of the management and its powers, its activities, the amendment of its Articles of Association, and its dissolution.

An NPCLC is not permitted to distribute profits, dividends or liquidation proceeds to its members

without being considered a profit-seeking Civil Law Company, and upon its dissolution any liquidation proceeds will be transferred to organisations with similar purposes in accordance with the provisions of its Articles of Association or the decision of a general meeting.

Liability of Partners

The entry into force of Law 4072/2012 confirmed the provisions regarding the liability of the partners of a registered NPCLC, and clarified that they are held jointly and severally liable with the NPCLC for its tax liabilities. NPCLCs are subject to 24% income tax for any income received or gained. This Article, as initially interpreted by the Ministry of Finance, provides for the taxation of all income and resources of NPCLCs, regardless of the source of the funds. Following the issuance of supplementary Interpretative Guidelines by the Ministry of Finance, NPCLCs are subject to taxation at the rates stated above only in respect of income deriving from commercial activities.

Partners’ contributions and subscription fees, donations and aid received from enterprises and third parties are not included in the calculation of gross income and therefore are not taken into consideration for the NPCLC’s taxable basis. The same rules apply with regard to income from activities pursued within the framework of non-governmental organisation (NGO) activities pursuant to Law 2731/1999. If an NPCLC sells donated goods, any revenues will be subject to income tax, since the tax authorities do not assess whether cash inflow is channelled to charitable activities.

A thorough review of the current cash inflow structure of a Société Anonyme is therefore recommended.

Not-for-Profit Regulations

Another form regulated by the Greek Civil Code is the not-for-profit association (*Somatio*), which is defined as a group pursuing non-profit activities made up of a minimum of 20 individuals or legal entities, that has acquired a legal personality.

A *Somatio* is established following the issuance of a court decision, and the registration of its Articles of Association with the competent registry is kept by the court. Its provisional directors are included in the Articles of Association and, unless they provide otherwise, new members may always join, subject to the terms and conditions set out therein. The general meeting is the *Somatio*'s supreme governing body and may decide on all issues relating to its operation, the entrance or exclusion of members, the election, supervision and revocation of management, the approval of financial results, amendments to the Articles of Association, change of scope and dissolution.

Unless the Articles of Association provide otherwise, management is exercised by a board, the members of which are elected by a general meeting of members. According to the general provisions of the Greek Civil Code, a *Somatio* is liable for any acts or omissions of the persons representing it, to the extent that such acts or omissions take place in the course of the duties assigned to its representatives and have given rise to an obligation for compensation. The person held responsible is also liable jointly and severally with the *Somatio*.

Members are liable towards a *Somatio* for the payment of their contribution. A *Somatio* is wound up in accordance with the relevant terms of its Articles of Association and in any case if the number of its members becomes less than ten. It may not distribute profits, dividends or liquidation proceeds to its members, and upon

its dissolution any liquidation proceeds will be transferred to other institutions with a similar purpose, according to the provisions of its Articles of Association or a decision of the general meeting. If no such provision or decision exists, liquidation proceeds will be transferred to the State.

According to the ITC, a *Somatio* is subject to 24% income tax only in respect of income deriving from commercial activities and is exempted from tax on income arising from the pursuits that fulfil its scope of activities.

Religious Legal Entity

The third charitable form is the Religious Legal Entity (RLE), which is defined as a union of at least 300 individuals belonging to the same religious community (ie, a sufficient number of individuals who openly follow the dogmatic principles of a known religion, permanently residing in a specific geographical area with a view to exercising common worship and performing the duties required by their religion's dogmatic principles) and pursuing the systematic and organised exercise of worship and collective expression of religious beliefs of its members. It acquires legal personality upon registration with the Registry held at the Court of First Instance, and at least one of its members must be a minister, priest or pastor who is either a Greek or EU citizen or a non-Greek residing permanently in Greece.

An RLE is established following the issuance of a court decision, the publication of its dogmatic principles and a summary of its Articles of Association or Charter, and the registration of its Articles of Association or Charter with the Registry kept at the Court and the RLE Registry maintained by the Ministry of Education and Religious Affairs.

An RLE is managed by its minister according to its Articles of Association or Charter, or by a collective administrative body in which the minister must participate. There is no obligation to hold a general meeting of members and an RLE is wound up according to its Articles of Association or Charter and in any case if the number of its members becomes fewer than 100.

The competent authority (currently the Ministry of Education) may judicially request an RLE's dissolution if:

- there is no minister for a period exceeding six months;
- its scope is different from the scope provided for in the law; and
- its operation has become illegal/immoral, or is against public order.

According to the ITC, RLEs are subject to income tax at a rate of 24% only in relation to income deriving from commercial activities, and are exempted from tax on income arising from the pursuit of their scope of activities. In interpreting the provisions of the above law, the Ministry of Finance recognises any income deriving from members' contributions, subscription fees, State grants, fund-raising activities, donations and grants made by enterprises and third parties as "income arising from the pursuit of fulfilling their scope".

Personal Liability of Members/Board of Directors Members

The members of a Civil Company are held jointly and severally liable with the company for both its corporate and tax liabilities. Such joint and several liability is not provided for by law for the members of a *Somatia* or an RLE. The corporate and tax liabilities of RLEs and *Somatia* do not impact its members but they are liable for any acts or omissions of the persons representing it, to the extent that such act or omission takes place in the course of duties assigned to them and creates an obligation for compensation. Only the board of directors or management are held responsible for such act or omission, or liable jointly and severally with the entity.

Contributed by: Fotodotis Malamas, *Bernitsas Law*

Bernitsas Law has a wealth and estate planning team that is highly experienced in advising individuals and families on wealth and estate planning, the protection of assets, cross-border and domestic estate administration, and the implications of the implementation of the OECD Guidelines and EU Directives on exchange of information. Bernitsas Law offers advice on personal tax liabilities, post-death planning, co-ownership of assets and establishing family offices. The firm has notable expertise in wealth and succession planning, often developing in-

novative structures to enable clients to make use of, transfer and eventually devolve their wealth, and also representing clients in high-value tax and estate disputes. It has a fully comprehensive tax practice that advises private and public companies, partnerships and individuals – both on a standalone basis and as part of an integrated service across its advisory, transactional and disputes teams – on identifying, anticipating and dealing with tax issues, risks and compliance arising in a business or private context.

AUTHOR



Fotodotis Malamas is a counsel at Bernitsas Law, specialising in advising businesses on tax-efficient structures, liability to all forms of direct and indirect taxes, reporting and compliance, and conducting tax due diligence reviews. He has extensive experience in advising on individual and family tax matters, particularly lifetime and post-death tax planning and the tax aspects arising from

the management of private and corporate wealth. He also advises on the tax considerations affecting corporate transactions and commercial agreements, with a focus on compliance issues, the distribution and capitalisation of reserves and legislation offering tax incentives. Fotodotis represents clients before the tax authority's commission and the administrative courts in relation to disputed liability cases.

Bernitsas Law

5 Lykavittou Street
GR-106 72
Athens
Greece

Tel: +30 210 339 2950
Fax: +30 210 364 0805
Email: fmalamas@bernitsaslaw.com
Web: www.bernitsaslaw.com

BERNITSAS