

Greek real estate taxation: a brief summary

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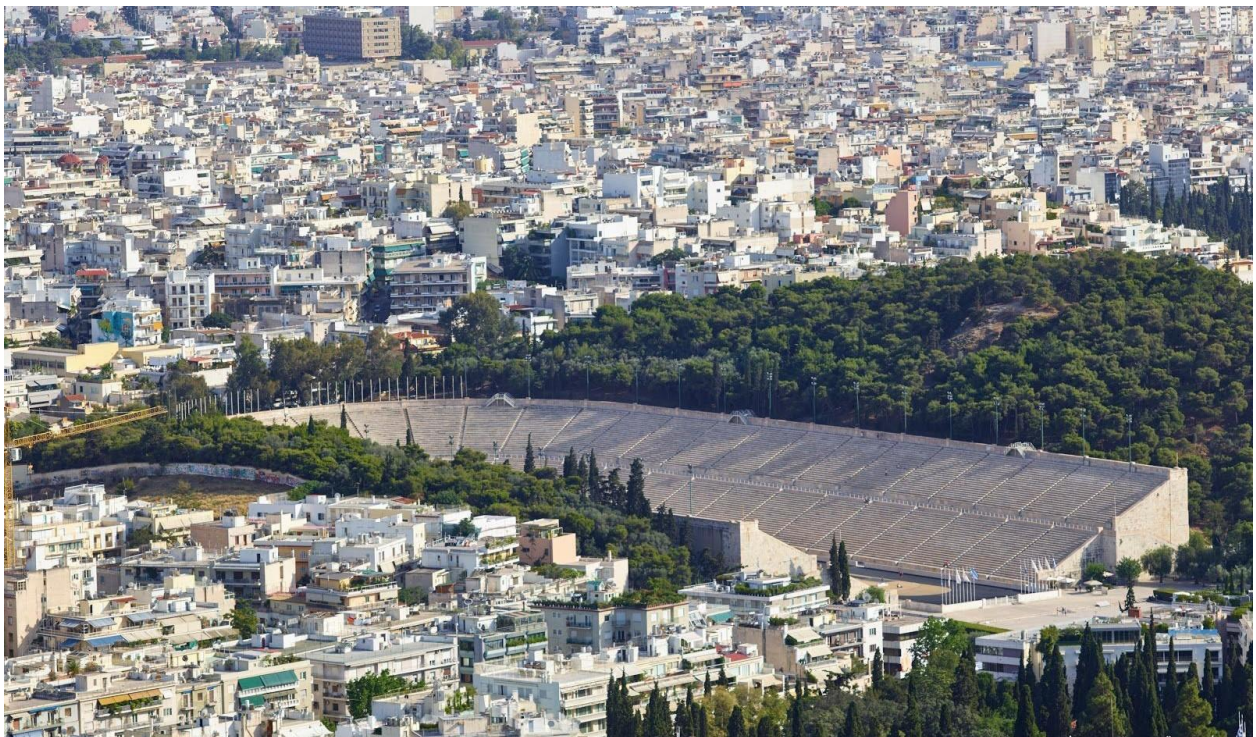
General

In Greece real estate property has always constituted a key source of taxation. This trend has increased the last few years under the pressure of the fiscal austerity program and the urgent need to boost the country's fiscal revenues.

The following sections aim to summarise the key taxes applicable and the main tax considerations arising from the acquisition, ownership and exploitation, as well as disposal of real estate property in Greece, with emphasis on investment property, in the broadest possible sense. It is noteworthy, however, that one of the key characteristics of Greek real estate taxation is that tax rules are in many instances similar both for small private residential ownerships, and for large investment projects.

However, this report is mainly focused on investment-type properties, typically held by corporate vehicles, and aims to highlight the key relevant tax areas.

Before proceeding with this analysis, the following table outlines the key real estate taxes in a nutshell; number of taxes notwithstanding, we do believe that proper structuring has in several cases successfully assisted investors in treading the difficult Greek fiscal path.



Outline of key real estate taxes

Tax Description	Rate	Tax Base	Comments
Corporate Income Tax	22%	Normal taxable profits of company, including gains from sale and rental income	The rate is applicable for the tax year 2021 onwards
Dividend WHT	5%	Dividends distributed by Greek companies	
Real Estate Transfer Tax	3%	On the higher between market and objective value of real estate property	<p>Normally, the transfer cost is increased by various incidental transfer costs (land registry, notarial fees etc.) – however, share deals help mitigate this cost in higher value investments.</p> <p>The RETT tax amount is further increased by a 3% municipality duty applied on the amount of tax due (effective RETT rate of 3,09%)</p>
VAT	24%	Transfer value for “new buildings” (subject to certain caveats)	<p>This is a tax that applies to new buildings; where VAT applies there is no Real Estate Transfer Tax.</p> <p>A suspension of VAT on real estate sales until 31.12.2022 and levying of RETT on all unsold immovable property with a construction permit issued from 01.01.2006 onwards, upon relevant application by taxable persons. The application shall be submitted until 31.12.2020 for permits issued until 30.6.2020, while for permits issued from 1. 7.2020 onwards there is a six-month deadline from the issuance of the permit.</p>
Uniform Real Estate Property Tax (ENFIA)	0,0037-11,25 €/sq. (principal tax)	By multiplying the square meters of the land by the principal tax and other coefficients affecting the value of the property	Imposed on an annual basis. Moreover, a supplementary tax is calculated for legal entities holding real estate property in Greece at a standard rate of 5.5‰ on the total tax value of the subject property rights. For companies, which self-use the property for the exercise of their commercial activity the supplementary tax is reduced to 1‰. For individuals the supplementary tax is imposed at a progressive tax rate ranging from 0,15% to 1,15% and provides for a tax-free amount of 250.000€ on the total value of property rights subject to EN.F.I.A., excluding the value of plots outside urban planning (agricultural plots) for year 2019.
TAP (municipal real estate duty)	0,025% - 0,035%	Objective (i.e. minimum tax value) of real estate property	Municipal duty charged through electricity bills
Special real estate tax	15%	Objective (i.e. minimum tax value) of real estate property	Several exemptions apply. Normally is imposed only on cases of inadequate disclosure of ultimate individual owners of the real estate property

Taxes on acquisition

VAT

A 24% VAT applies on the sale of new buildings in Greece by persons subject to VAT. The taxable value is the price that the taxable person received or is deemed to receive or is anticipated to receive, increased by any additional provision connected with the abovementioned transaction.

In particular, the supply of real estate subject to VAT is considered to be the transfer for consideration of ownership or rights in rem of buildings or part of buildings and the land on which they stand, before their first occupation. The above transaction is taxable only when the following conditions are fulfilled:

- The person who transfers is a taxable person, or anyone who carries out, on an occasional basis, the aforementioned transaction on condition that he opts for the standard VAT regime
- The construction permit is issued after January 1, 2006

The tax liability arises and the VAT is due in a lump sum payment at the time of signature of the final contract.

The recently published L.4607/2019, provides for suspension of VAT on real estate sales for until 31.12.2022 and levying of real estate transfer tax on all unsold immovable property with a construction permit issued from 01.01.2006 onwards, upon relevant application by taxable persons. The application shall be submitted until 31 December 2020 for permits issued until 30 June 2020, while for permits issued from 1 July 2020 onwards there is a six-month deadline from the issuance of the permit.

The acquisition of a first residence by individuals is exempt from VAT.

Real estate transfer tax (RETT)

Any transfer of real estate which is not subject to VAT is subject to Real Estate Transfer Tax. The Real Estate Transfer Tax rate applicable is 3% on the higher between market and objective value of real estate property. The “objective value” is a tax value per property calculated based on a number of predetermined criteria.

Such cost is further increased by fees such as municipal tax (3% of the amount of Real Estate Transfer Tax), notarial, land registration, legal which may still account for a percentage (approx. 1-2%) of the transaction value.

Such RETT is reduced to a quarter in the following cases:

- distribution of real estate property parts among co-owners; or
- dissolution of partnerships and limited liability companies (Ltds).

RETT is reduced by half in the following cases:

- compulsory trade-off of neighbouring properties;
- merger of Sociétés Anonymes (SAs) or takeover of one by the other;
- takeover of real estate property by the state for public use and for the public benefit; or
- trade-off of real estate of equal value.

However, for large investment properties, it is not uncommon that transfers are carried out by way of a share deal, which is, unlike other countries, not subject to any real estate transfer tax in Greece.



Taxes on operation

Income taxation

Rental income earned by individuals and companies is subject to Greek income tax. For individuals, the tax is computed according to a progressive tax scale which reaches up to 45%. Said tax is imposed on the agreed rental after a deduction of, inter alia, 5% for expenses realised for maintenance/repair works. In this respect, said rental income should be included in the annual income tax return to be filed by the individual electronically up to 30 June of the year following the respective tax year.

In addition to the income tax due, rental income is also subject to a solidarity contribution which is computed according to a progressive tax scale up to 10%. The solidarity contribution is imposed on the total of the income realised by the individual.

Rental income is part of the normally taxable income of any corporation. Corporate tax rate is currently 22%, while a 5% dividend WHT applies as from 01.01.2020; foreign investors owning Greek companies through an EU-based company may benefit from the Parent – Subsidiary Directive exemption in which case no dividend WHT would apply. Upon remittance of profits from a Greek branch of a foreign company no WHT is applicable.

Greek companies are allowed to perform tax deductible depreciation on the buildings' (but not land) acquisition cost. The rate is currently set (for properties acquired after 1.1.2013) to 4% for buildings in general.

Moreover, interest that finances real estate acquisition is in general deductible; however, Greek thin-capitalisation rules restrict borrowing costs exceeding 30% of a company's tax adjusted EBITDA. However, no such restriction applies if the total annual net interest expense of the subject company is below EUR 3m. Thus, leveraging a Greek real estate company may typically significantly reduce local income tax exposure.

Covid-19 related note: Pursuant to the recently introduced provisions of article 72 par. 42 of L. 4172/2013, the unpaid amount of rent that has not been collected or is not collected as required by law in the context of dealing with the effects of the coronavirus, for all months in which the measure of reduced payment on the monthly rent corresponding to forty percent (40%) has been in force or will be in force does not constitute rental income and therefore is subject neither to income tax nor special solidarity contribution.

Stamp duty

Rentals (with the exception of residential properties) are subject to a 3,6% stamp duty. However, further to the introduction of VAT election for professional leases (see below), lease contracts subject to VAT will be exempt from stamp duty. This may constitute a significant incentive for owners to make the election and impose VAT on rentals.

VAT

As of 2013, owners are permitted to make an election and subject professional lease contracts to VAT at the standard 24% rate.

Taxes on ownership

Uniform Real Estate Property Tax (“ENFIA”)

The ENFIA takes the form of a principal tax per real estate property and a supplementary tax on the total value of the real estate property. More specifically, the ENFIA is imposed on property rights (e.g. full/bare ownership, usufruct rights etc.) on real estate property located in Greece which are owned by individuals or legal entities or other entities as at 1st January of each year, irrespective of potential amendments taking place during the year and of the transfer of ownership title.

The principal tax on buildings is calculated by multiplying the square meters of the building by the principal tax ranging from 2-13€/sq. and other coefficients affecting the value of the property (e.g. location, use, floor of the property etc.).

The principal tax on land is calculated by multiplying the square meters of the land by the principal tax ranging from 0,0037-11,25 €/sq. and other coefficients affecting the value of the property (e.g. location, use of the property etc.).

Moreover, for companies the supplementary tax is calculated at a standard rate of 5.5‰ on the total tax value of the subject property rights. This rate is reduced to 1‰ in relation to properties that are self-used by the entity for its commercial/business activity subject to ENFIA. The supplementary tax on individuals is imposed at a progressive tax rate ranging from 0,15% to 1,15% and provides for a tax free amount of 250.000 € of the total value of property rights subject to EN.F.I.A., excluding the value of plots outside urban planning (agricultural plots) for year 2019.

ENFIA is determined for each taxpayer by a tax assessment act issued by the Tax Administration. Therefore, there is no obligation to file an ENFIA tax return.

Municipal Real estate duty – Telos Akinitis Periousias (TAP)

Real estate ownership is further subject to a real estate duty, currently calculated in a range of 0.025% to 0.035% on the objective value of the real estate property; such is defined according to the “area prices” and the “age coefficient” applicable on the respective property, depending on the area where the real estate property is situated.

Certain exemptions are granted from TAP in the following cases:

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

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

Apart from TAP, there are several other municipal duties that may be imposed based on activity, region and other factors (e.g. duties on the right to use communal space, some special duties on hotel bills, on restaurant bills, duties for the provision of cleaning and lighting services, advertisement duties etc.).

Tax on electrified spaces

Pursuant to the provisions of article 10 of L. 1080/1980, the municipalities may levy a tax on real estate connected to the grid, the collection of which is effected through the electricity bill and is calculated by multiplying the real estate's square meters by a rate determined by the municipal or community council ranging between 0,018 –0,073 €. The said rate can be increased every year up to 20%.

Special tax on real estate property (SRET)

Designed to deter Greek taxpayers from avoiding disclosure of their real estate property through the use of offshore vehicles, this is a tax that applies to all companies owning real estate in Greece, unless they can fall into one of the exemptions that aim to single out the non-disclosure cases. If no exemption can be achieved, the company must pay an annual 15% tax on the objective value of the property.

Key exemptions include:

- Legal entities irrespective of the country of their establishment, exercising commercial, manufacturing or industrial, activity in Greece, provided that the relevant tax year the gross revenue from this activity is higher than the gross revenue from the real estate they own.
- Legal entities irrespective of the country of their establishment, constructing premises to use exclusively for the exercise of their commercial, manufacturing or industrial activity (self-use) and for a period of seven years starting from the issue of the initial building permit.
- Legal entities that have their registered seat in Greece or in an EU Member State, provided that they disclose their ultimate individuals-shareholders, who have a tax registration number in Greece. In case other legal entities are participating in the shareholder chain, the exemption is granted to the extent that the shares of the ultimate shareholder entity are traded on regulated exchanged markets.
- Legal entities that have their registered seat in Greece or in an EU Member State or in a third country which is not considered as a non-cooperative country as per the ITC, provided that they disclose their ultimate individuals shareholders, who have a tax registration number in Greece. In case other legal entities are participating in the shareholder chain, the exemption is granted to the extent that the shares' of the ultimate shareholder entity are traded on regulated exchanged markets (which should be supervised by an authority accredited by IOSCO - International Organization of Securities Commissions).

It should be noted that the aforementioned disclosure of individual shareholders is not a prerequisite if the total of the shares is owned by a listed company or the whole or a part of the

registered shares belong to:

- a) credit institutions including savings banks or deposit and loan funds;
- b) social security funds;
- c) insurance companies;
- d) mutual funds including:
 - (i) closed- or open-ended real estate investment funds and their managers;
 - (ii) real estate investment funds governed by Law 2778/1999, and their managers;
 - (iii) venture capital funds ("ΑΚΕΣ") governed by Law 2992/2002
- e) European long-term investment funds (ELTIFs) regulated by EU Regulation 2015/760 and their managers
- f) Alternative Investment Fund Managers (AIFMs) regulated by Law 4209/2013 or/and EU Directive 2011/61
- g) Alternative Investment Funds (AIFs) managed by AIFMs regulated by Law 4209/2013 or/and EU Directive 2011/61;
- h) Managers of collective investment undertakings governed by Law 4099/2012 and Directive 2009/65/EC
- i) collective investment undertakings (UCITS) governed by Law 4099/2012 and Directive 2009/65/EC;
- j) European venture capital funds (EUVECA) and their Managers regulated by EU Regulation 345/2013
- k) European social entrepreneurship funds (EUSEF) and their Managers regulated by EU regulation 346/2013, and
- l) mutual fund managers and fund and / or mutual fund management and / or consulting companies, whose registered office is not in a non-cooperative country or in a country not assessed by the World Forum on Transparency and Information Exchange for tax purposes, as these are determined by article 65 of the ITC and are supervised by a respective authority in their State of establishment.

By virtue of the provisions of Article 65(par. 3) of L. 4172/2013 (Greek Income Tax Code), as non-cooperative states are considered those that are not member states of the European Union, whose status, regarding the transparency and exchange of information in tax matters, has been examined by the Organisation for Economic Co-operation and Development (OECD) and has not been classified as "largely compliant" and which:

- have not concluded and applied with Greece a convention on administrative assistance in tax matters or have not signed the OECD Joint Convention on Mutual Administrative Assistance in Tax Matters; and
- have not committed themselves to automatic exchange of financial information beginning in 2018 the latest.

The person making the claim must provide evidence in order to obtain the exemption.

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

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

The return is filed and the tax (if any) is paid by 20 May every year to the competent tax office, calculated on the objective value of all real estate or usufruct existing on 1 January of the taxable year.

SRET is not designed to capture international and notably institutional investors, but in light of the far-reaching effects of the law, this is an issue that should always be carefully considered when structuring a real estate investment. It should also be noted that the Greek tax authorities tend to strictly apply documentation requirements in support of the abovementioned exemptions.



Taxes on exit

Gains from sale of real estate property are treated as part of the company's taxable profits and taxed at the normal income tax rate. However, the most common exit structure is again the share deal. In such deals, the extent to which buyers negotiate a reduction for latent capital gains tax really depends on the circumstances.

As the share deal is the most common exit structure, it should be noted that the transfer of non-listed shares in Greek companies by Greek entities is subject to a 22% income tax rate.

On the other hand, non-Greek legal entities that do not maintain a permanent establishment in Greece, as well as individuals that are tax resident in countries with which Greece has concluded a Double Tax Treaty are not subject to any Greek capital gains tax when selling shares in a Greek or foreign company that owns real estate property in Greece.

Plans to implement a 15% capital gains tax on sale of real estate property (including shares in real estate-rich companies) has been deferred several times, although it is currently not clear if such tax will eventually be implemented. The application of capital gains taxations upon the sale of real estate property by individuals is suspended until 31 December 2022.

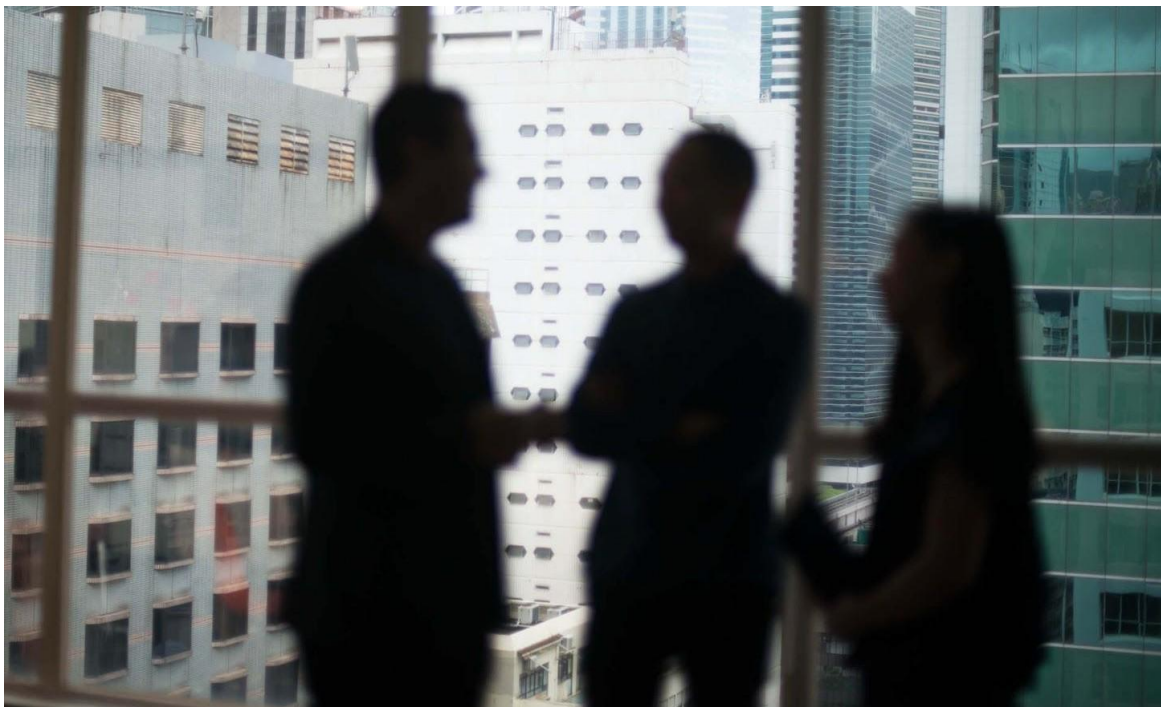
Real Estate Investment Companies

The Greek Real Estate Investment Company (REIC) was introduced in December 1999 by Law 2778/1999. The initial version of the law was poorly adapted to the needs of the market, and no REICs were established. The Greek REIC law was amended a few years later. A further second amendment to the law, which lifts a number of restrictions (e.g. increases limitations on leverage, allows investments in real estate SPVs rather than only direct ownership of properties) has led to the establishment of more REICs, whilst the relevant market is still growing.

Considerable tax exemptions are the key advantage of the Greek REIC regime. Main exemptions are:

- Exemption from Real Estate Transfer Tax on acquisition of real estate property
- Exemption from income tax (also the minimum tax for REICs originally introduced by virtue of L. 4389/2016 that significantly increased their tax leakage, has been abolished according to the relevant provisions of L. 4646/2019.)
- The transfer of non-listed shares to a REIC is exempt from capital gain tax
- Dividends distributed by a REIC are exempt from income tax

REICs are not a flexible legal form, as they are subject to a number of regulatory restrictions, as well as an obligation to list their shares within a 2 years period from their establishment, which can be further extended for another 36 months in total. However, there is a growing interest and market for such type of institutional investors in real estate property.



Closing

The above outline is by no means a full and complete of all possible tax issues that may arise in Greece. Special cases or arrangements, such as sale & leaseback contracts, complex financing arrangements, use of hedging instruments etc. may call for particular attention. That said, it is fair to say that investment through a well-leveraged Greek company owned in its turn by a parent in an appropriate EU jurisdiction is a very common structure for inbound real estate investments, and constitutes a good basis for structuring such investments within a difficult and ever changing tax environment.

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