

GREEK TAX INCENTIVE REGIMES FOR NEWLY ARRIVED RESIDENTS AND FAMILY OFFICES

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INTRODUCTION

The segment of European countries that have enacted favorable tax regimes designed to attract the wealthy are well known. Switzerland has its *forfait* regime, the U.K. has its Nondom Tax Regime, Portugal and Italy have new resident regimes, and Malta and Cyprus have favorable regimes designed to attract new residents. To that list of countries, Greece is a new arrival, having introduced several tax incentive regimes designed to create a favorable tax environment for nonresident individuals transferring tax residence to Greece and the establishment and operation of family offices in Greece. This article provides an overview of the most important Greek incentive provisions, which are (i) the 5A Nondom Tax Regime, (ii) the 5B Pensioners Regime, (iii) the 5C Employee and Self-Employed Regime, and (iv) the Family Office regime.

THE 5A NONDOM TAX REGIME

Tax Benefits

The Nondom Tax Regime provides an alternative taxation method for foreign source income generated by individuals who transfer their tax residence to Greece. The main features of the regime include the following benefits:

- A flat tax of €100,000 per year which satisfies total tax liability for foreign source income, including capital gains, regardless of the amount or classification of such income.
- The elimination of any requirement to declare foreign source income in Greece. Instead, a tax assessment reflecting a liability of a flat amount is issued by the tax authorities as of the last working day of June.
- The flat tax must be paid in one installment, typically on or before the last working day of July. A special rule applies for the first year of residence. Under that rule, the individual must pay the flat tax within 30 days from the date of notice that the individual qualifies for taxation under the Nondom Tax Regime. Should an applicant fail to pay the flat tax by the last day of the tax year, coverage in the Nondom Tax Regime is cancelled with immediate effect.
- The Nondom Tax Regime covers a maximum of 15 tax years, beginning with the year of application.
- The Nondom Tax Regime may be extended to close relatives, such as a spouse, ancestors, and descendants. The tax for each of those individuals who is covered by the regime is €20,000 per year, with the exception of

underage children. The Greek inheritance and gift tax rules do not apply for relatives covered by the regime.

- An exemption from Greek inheritance or gift tax is granted covering all property located abroad.
- Because the Nondom Tax Regime is viewed to favorable, no foreign tax credit is available for any foreign tax paid on foreign source income covered by the regime.
- The Nondom Tax Regime does not have an impact on any Greek source income, which must be declared and taxed according to the general tax rules applicable in Greece.
- An individual covered by the Nondom Tax Regime may import funds from abroad without having to justify the source.
- An individual covered by the Nondom Tax Regime is expected to qualify as a Greek tax resident for income tax treaty purposes and qualifies for the issuance of a Tax Residence Certificate upon request.
- If in any year, an individual fails to qualify for the Nondom Tax Regime, the individual is taxed on worldwide income according to the general tax rules applicable in Greece. Failure to qualify could result from the failure to pay the flat tax, withdrawal from the program, or the running of the 15-year period of coverage. It is expected that the individual will move his or her tax residence abroad before becoming at risk to Greek tax on worldwide income.

Qualification for the Nondom Tax Regime

Two main conditions must be met for coverage by the Nondom Tax Regime:

- The applicant must not have been a Greek tax resident for seven out of the eight years prior to the transfer of tax residence to Greece.
- An investment of at least €500,000 in real estate properties or undertakings or transferable securities or shares in legal entities in Greece must be made either by the qualifying individual or through close relatives, such as a spouse, an ancestor, or a descendant, or a majority-owned legal. The investment generally must be completed within three years from the date of application and must be retained for the full duration of the regime. However, it does not apply for an individual who has obtained a specific type of residence permit related to investment activity in Greece.

There is no requirement in the law under which an individual must be present in Greece for a minimum period of time in order to qualify as a Greek tax resident under the Nondom Tax Regime. Given that the undertaking of significant investments in Greece demonstrates the intent of to render Greece as the center of vital interests, a leased or owned main residence in Greece must be declared.

Application Procedure

The procedure for obtaining tax residence under the Nondom Tax Regime involves the following steps:

- Applications with the competent tax authority must be made by March 31 of the respective tax year. Applications filed after that date will be deferred to the following tax year.
- Requests for extension of the application to relatives must be made by the same date.
- Decisions by the applicable authority are made within 60 days.
- Supporting documentation must be provided on a timely basis within the foregoing 60-day deadline.
- Evidence of completion of the investment must be filed within six months following actual completion.

THE 5B FOREIGN PENSIONERS TAX REGIME

The Foreign Pensioners Regime provides for an alternative taxation method for individuals who earn foreign source pension income and transfer their tax residence to Greece.

Tax Benefits

The main features of the Foreign Pensioners Tax Regime include the following benefits:

- Total foreign source income of the individual is subject to a flat tax rate of 7% per year, unless the income is exempt from tax based on an applicable income tax treaty. The reduced tax rate is not limited to pension income.
- The total foreign source income is exempt from the special solidarity contribution.
- Total foreign source income for tax year, together with income from sources in Greece, must be reported on an income tax return that is due non later than June 30 of the following tax year.
- Payment of the tax must be made in one installment, typically on or before the last working day of July of the following year. Should an applicant fail to pay the tax by the last day of the tax year, coverage in the Foreign Pensioner's Tax Regime is cancelled with immediate effect.
- The Foreign Pensioner's Tax Regime covers a maximum of 15 tax years, beginning with the year of application.
- The Foreign Pensioner's Tax Regime does not provide an exemption from Greek inheritance tax or gift tax for any property located abroad.
- A foreign tax credit is available for any foreign income tax paid on foreign source income covered by the Foreign Pensioner's Tax Regime. As mentioned above, if an income tax treaty applies to foreign source income, it must allocate taxing rights to both states.
- Any income that is derived from source in Greece is taxed in Greece under general tax rules.



- An individual covered by the Foreign Pensioner's Tax Regime is expected to qualify as a Greek tax resident for income tax treaty purposes and qualifies for the issuance of a Tax Residence Certificate upon request.
- There is no option for extending coverage under the Foreign Pensioner's Tax Regime to the close relatives of the qualifying individual. Inclusion of the qualifying individual in the regime does not have an impact on the tax residency status of relatives.
- If in any year, an individual fails to qualify for the Foreign Pensioner's Tax Regime, the individual is taxed on worldwide income according to the general tax rules applicable in Greece.. Failure to qualify could arise from the failure to timely pay the 7% tax, a voluntary withdrawal from the Foreign Pensioner's Tax, or the running of the 15-year period of coverage.

Qualification for the Foreign Pensioner's Tax Regime

Three main conditions must be met for coverage by the Foreign Pensioner's Tax:

- Foreign source pension income must be received. Evidence of pension income is provided by any document certifying that an individual receives a pension that is paid by (i) a foreign social security institution, (ii) a governmental authority, (iii) an occupational pension fund, (iv) an insurance indemnity paid in a lump sum or in annual payments by a private insurance company in the context of a group pension plan.
- The applicant must not have been a Greek tax resident for five out of the six years prior to the transfer of tax residence to Greece.
- Prior to applying for the Foreign Pensioner's Tax Regime, the applicant must have been resident in a State with which Greece has a valid agreement on administrative cooperation in the field of taxation.

There is no requirement in the law under which an individual must be present in Greece for a minimum period of time in order to qualify as a Greek tax resident under the Foreign Pensioner's Tax Regime. Hence, no undertaking is required as to the intent to spend a set number of days. Nonetheless, if an individual retains contacts with another jurisdiction it is likely prudent to be present in Greece for sufficient time each year and to maintain sufficient contacts in Greece to fend off an assertion of residence in the other State.

Application Procedure

The procedure for obtaining tax residence under the Nondom Tax Regime involves the following steps:

- Applications with the competent tax authority must be made by March 31 of the respective tax year. Applications filed after that date will be deferred to the following tax year.
- Requests for extension of the application to relatives must be made by the same date.
- Decisions by the applicable authority are made within 60 days.

“Three main conditions must be met for coverage by the Foreign Pensioner's Tax.”

THE 5C EMPLOYEE AND SELF-EMPLOYED TAX REGIME

The Employee and Self-Employed Regime provides for an alternative taxation method for taxing Greek-sourced income from salaried employment and business activity by individuals who transfer tax residence to Greece.

Tax Benefits

The main features of the Employee and Self-Employed Regime include the following benefits:

- Exemptions from income tax and special solidarity contribution are provided annually for 50% of Greek source income deriving from salaried employment or business activity. The remaining 50% of this income is taxed in accordance with the general tax rules applicable in Greece, together with any other Greek or foreign source income.
- Total foreign source income for tax year, together with income from sources in Greece, must be reported on an income tax return that is due not later than June 30 of the following tax year.
- The Employee and Self-Employed Tax Regime does not provide an exemption from Greek inheritance tax or gift tax for any property located abroad.
- An individual covered by the Employee and Self-Employed Tax Regime is exempt from imputed income calculated based on deemed expenses for maintaining a place of residence, such as a house or an apartment, and a private car.
- The Employee and Self-Employed tax Regime covers a maximum of seven tax years, beginning with the year of application.
- An individual covered by the Employee and Self-Employed Tax Regime is expected to qualify as a Greek tax resident for income tax treaty purposes and qualifies for the issuance of a Tax Residence Certificate upon request.
- An individual that has been included in the Employee and Self-Employed Tax Regime may opt for the parallel inclusion in the Nondom Tax Regime or the Foreign Pensioner's Tax Regime, provided the relevant conditions for the other regimes are met.
- Following revocation of the Employee and Self-Employed Tax Regime an individual who remains a tax resident in Greece is taxed on worldwide income according to the general tax rules applicable in Greece. Revocation could arise from the cessation of the employment relationship or the business activity for more than 12 months, voluntary withdrawal from the regime or the running of a period of seven years.

Qualification for the Employee and Self-Employed Tax Regime

Four main conditions must be met for coverage by the Foreign Pensioner's Tax:



- The applicant must not have been a Greek tax resident for five out of the six years prior to the transfer of tax residence to Greece.
- The applicant transfers tax residence from an E.U./E.E.A. Member State or from a State with which Greece has a valid agreement on administrative cooperation in the field of taxation.
- The applicant provides services in Greece in the context of a new employment relationship, which includes a position as a member of the board of directors of a Greek legal entity or an executive with a Greek permanent establishment. Alternatively, the applicant is self-employed and carries on business activity from a base in Greece.
- The applicant declares an intention to remain in Greece for at least two years.

Application Procedure

The procedure for obtaining tax residence under the Employee and Self-Employed Tax Regime involves the following steps:

- For employment or business activity taking place up to and including July 2 of each year, the application is filed by the end of that year. Applications filed after that date will be deferred to the following tax year.
- For employment or business activity that taking place after July 2 of each year, the application is filed in relation to the following year.
- Decisions by the applicable authority are made within 60 days.
- Supporting documentation is required to be filed within the 60-day deadline mentioned above. If supporting documents are not timely filed and the application is rejected, a partial cure is provided. Documents submitted by March 31 of the year following the rejection, the rejecting decision can be revoked. As a result, the application can be re-examined and a new decision issued within 60 days from the filing of the supporting documents.

THE FAMILY OFFICE TAX REGIME

Concept of Family Offices

A family office is a special purpose vehicle having as its exclusive purpose the management of assets and investments owned by individuals. The Family Office Tax Regime applies to family offices of Greek tax residents and members of their families. Investments of a Greek tax resident may be made directly or indirectly through legal entities. In addition to overseeing investments, a family office may manage expenses incurred by a wealthy Greek tax resident, or members of his family, relating to living costs, charitable activities, and cultural activities.

A family office may take the legal form of a *Société Anonyme*, a limited liability company, a private capital company, or a personal company or partnership, provided it is not formed for the purposes of carrying on activities of a nonprofit nature. It may be established in Greece or abroad. Similarly, its assets and investments under management may be located in Greece or abroad.

Qualifying Members of the Family Office

To benefit from the Family Office Tax Regime, the office must be operated for the benefit of (i) a Greek tax resident individual, (ii) close family members of the resident, such as a spouse, parents and grandparents, and unmarried or underage children, and (iii) Greek or foreign legal entities in which the foregoing individuals hold a majority stake. Persons who benefit under the 5A Nondom Tax Regime, the 5B Foreign Pensioners Tax Regime, and the 5C the Employee and Self-Employed Tax Regime qualify as Greek residents for purposes of the Family Office Tax Regime.

Qualifying Conditions

The family office must meet the following conditions to qualify for the Family Office Tax Regime:

- It must employ at least five employees. This condition must be met not later than the 12-month anniversary of its establishment and must continue to be met at all times thereafter. Family members do not count as employees for this purpose.
- It must incur annual expenses in Greece of at least €1.0 million.

Qualifying Services

The following services may be provided by a family office:

- **Services related to the personal and social life of family members.** This category of services includes public relations, security, cooks, housekeepers, teachers, educators, babysitters, drivers, technicians, gardeners, cleaning services, supply of goods, and management of charity work.
- **Administrative support services.** This category of services includes secretarial support, management of human resources on behalf of family members, accounting, payment of expenses, management of bank accounts, technical support for the management and maintenance of real estate and surrounding areas, and organization of business trips.
- **Financial management services.** This category of services includes investment management and management of transfers of wealth.
- **Strategic planning services.** This category of services includes business consulting, real estate planning, succession planning, and educational planning.
- **Other advisory services.** This category of services includes tax services, consulting services, legal services, engineering services, medical services, compliance advice, risk management support, and cyber security services.

The family office cannot provide services or incur expenses that are not related to the fulfillment of its purpose. When providing qualifying services, the family office may employ the individuals performing the services, outsource the services to third parties located within Greece or located elsewhere. However, payments made to individuals or legal persons that are tax residents in noncooperative states or in states with a preferential tax regime will not be deductible by the family office unless they relate clearly to real and customary transactions.

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Calculation Of Taxable Income

The gross income of a family office is determined on a cost-plus basis, using a 7% profit mark-up to all expenses maintained in properly kept tax records and paid through disbursements from the family office’s bank account. Certain adjustments are made when computing the tax base.

- Depreciation expense is taken into account.
- Book tax expense is not taken into account.
- Where taxable income using the cost-plus method is less than book income, book income is used as the tax base in lieu of cost plus 7%.
- Once taxable income is determined, the general corporate tax rate of 22% is applied.
- Greek corporate income tax returns must be filed.
- Withholding tax must be collected where appropriate.
- Dividends to shareholders appear to be fully taxed, at this time.
- Payments for internal transactions taking place between the family office and its members are considered to be transactions made within one and the same entity and are outside the scope of V.A.T.

Qualification for the Family Office Tax Regime

Documentation is required to support the contention that the Family Office Tax Regime is applicable, meaning that the cost plus 7% income computation applies. The procedure is as follows:

- Tax returns for each year must be filed by a family office not later than July 31 following the close of the tax year.
- Within one month after filing the tax return, a family office must submit supporting documentation regarding all income and expenses taken into account in determining taxable income.
- Within one month following submission of the documentation, the tax authorities must accept the submission or notify the family office that the submission is not complete. The family office has 30 days to respond with additional information.
- The tax authorities may accept the additional information or begin an audit. An audit may also begin if the family office ignores the notification.

CONCLUSION

In comparison to the O.E.C.D., the European Commission, and the European Parliament, the Greek government has adopted well-thought-through provisions designed to attract wealthy families, retirees, executives, and family offices. At least one tax-examination cycle will be required to assure wealthy nonresidents that the plan works in practice as well as in theory.

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