



# Sports Law & Taxation

FORMERLY KNOWN AS: GLOBAL SPORTS LAW & TAXATION REPORTS (GSLTR)

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# 11.4

DECEMBER 2020

# Colofon

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For further information on the journal  
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ISSN nr.: 2211-0895  
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Preferred citation: *Sports, Law and  
Taxation (formerly GSLTR) 2020/4*, at  
page number(s)

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Greece:

# New tax schemes to attract high net worth individuals and pensioners

BY THEODOROS SKOUZOS<sup>1</sup>

## Introduction

As of December 2019, Greece has introduced two special regimes to attract foreign high net worth (“HNW”) individuals. The uniqueness of Greece as a travel and retirement destination is now coupled with two separate beneficial tax schemes, one for HNW individuals and one for pensioners.

Both regimes have attracted attention from taxpayers worldwide and are open to sportspersons who may be able to structure their non-Greek income in an appropriate way or who are considering a jurisdiction in which to retire after their playing career is over.

This article provides an analytical presentation of the two schemes.

## 1 Alternative taxation of income generated abroad for individuals who transfer their tax residence to Greece (art. 5A of Law 4172/2013)

A taxpayer (who is a natural person) who transfers his or her tax residence to Greece can be taxed in an alternative manner for income generated abroad, in other words all income not generated in Greece, provided all the following conditions are met:

- a he or she was not tax resident in Greece during seven of the previous eight years prior to transfer of his or her tax residency to Greece, which is examined based on the records held by the tax administration; and*
- b he or she proves that he/she or his/her relative (spouse and persons in the ascending or descending line) or via a legal person or legal entity in which he or she has the majority of shares, invests in real estate or undertakings or transferable securities or shares in legal persons or legal entities whose registered offices are in Greece. This investment may not be less than € 500,000. The investment must be completed within three years from the date on which the application is submitted.*

The condition set out in *b* need not be met in the case of an individual who has acquired and holds a residence permit for investment activity in Greece under art. 16 of Law 4251/2014.

A necessary condition is that the investments referred to in *b* are made from 12 December 2019 onwards. Applications for inclusion under these arrangements may be submitted either when investments start to be made, or, at the latest, three years after completion.

### *Application form for inclusion under these arrangements*

The application to transfer tax residence to benefit from the alternative method of taxing income generated abroad must be submitted to the tax administration by the taxpayer by 31 March of each tax year.

Within that same deadline, individuals who meet conditions *a* and *b* and who have already transferred their tax residence to Greece within the previous tax year may apply for inclusion in the arrangements for the alternative method of taxing income generated abroad.

The relevant authority responsible for submitting, examining, approving or rejecting an application for inclusion in the alternative taxation arrangements is the Residents Abroad and Alternative Taxation for Greek Tax Residents Tax Office. Within 60 days from submission of the application, the tax administration will examine the application and issue a decision approving or rejecting it.

The applicant must submit the relevant supporting documents, together with the application, and indicate the state in which he or she was last resident for tax purposes prior to submission of the application. Moreover, in his or her application, he/she can request that the application of the alternative method of taxation be extended to his/her relative within the same deadline. In this case, the conditions in *b* for each of the relatives are not examined. Where minors (unmarried children of the taxpayer) live with him/her, it is not necessary to request an extension in the application of the arrangements, since it is presumed that they have the same tax residence as him/her. The extension of the application of the arrangements to such children may be done by simply requesting it at the time when they turn 18. Where the marriage ends or the civil partnership agreement is terminated, the persons concerned shall cease to be subject to the relevant provisions.

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The application will be accepted even if not accompanied by the relevant supporting documents at the time it is submitted. The taxpayer shall be able to submit the relevant supporting documents required to supplement the file within the 60-day deadline specified for issuing the decision. In all events, the supporting documents may be received by the last working day of May each year. Applications submitted after 31 March and supporting documents submitted after 31 May shall be accepted and examined in order only for the taxpayer to be included in the alternative method of taxing income generated abroad for the next tax year.

Having received the application and supporting documents, the tax administration is obliged to update the relevant web application and to inform the tax authorities of the country concerned about the transfer of tax residence for the taxpayer in accordance with the provisions relating to international administrative cooperation in force.

Implementation of the alternative method of taxation shall commence from the first tax year for which the natural person's application is submitted and will end after the completion of fifteen tax years. Inclusion in these arrangements may not be extended beyond the fifteen tax years.

Within a deadline of six months from the end of the three-year deadline from the date on which the application for inclusion in these arrangements is submitted, the taxpayer shall be obliged to appear before the Residents Abroad and Alternative Taxation for Greek Tax Residents Tax Office. They must produce the relevant supporting documents demonstrating completion of the investment to confirm that he/she can be subject to the alternative taxation arrangements. Where completion of the investment is based on the data available to the tax authority, the taxpayer will not be obliged to submit the relevant supporting documents for those investments.

### **Supporting documents**

If the taxpayer requests a Tax Registration Number for the first time, or if he or she appears in the records of the tax administration as being tax resident abroad in seven out of the eight years prior to the application to transfer his or her tax residence, the supporting documents need not be submitted.

Where the records of the tax administration do not show the taxpayer as being tax resident abroad in seven of the previous eight years prior to the application for transfer of tax residence to Greece, he or she must submit the following information for each year for which there is no available data:

- a a tax residence certificate from the competent tax authority of the state in which he or she declares tax residency showing that he or she is tax resident in that state. If the taxpayer was a resident of a state with which there is a convention on the avoidance of double taxation ("DTT"), instead of the certificate*

- he or she may submit the requisite application to apply the DTT, which incorporates the tax residence certificate (dual forms) duly filled out, signed and stamped by the competent foreign tax authority; or*
- b where it is not specified that the competent tax authority will issue the above, a copy of the statement of income tax payable or, in the absence of such statement, a copy of the income tax return submitted to the other state by that person as a tax resident in that state; or*
- c where it is not possible to submit some of the supporting documents referred to in a or b because the foreign tax authority is proven not to issue them, a certificate from any other public or municipal or other recognized authority is required demonstrating that that person has a fixed and permanent establishment in the other state for that time period.*

In order to prove the capacity of "relative", where not clear from the records held by the tax administration, a certificate or attestation or any document from a Greek or foreign public authority must be submitted.

In the case of an individual, who has acquired and holds a residence permit for investment activities in Greece, it is sufficient to submit that permit.

Lastly, given that major investments made by taxpayers show their intention to make Greece a center of their vital interests and consequently to make Greece a place of residence for taxation purposes, the postal address for the main residence of the said taxpayers in Greece should be stated and no tax agent need be appointed.

### **Tax treatment**

If the application for inclusion of the taxable person is accepted, he/she shall pay a flat-rate tax each tax year, irrespective of the level of income acquired abroad, of € 100,000. The taxpayer can request that the application be extended to his/her relatives and in this case a tax of € 20,000 will be paid for each relative and the provisions on the taxation of donations, inheritances and parental grants will not apply. For income arising in Greece, taxation is in accordance with the general provisions of the Hellenic Income Tax Code (Law 4172/2013).

### **Filing of the income tax return**

Taxpayers subject to alternative taxation arrangements under art. 5A of Law 4172/2013 are obliged to declare all income generated in Greece, in other words income from a source in Greece. There is no obligation to declare income generated abroad which is subject to the alternative taxation arrangements.

When calculating the difference between the presumed income and the taxpayer's overall income, the tax administration is obliged to take into account the cash amounts shown in the tax return which are backed up by lawfully issued receipts. The taxpayer bears the burden of proof for those amounts which, amongst other things, will take account of foreign exchange, which is not necessarily aligned to the Bank of Greece, where

acquisition of those amounts abroad can be proven. However, justification relating to acquisition of that foreign exchange is not required for persons who have been brought within the scope of art. 5A of Law 4172/2013.

### Payment of tax

Once the taxpayer's application is approved, no later than the last working day of June of the relevant tax year, the Residents Abroad and Alternative Taxation for Greek Tax Residents Tax Office shall, for the first year of inclusion in these arrangements, issue a decision calculating the tax for the total tax liability in the taxpayer's name, indicating any relatives, and the amount of the flat-rate tax corresponding to them, namely € 100,000 for the taxpayer and € 20,000 for each relative.

For each of the subsequent years of application, provided that the taxable person and his relatives continue to be subject to them, a tax calculation decision shall be issued no later than the last working day of June each tax year.

Tax shall be paid each tax year in one installment by the last working day of July and shall not be offset against other tax liabilities or any credit balances of persons who have been included in the alternative taxation arrangements. Any tax paid abroad by the same persons for income covered by the alternative taxation method shall not be offset against any tax liability in Greece.

In the first year of inclusion under the arrangements, the individual shall be obliged to pay the lump-sum amount of tax within 30 days from approval of the application. The general provisions of the Hellenic Income Tax Code (Law 4172/2013) apply to late payment of that tax.

If in any tax year, and no later than 31 December of that year, the taxpayer does not pay the entire amount of tax, he or she ceases to be subject to the provisions on alternative taxation arrangements and from the relevant tax year onwards will be taxed on his or her global income under the general provisions of the Hellenic Income Tax Code (Law 4172/2013).

Upon payment of the flat-rate tax, all tax liabilities of the individual for income arising abroad are exhausted and he/she is exempt from inheritance or gift tax for assets located abroad.

### Withdrawal

During any tax year the taxpayer may apply to withdraw from the alternative taxation arrangements.

The application to withdraw from the arrangements shall be submitted by the taxpayer by 31 March in the tax year in respect of which an application to withdraw is to apply and the tax administration shall update the relevant web application.

In the case of withdrawal, the individual shall be subject to taxation in accordance with the general provisions of the Hellenic Income Tax Code for the tax year in which the application for withdrawal is submitted and after shall not

be obliged to pay the flat-rate tax specified for that year.

After an application for withdrawal is submitted, a new application for inclusion in the alternative taxation arrangements for foreign income can be accepted subject to the following conditions and terms:

- a *if the investment has been completed, a new application for inclusion may be submitted at any time within a period of fifteen tax years, without requiring a new investment. If accepted, it shall be valid for such years as are left until fifteen years from the initial inclusion are reached;*
- b *if the withdrawal takes place within the three-year deadline specified for completion of the investment, and this has not yet been completed, then, provided the taxpayer remains tax resident in Greece, he or she may resubmit the application and, if accepted, the taxpayer will be brought again within the alternative taxation arrangements for all years left until the fifteen years are reached provided the investment is completed within the time remaining of the initial three years; and*
- c *if the withdrawal takes place within the three-year deadline specified for completion of the investment without it having been completed, and the taxpayer has become a resident abroad for tax purposes in the meantime, he or she may submit a new application only after the initial investment is completed. If such application is accepted, the taxpayer will be brought back under the alternative taxation arrangements for as many years as there are left until the fifteen years are reached, provided that he or she makes a new investment.*

An application for withdrawal submitted by an individual shall automatically entail withdrawal of his or her relatives from the arrangements. His or her relatives may apply for withdrawal in their own name without that affecting the other persons who are subject to these arrangements.

### Application to sportspersons

This regime is similar to that applied in Italy and may, therefore, be of use to sportspersons, who would like to consider a move to Greece. It could be envisaged that a successful international sportsperson, with income from outside Greece from endorsements or appearing in tournaments, may be able to make use of this regime. Perhaps it may lead to an improvement in the performance of Greek clubs in the Champions League whose payers may be able to benefit from income generated from large Greek communities outside Greece?

## 2 Alternative taxation of income of individuals who are beneficiaries of pension income from abroad

There is also an alternative taxation regime for the income of individuals who are beneficiaries of pension income from abroad and who transfer their tax residence to Greece – Procedure and conditions for inclusion (art. 5B of Law 4172/2013).

An individual recipient of pension income who transfers his

or her tax residence to Greece can be taxed in an alternative manner for income that is generated abroad. Under the alternative method of taxation, each tax year the individual pays a tax at a rate of 7% for all income acquired abroad, unless that income is exempt from tax in the country of residence under the provisions of the Conventions on the Avoidance of Double Taxation of Income and Capital.

The conditions for inclusion in the alternative taxation method are that the person concerned:

- a was not tax resident in Greece in the five years prior to transfer of his or her tax residence to Greece; and
- b transfers his or her tax residence from a state with which an administrative cooperation agreement in the field of taxation with Greece is in force; the existence of this condition is examined *ex officio* by the competent department.

The application to transfer tax residence, in order to benefit from the alternative method of taxing income generated abroad, must be submitted to the tax administration by the individual who retired by 31 March of each tax year. Persons, who meet the above conditions and who have already transferred their tax residence to Greece within the previous tax year, may apply for inclusion in the same scheme within that same deadline. The applicant must state in his or her application the state in which he or she was last resident for tax purposes up to the time the application was submitted.

Applications submitted after 31 March of each tax year will be accepted and examined in order for the taxpayer to be included in the alternative method of taxing income generated abroad for the next tax year.

The application will be accepted even if not accompanied by the relevant supporting documents at the time it is submitted. The applicant must submit the relevant supporting documents to supplement his or her application within a sixty-days deadline specified by law for issuing the decision.

The relevant department responsible for submission, examination and approval is the Residents Abroad Alternative Taxation of Residents of Greece Tax Office of the Independent Authority for Public Revenue.

Within sixty days from submission of the application, the tax administration will examine the application and issue a decision approving or rejecting it, depending upon whether the lawful conditions are met or not. If any shortcomings are identified during examination of the application, the relevant department will notify the applicant to fill out or submit the correct supporting documents.

Once the application is approved, the applicant will become tax resident in Greece for the tax year for which the application is submitted, and for a total of fifteen tax years, and must specify a home address in Greece. The inclusion of a taxpayer in this scheme does not automatically entail a change in the tax residence of

other persons, such as a spouse or other relative.

#### **Documentation required**

The following documents are required to support the application:

- a In order to prove that the applicant is a beneficiary of pension income generated abroad, it is necessary to submit any document (such as documents from an insurance provider or other public authority or professional fund or insurance company) showing payment of a pension abroad by a main and supplementary social security provider, from professional funds established by law, or payment of a lump-sum or periodic benefit in the context of group pension insurance policies; and
- b compliance with the condition that the taxpayer was not a tax resident in Greece in five out of the six years prior to the transfer of his or her tax residence to Greece shall be ascertained based on the records held by the tax administration.

If the applicant requests a Tax Registration Number (AFM) for the first time, or if he or she appears in the records of the tax administration as being tax resident abroad in five out of the six years prior to the application to transfer his or her tax residence, the supporting documents need not be submitted. Where the records of the tax administration do not show the taxpayer's tax residence abroad, he or she must submit the following information for each year for which there is no data available:

- a a tax residence certificate from the competent tax authority of the state in which he or she declares tax residency showing that he or she is tax resident in that state. If the taxpayer was a resident of a state with which there is a convention on the avoidance of double taxation (hereinafter the Convention), instead of the certificate he or she may submit the requisite application to apply the Convention, which incorporates the tax residence certificate (dual forms) duly filled out, signed and stamped by the competent foreign tax authority; or
- b where it is not specified that the competent tax authority will issue the above, a copy of the statement of income tax payable or, in the absence of such statement, a copy of the income tax return submitted to the other state by that person as a tax resident in that state; or
- c where it is not possible to submit some of the supporting documents within points a or b because the foreign tax authority is proven not to issue them, a certificate from any other public or municipal or other recognized authority is required demonstrating that that person has a fixed and permanent establishment in the other state.

#### **Income tax return**

Taxpayers subject to the provisions of art. 5B are obliged to declare all income arising in Greece and income arising abroad which is subject to the alternative taxation arrangements.

#### **Payment of tax**

A decision is issued administratively setting the taxpayer's

total tax liability corresponding to income arising in Greece and income arising abroad which is subject to the alternative taxation arrangements. Tax under art. 5B of Law 4172/2013 is paid for each tax year in one installment by the last working day of July each year and cannot be offset against other tax liabilities or any credit balances of the person who has been subject to the alternative taxation arrangements. Upon payment of this tax, all tax liabilities of the natural person for income arising abroad are exhausted. No Special Solidarity Tax is imposed on this income from abroad.

If in any tax year, and no later than 31 December of that year, the taxpayer does not pay the entire amount of tax, he or she ceases to be subject to the provisions on alternative taxation and from the relevant tax year onwards will be taxed on his or her global income under the general provisions of the Hellenic Income Tax Code (Law 4172/2013).

A taxpayer, who has been subject to the provisions of art. 5B of Law 4172/2013, is not exempt from inheritance or gift tax for assets located abroad.

#### ***Withdrawal from the arrangement***

In any tax year during the scheme, the individual may apply to withdraw from his or her inclusion within the scope of those provisions. The request to withdraw from this arrangement must be submitted by 31 March of the tax year for which withdrawal from the alternative method of taxing income from abroad is being requested. In the case of withdrawal, the individual shall be subject to taxation in accordance with the general provisions, for the tax year in which the application for withdrawal is submitted and thereafter shall not be obliged to pay the 7% tax specified. It is not possible to re-enter the scheme again.

#### ***Application to sportspersons***

Once again, this regime may be of use to sportspersons, who would like to consider a jurisdiction in which to retire, but who may still have some income arising from playing activities.

For example, a golfer who appears in senior tournaments may be able to take advantage of this regime.

Sportspersons may also enter into pension arrangements during their playing careers that could be accessed after retirement when resident in Greece.

Sportspersons, who may also receive income from autobiographies and other activities once their playing career ends, could take advantage of this regime.

#### **Conclusions**

The Greek tax regimes are fairly new and, perhaps, may yet to be fully considered in the light of the regimes already available in countries such as the UK, Italy and Switzerland.

However, for those looking for a different lifestyle, and for other reasons, perhaps the benefits to Greek sport and individual sportspersons may be identified soon.