

# Greece - an interesting choice

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Over the last number of years Greece has received an overwhelming number of foreigners. As a consequence, a new immigration policy has been devised to address the phenomenon of immigration by laying down the conditions of legal entrance, residence and work for foreigners in Greece, while consolidating their rights and creating the conditions for their integration into the Greek society.

On the 2 May 2001, the Parliament voted in a new Law, no 2910/2001, on the entrance and residence of foreigners into Greek territory, the acquisition of Greek nationality by naturalisation and several other provisions.

Greece is a full member of the European Union and therefore entrance, residence and employment of European citizens in Greece is permitted, on the basis of the legislation in force and according to EU regulations and directives. European citizens may freely conduct business activities, render services, work as employees, study or retire etc, in Greece. As such the procedure for issuing a residence permit to an EU citizen is simpler than in the case of non-EU citizens. In many cases the issue of a residence permit is not required and even when it is required it is issued for at least five years and is automatically renewable.

This article, however, will address the relevant issues for non-EU citizens seeking residence in Greece.

There are various categories of residence permits in Greece: permits for studies, employment, the provision of services, seasonal employment, conducting business activities, executives of subsidiaries

and branches or offices of foreign companies, family reunion, spouses of Greek citizens or citizens of the European Union, athletes and coaches, creators of intellectual property, foreigners illegally residing in Greece, etc. Special conditions, procedures and documents are required for the issue of a residence and work permits in each of these categories.

Citizens from non-EU countries must produce a visa to enter Greece. Such a visa is obtained by the consular authorities of their domicile, under conditions and procedures dependent on the purpose for which such foreigners wish to enter Greece. For example, the conditions under which a visa for employment or a visa for conducting business activities is issued are quite different from conditions under which a visa for studies or for tourism is obtained.

There is particular interest in residence and work permits for foreigners wishing to conduct business in Greece. Also popular are residence permits for members of boards of directors, managers of subsidiaries and branches of foreign companies in Greece, as well as to foreign staff employed in companies which have been established in Greece according to the special (offshore) status of the development laws under no 89/67, 378/68 and 27/75.

In all the above cases, the conditions and procedures for obtaining a visa or a residence and work permit are simpler than those provided for in other categories. Moreover, the special status development laws provide many privileges and exemptions not only for the employer companies which have been established in Greece but also for foreign employees

employed by such companies. These include tax exemptions, custom duty exemptions relevant to the import of cars and home devices, individual residence permits to the members of their families etc.

Equally as interesting is the provision of residence permits to foreigners who possess the financial means to cover their expenses without working. To obtain a visa and residence permit in this category, in addition to producing the usual formal documentation (passport, health certification, attestation of insurance etc), the applicant has to prove he has the financial means for living. As such this category applies to foreigners wishing to live in Greece after their retirement.

A residence permit (as well as a work permit) is usually provided for one year and is renewable each year. In some cases, after a period of ten years of residence in Greece a residence permit for an indefinite period of time may be obtained (for example, to foreigners who exercise independent financial activity, or to foreigners who live upon their own financial resources).

## Citizenship

Greek nationality is acquired by birth within Greek territory, by birth by a Greek father or mother, by enlistment to Greek army forces and through naturalisation.

The conditions for the provision of Greek citizenship through naturalisation are the following:

- (a) The foreigner must be 18 years of age.
- (b) No decision for deportation must be pending against him.
- (c) He/she must not be convicted to particular sentence or for any particular crimes.
- (d) He/she must reside legally in Greece for a total period of ten years during the last twelve years before the submission of the application for naturalisation.
- (e) He/she must have sufficient knowledge of the Greek language, Greek history and Greek civilisation in general.

For foreigners of Greek origin the above mentioned (d) and (e) conditions are not required.

The Greek Minister for internal affairs makes the decision on naturalisation, and

## Residency and citizenship

rejection of the application does not need to be specifically justified. A new application may be submitted after one year from the rejection of the previous one.

### Tax obligations

Greece is a country that taxes worldwide income. For that reason every individual domiciled there is liable to taxation within Greece, independently of his citizenship, for income acquired not only in Greece but also abroad.

According to the Greek law, domicile is considered the place where the individual has his main and permanent establishment, namely the place that has become by his own will, the permanent centre of his relations in general. A permanent centre is considered to be the place of establishment of his family, which has the necessary element of stability, even if he exercises his profession in a different place. Residence in one place for at least 180 days per year creates presumption of permanent residence. The relevant tax treaties for the avoidance of double taxation set more criteria.

Furthermore, every individual, independent of his citizenship and his place of residence or domicile, is taxed for any income acquired within Greece, unless a treaty for the avoidance of double taxation has been concluded and provides otherwise.

According to Greek taxation law (Law no 2238/1994), there are six categories of income: income deriving from real property (eg, rents), mobile values (interests, dividends of shares, profits from mutual funds etc), commercial enterprises, agricultural business, employment and finally income deriving from professions (such as income of doctors, lawyers, artists, etc) as well as income deriving from any other source.

All such income is added together to determine the total income of individual during one financial year. Taxable income results after deduction of all deductible expenses.

Tax corresponding to the total taxable income of a natural person varies from 0% -40% on the basis of the income scale, which increases accordingly. For residents

abroad, who acquire income within Greece the tax ratio varies from 5% to 40% depending on the income scale. Tax already paid abroad for income that has been acquired abroad, up to the amount of tax corresponding to that income in Greece, is deducted from the amount of tax corresponding to the total net income.

### Property ownership

In Greece the main restriction upon the right of ownership on real property (excluding the conclusion of any transaction, purchase, sale, lease, mortgage, etc, on real property) is with regard to real property situated at border regions. The restriction is provided by Law no 1892/1990 and its main objective is the protection of national defence and security of the country. The restriction is removed for natural or legal persons having Greek nationality or nationality of any EU member states.

Consequently, natural or legal persons who have the nationality of third countries are excluded from any right or title of ownership on such property. The restriction may be removed by a resolution of the Minister of National Defence following a special examination of each case.

Furthermore, the acquisition of any right of property is prohibited on private islands or isles or on property situated on them, without a prior permit issued by the competent Minister.

### Inheritance issues

The acquisition of Greek citizenship or permanent residence in Greece influences matters relating to inheritance and the way such shall be settled upon death. Greek law is applied as *lex hereditatis* if the testator is of Greek nationality. Moreover Greek law is applied as *lex rei sitae* when the assets of inheritance, mobile or immobile are situated in Greece, and as such will govern the issues of possession, ownership, transfer of ownership, succession etc.

Furthermore, Greek courts are competent either as *forum rei sitae* or in the case where the deceased had his domiciliation or residence within Greece at the time of his death. Practical matters

that arise in such cases include the compulsory submission of inheritance tax, as well as other costs for the legal acquisition of ownership by heirs (for example notary fees, land registry fees etc) as well as the compulsory acquisition of the inheritance by certain persons (children, parents, spouses). In other words there is a limitation of a person's freedom to dispose of his property upon his death. Greek inheritance law dictates who is to be appointed as heir of the property of the deceased in the absence of a testament. If the deceased appoints as heir a person other than those provided for by law, the heirs according to the law, children and parents in particular, are entitled to dispute the will and obtain half of the property they would obtain if they were not disinherited by testament. This rule is compulsory and the will of the deceased cannot exclude its application.

For these reasons it is advisable that prior to the acquisition of a domicile in Greece, acquisition of Greek citizenship or acquisition of assets in Greece, an individual obtains advice on the proper structuring and tax planning in relation to their assets.

Greece is a civil law jurisdiction and as such ignores the legal form of the trust. However, it has been accepted in legal theory and jurisprudence that a trust may have legal results in Greece provided that the terms and conditions of the act of foundation (trust deed) do not come into conflict with provisions of law.

### Conclusion

Residence or citizenship in Greece insures free entrance and movement in Shengen countries, making Greece an attractive destination for non- EU businesses that wish to develop transactions with an EU country or wish to be established within the EU. The Greek government already plans to simplify procedures for the issue of residence permits for managerial executives as well as employees of foreign companies. As such Greece can prove an interesting choice as a business centre.

**OI Archive:** "Using tax as a bar to emigration" - May 2000, Issue 106